

# JUSTICE HELD HOSTAGE: POLITICS AND SELECTING FEDERAL JUDGES

WITH UPDATED RESOURCES ON THE TIMING  
OF FEDERAL JUDICIAL APPOINTMENTS

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The Constitution Project, based in Washington, D.C., develops bipartisan solutions to contemporary constitutional and governance issues by combining high-level scholarship and public education.

We are grateful to the Open Society Institute and the Deer Creek Foundation for their support for our Courts Initiative over the years.

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## INTRODUCTION

Since 1977, when President Carter took office, the average number of days to fill a vacancy on the federal bench has grown dramatically. This increasing delay presents a significant problem on two fronts. First, delay in filling vacancies on the bench slows the process of delivering justice in the United States. The “consumers” of the courts – the litigants with personal stakes in pending cases – are directly affected by delay in selecting judges. Second, the two political branches have a constitutional responsibility to select judges for the third branch of government in an expeditious and efficient manner. The failure to do so risks eroding the public’s respect for governmental institutions.

The Constitution Project’s Courts Initiative launched a comprehensive bipartisan project in 1999 to examine the efficacy of the federal judicial nomination and confirmation process.<sup>1</sup> This report provides an update of the data and analysis collected then, with statistics from President George W. Bush’s first term and the 108th Congress. Now, as then, the statistics are not encouraging, and much reform is still needed to reverse the trend of increasing delay in appointing judges to our federal courts.

## BACKGROUND

The nomination and confirmation of federal judges “represents one of the constitutionally mandated intersections of otherwise separated powers.”<sup>2</sup> Article II § 2 of the Constitution authorizes the president to nominate individuals to the federal bench, but senatorial approval is required before a nominee can assume office.<sup>3</sup> For much of our nation’s history, the appointment of judges to the lower federal courts has attracted little to no attention. While the attention paid to – and publicity surrounding – the selection of U.S. Supreme Court justices has historically always been high, this has not been the case for the U.S. district and circuit courts.

The past three decades, however, have seen a fundamental change in this regard. As noted by Professors Roger E. Hartley and Lisa M. Holmes:

Lower federal court judges are increasingly viewed as having an important policy-making function, and more recent presidents have acted to shape the bench in their policy image. The long life of the lower judiciary is often viewed as an opportunity to indirectly shape policy well after a president leaves Pennsylvania Avenue.<sup>4</sup>

Consequently, the judicial selection process for the lower federal courts has become subject to ever-increasing levels of scrutiny and political contention.

In 1999, when the Constitution Project’s Courts Initiative began its examination into the efficiency of federal judicial selection, reliable data on the process was not readily available. Accordingly, with the assistance of Wendy L. Martinek,<sup>5</sup> the Initiative undertook a study to collect the necessary data. The original data collected included a variety of information about the nomination and confirmation of federal judges starting with the advent of the Carter presidency and continuing through the end of 1998. The database, called the Lower Federal Court Confirmation Database, and a report based in part on those findings, “Justice Held Hostage:

Politics and Selecting Federal Judges” (hereinafter “Justice Held Hostage”), were released together and subsequently published with other Initiative reports in *Uncertain Justice: Politics and America’s Courts*.<sup>6</sup>

An update to that study, which included new data covering the last two years of the Clinton presidency, was released in January 2002. Another update extended the analysis to include nominations made during the first two years of President G.W. Bush’s presidency. The present update extends the analysis yet again, this time to include the entirety of President G.W. Bush’s first term in office.<sup>7</sup> The updated database is publicly available and currently archived at the Center for Democratic Performance at Binghamton University. It can be accessed at <http://cdp.binghamton.edu>, or at the S. Sidney Ulmer Project at the University of Kentucky, at <http://as.uky.edu/polisci/ulmerproject/index.htm>. It is also available through the Constitution Project, at [www.constitutionproject.org](http://www.constitutionproject.org).<sup>8</sup>

When studying the updated data and reading this report, one should keep in mind what may be the prevailing finding of both. While it is not always the case, when Congress and the Executive Branch are controlled by the same party, judicial appointments proceed more expeditiously. There are always delays, such as the failure of some nominees to receive hearings, or the use of blue slips or filibusters post-hearing to block nominees. But whatever the reason for these delays, their number is reduced when there is unified, as opposed to divided, government.

It should also be kept in mind that until the G.W. Bush administration, the American Bar Association’s evaluation of federal judicial candidates occurred on the nomination side of the process. Now, however, it occurs on the confirmation side of the process. Thus, the ABA’s evaluation of nominees must now be considered as part of the Senate’s processing time, rather than the White House’s processing time, making it difficult to compare exactly the G.W. Bush presidency with previous administrations.<sup>9</sup>

## THE PRESIDENT’S ROLE: NOMINATION OF FEDERAL JUDGES

### *Measuring the Time between Vacancy and Nomination*

The amount of time between a vacancy on the federal bench and a president’s nomination of an individual for that vacancy is calculated by the number of days between each “nomination opportunity” and the date a nomination was made. A nomination opportunity for a president typically arises when an existing judge takes senior status, retires, resigns, or dies in office. (It should be noted that when an active judge takes senior status, a nomination opportunity arises. However, when a judge on senior status retires, there is no new nomination opportunity as the nomination opportunity began when that judge took senior status.) If a nomination opportunity arises that is not acted upon by the time a president leaves office, a new nomination opportunity arises for the in-coming president, commencing at the time the new president is sworn in. Similarly, if an out-going president’s nomination is not acted upon by Congress and dies when Congress adjourns sine die, a new nomination opportunity arises for the in-coming president, commencing at the time the new president is sworn in. This approach insures that any given president is “charged” only for the period of time for which that president could make a nomination.

As Table 2 and its corresponding figures in Figure 2 reflect, Presidents Ronald Reagan and Clinton had the greatest number of nomination opportunities, which is not surprising since they both served two terms

in office during the period this study covers. Taking into consideration the differing number of terms in office, Presidents G.H. and G.W. Bush had the next greatest number of nomination opportunities, with 302 such opportunities each, followed closely by President Carter with 294 such opportunities. As Table and Figure 2 also reflect, all presidents, with the exception of President G.H. Bush, made a nomination for over 95% of the nominations opportunities they faced. In the case of President G.H. Bush, he made 249 nominations for the 302 nomination opportunities he faced; i.e., he made nominations for approximately 82% of the nomination opportunities he faced.

The central finding of the original study with regard to presidential action was that presidents took increasingly longer periods of time to make nominations when nomination opportunities arose for Article III district and circuit courts. Among the recommendations made by the Constitution Project in “Justice Held Hostage,” which accompanied the original database release, was the recommendation that presidential action on a nomination opportunity take no more than 180 days. This benchmark was not met during any of the presidential administrations prior to the current Bush administration. Table and Figure 3, however, illustrate that during President G.W. Bush’s first term in office the average number of days for presidential action dropped sharply as compared to the other presidencies in the recorded time period, decreasing by 117 and 129 days from the Clinton and G.H. Bush administrations, respectively. While all presidents, including G.W. Bush, averaged more than 180 days for nomination of district court judges, all presidents except G.W. Bush averaged more than 180 days for nomination of circuit court judges. However, as noted earlier, unlike prior administrations, the timing of President G.W. Bush’s nominations is not affected by the ABA’s evaluation of judicial nominees, as that evaluation now takes place during the Senate confirmation process. Past presidents waited for the ABA to evaluate nominees before announcing their nominations.

Table and Figure 4 report the percent of nomination opportunities that were acted upon in the recommended time frame of 180 days, broken down by presidential administration and type of court. As reported in Table and Figure 4, from the beginning of the Carter presidency through the end of the first presidential term of G.W. Bush, only 39% of district court nomination opportunities and 50% of circuit court nomination opportunities were acted upon in 180 days or less. Presidents Carter and G.H. Bush had the lowest percentages at 32% and 31%, respectively. President G.W. Bush had the highest percentages for both district court nomination opportunities (58%) and circuit court nomination opportunities (80%).

## THE SENATE’S ROLE: CONFIRMING FEDERAL JUDGES

### *Measuring the Time between Nomination and Final Senate Action*

The amount of time between nomination of an individual to fill a vacancy on the bench and final Senate action on that nomination is calculated by the number of days between the nomination and confirmation or failure of that nomination (i.e., final Senate action). Final Senate action corresponds to the date on which a nomination is confirmed, the date on which the Senate rejects a nomination, or the date of congressional adjournment (i.e., sine die adjournment) when a nomination is not acted upon prior to that adjournment. (It should be noted that the date on which a president withdraws a nomination is also considered the date of final action since, though it is the president who has withdrawn the nomination, the date of withdrawal is the final date on which the Senate could consider

that nomination.) This approach insures that any given Congress is “charged” only for the period of time for which it could take action on a nomination.

The central finding of the original study with regard to senatorial action was that the Senate took increasingly longer periods of time to process nominations made for Article III district and circuit courts. Table and Figure 5 report the average number of days for senatorial action over the 1977-2004 period. As Table and Figure 5 make clear, the average number of days between nomination and final Senate action did steadily increase over time, although it appears that senatorial processing time may have leveled off. For example, the average senatorial processing time during the 105th and 106th Congress was 203 and 232 days, respectively (when President Clinton was in office, and Republicans controlled the Senate). Yet during the 107th Congress (under G.W. Bush, when Republicans first, then Democrats, controlled the Senate)<sup>10</sup> and the 108th Congress (under G.W. Bush and a Republican-controlled Senate), the average senatorial processing time was 133 and 226 days, respectively.

Extreme caution is warranted, however, when interpreting the data for the 107th and 108th Congresses as a turning point in the trends in senatorial processing. First, the average during the 107th Congress was more than twice the Constitution Project’s recommendation of no more than 60 days for senatorial processing, and the average during the 108th Congress was well over three times the 60 days recommendation. Second, processing times in the Senate have historically been the fastest during the congressional term corresponding to each president’s first two years in office, and the 133 day average during President G.W. Bush’s first two years of office was higher than the average first two-year periods corresponding to the four preceding presidents. (During the first two years of the Reagan presidency, the average senatorial processing time was a mere 33 days; and during the first two years of the Clinton presidency, that processing time was only 83 days.) Similarly, the 226-day average for the 108th Congress (President G.W. Bush’s second two years in office) does not bode well for the likely trend in subsequent years of the current Bush administration. (The average for President Carter’s second two years in office was 90 days; and that average was 36 days for President Reagan, 83 days for President G.H. Bush, and 158 days for President Clinton.)

Table and Figure 6 and Table and Figure 7 illustrate that it continues to be the case that processing times in the Senate remain considerably higher when the nomination opportunity in question corresponds to a vacancy on the U.S. Courts of Appeals than one for a vacancy on the U.S. District Court. For example, the average number of days for senatorial processing of nominations for the district court was 197 for the 106th Congress (when President Clinton was in office and the Republicans controlled the Senate); 104 for the 107th Congress (when G.W. Bush was in office and Republicans first, then Democrats, controlled the Senate); and 184 days for the 108th Congress (when President G.W. Bush was in office with a Republican-controlled Senate). In comparison, the average number of days for senatorial processing of nominations for the circuit court during these same congressional terms was 315, 188, and 330 days, respectively.

Both the original study and subsequent updates, which covered the years 1977 through 2002, found that the average processing time in the Senate was greatest when the nomination was for a vacancy on the Ninth Circuit Court of Appeals. Based on the current update, which extends the period examined through the end of 2004, the processing times are virtually equally long for nominations made to the Ninth Circuit and Eleventh Circuit Courts of Appeals. During this same time period, the processing times for nominations made to the First Circuit and Seventh Circuit Courts of Appeals are the lowest at 73 and 79 days, respectively.

Table 9 breaks down senatorial processing times for nominations made to the U.S. Courts of Appeals by both congressional term and circuit. Table 9 indicates that in the 108th Congress, the longest average processing time was for nominations made to the Sixth Circuit Court of Appeals, followed by the Fifth and Eleventh Circuit Courts of Appeals. However, caution is warranted in considering the figures reported in Table 9 due to the variability in the number of nominations made in any given congressional term for any given circuit. This is so because there are very few nominations for any given circuit in any given year. Hence, any single unusually long (or short) confirmation duration will inflate (or depress) the average. When there are many observations (i.e., many nominations) being averaged, the effect of any outlier (i.e., unusually long or short confirmation duration) is tempered because the average is over so many observations.

Table and Figure 10 and Table and Figure 11 provide insight into differences in processing times for successful versus unsuccessful nominations and district versus circuit court nominations by presidential administration. Processing times have been greatest for unsuccessful nominations regardless of presidential administration. This is not surprising given that most unsuccessful nominations are unsuccessful because they terminate when Congress adjourns sine die, rather than because of a particular Senate action. The result is that nominations made at the beginning of a congressional term that are ultimately unsuccessful remain pending throughout the congressional term. As reported in Table and Figure 11, the processing times for district and circuit court nominations were identical under the Carter administration but higher for the circuit courts under every other administration.

Table and Figure 12 examine senatorial processing times through a different lens, by breaking down processing times based on conditions of divided and unified government. Divided government consists of the situation in which the president is of one party while the Senate majority is of the opposite party, while unified government consists of the situation in which the president and the Senate majority are of the same party. The picture depicted in Table and Figure 12 is stark: senatorial processing times are greatest under conditions of divided government, regardless of the type of court or the ultimate success of a nomination. For example, the average number of days from nomination to final Senate action for successful district court nominations made under conditions of unified government is 70 days compared to 124 days for successful district court nominations made under conditions of divided government. For unsuccessful district court nominations, the average processing time is 137 days under unified government and 196 days under divided government. With regard to circuit court nominations, successful circuit court nominations take, on average, 71 days under conditions of unified government, but the time more than doubles to 152 days under conditions of divided government. Unsuccessful circuit court nominations take, on average, 220 days under conditions of unified government, but that time increases almost one hundred days to 317 days under conditions of divided government.

While average processing times provide useful insight into senatorial processing of presidential nominations, averages cannot reveal whether a particular set of nominations is taking an inordinate length of time or not. One way to gain insight on that question is to examine the percent of nominations taking less than a given number of days. Table and Figure 13 examine this question for all nominations, regardless of type of court or success of nomination. As Table and Figure 13 report, the trend in terms of the percent of nominations that have been processed by the Senate in 60 days or less has decreased dramatically over time. While 86% of all nominations did so during the 95th Congress (when President Carter was in office, and Democrats controlled



the Senate), that figure dropped to 21% and 5%, respectively, for the 107th Congress (under the G.W. Bush administration, when Republicans, then Democrats, controlled the Senate) and the 108th Congress (under G.W. Bush and a Republican-controlled Senate). The picture is little improved when employing a more lenient standard of 90 days or less or 120 days or less.

Table and Figure 14 report the same analysis for all district court nominations. From a high of 91% of all nominations in the 97th and 98th Congresses (when Ronald Reagan was President and Republicans controlled the Senate), the percent that have been processed by the Senate in 60 days or less plummeted to 25% in the 107th Congress (under the G.W. Bush administration, when Republicans first, then Democrats, controlled the Senate) and to 7% in the 108th Congress (under G.W. Bush and a Republican-controlled Senate). Table and Figure 15, which report the same analysis for all circuit court nominations, are equally dismal. Since the advent of the Clinton administration, the percentage of nominations processed in 60 days or less has been 10% or less, with the exception of the 107th Congress when the percentage was 13%.

Table and Figure 16 report the percent of nominations processed by the Senate in less than 60, less than 90, less than 120, and less than 180 days, grouped by circuit over the 1977-2004 period. Over this period, no circuit saw more than 44% of its nominations processed in 60 days or less. Using a more lenient standard, 77% of the First Circuit Court of Appeals nominations have been processed in 90 days or less. Even using this more lenient standard, however, no other circuit saw more than 58% of its nominations processed in 90 days or less.

Table and Figure 17 examine these percentages based on presidential administration. While 68% of all nominations made during the Reagan administration and 48% made during the Carter administration were processed in 60 days or less, that percentage dropped to 18% during the Clinton administration and to 15% during the current Bush administration. While substantial majorities of nominations made during the Carter and Reagan administrations were processed in 90 days or less, only 44% of President G.H. Bush's nominations, 36% of President Clinton's nominations, and 33% of President G.W. Bush's nominations were processed in 90 days or less.

Table and Figure 18 examine these same percentages by presidential administration for district court nominations, while Table and Figure 19 do so for circuit court nominations. As noted in Table and Figure 14, overall only 39% of all district court nominations made during the 1977-2004 period were processed in 60 days or less. Only 56% were processed in 90 days or less. Seventy percent of district court nominations made during the entire Reagan administration were processed in 60 days or less, but only 22% of such nominations made during the Clinton administration, and 17% of such nominations made during G.W. Bush's first term, were.<sup>11</sup>

Table and Figure 19 report equally dismal results when analysis is limited to circuit court nominations. While 59% of nominations made during the Reagan administration were processed in 60 days or less, only 5% of nominations made during the Clinton administration were processed in 60 days or less. Even using the much more lenient standard of 180 days (which is three times the recommendation made in the original task force report), only slightly more than half of Clinton nominations and slightly less than half of G.W. Bush nominations were processed in 180 days.

Finally, Tables and Figures 20-22 report the percentage of nominations processed in 60 days or less, 90 days or less, 120 days or less, and 180 days or less based on different arrangements of partisan control of

government. Table and Figure 20 do so for all nominations, while Table and Figure 21 do so for all district court nominations, and Table and Figure 22 do so for all circuit court nominations. Unified Republican control (that is, Republican president and Republican-controlled Senate) resulted in the greatest percentage of nominations processed in 60 days or less (61%), while divided Democratic control (that is, Democratic president and Republican-controlled Senate) resulted in the smallest percentage of nominations processed in 60 days or less (11%). The same pattern emerges in Table and Figure 21, with 67% of district court nominations made under conditions of unified Republican control processed in 60 days or less and only 14% of district court nominations made under conditions of divided Democratic control processed in 60 days. Likewise, as reported in Table and Figure 22, 43% of circuit court nominations made under conditions of unified Republican control were processed in 60 days or less and only 4% of circuit court nominations made under conditions of divided Democratic control were processed in 60 days or less.

On the other hand, divided Republican control (that is, a Republican President and a Democratic Senate) resulted in 23% of nominations processed in 60 days or less, regardless of type of court; while unified Democratic control resulted in 44% of all nominations processed in 60 days or less. Unified Democratic control also produced the highest percentage of nominations processed by the Senate within 180 days (96%). With respect to district court nominations only, unified Democratic control resulted in 47% of district court nominations processed in 60 days or less, while divided Republican control resulted in 24% of nominations processed in 60 days or less. Unified Democratic control also produced the highest percentage of district court nominations processed by the Senate within 180 days (96%). With circuit court nominations, unified Democratic control resulted in 31% of circuit court nominations processed in 60 days or less, while divided Republican control resulted in 21% of nominations processed in 60 days or less. Unified Democratic control also again produced the highest percentage of circuit court nominations processed by the Senate (95%).

## CONCLUSION

Recent controversies surrounding the nomination and confirmation of judges to serve on our federal courts have reenergized debates about the process by which we select our federal judges. The statistics collected by the Constitution Project demonstrate a continuing trend of increasing delay in the selection process. Reform of that process requires greater leadership and self-restraint by the officials responsible for appointing judges to the federal bench. The Constitution Project calls on those officials to actively and meaningfully work together to reduce the delay that currently plagues federal judicial selection, not only in the interest of our Constitution, but also in the interest of the public, which relies on the federal courts to resolve important disputes. Otherwise, the discouraging patterns demonstrated by this report will continue.

## ENDNOTES

1 The Courts Initiative (formerly Citizens for Independent Courts) is a bipartisan committee of prominent and influential Americans, including former law enforcement officials, policymakers, judges and other public officials, as well as business leaders and scholars. The Initiative conducts public education and advocacy about the role of courts as protectors of America's economic and political systems and our freedoms. The Initiative is also committed to ensuring that judges are accountable to the public.

2 Wendy L. Martinek, Mark Kemper, & Steven R. Van Winkle, *To Advise and Consent: The Senate and Lower Federal Court Nominations, 1977-1998*, 64 J. of Politics 337, 337 (2002).

3 This process applies to federal courts created by congressional authority under both Article I and Article III. The former are commonly referred to as legislative courts and the latter constitutional courts. Judges serving on Article I courts (e.g., U.S. Tax Court, U.S. Court of Appeals for the Armed Services, U.S. Court of Appeals for Veterans Claims) serve for fixed terms while those serving on Article III courts serve "during good behavior," which is generally understood to mean for life.

4 Roger E. Hartley & Lisa M. Holmes, *Increasing Senate Scrutiny of Lower Federal Court Nominees*, 80 Judicature 274, 274 (June/July 1997).

5 The original data were collected at the behest of the Task Force by Wendy L. Martinek under the auspices of Michigan State University's Program for the Study of Law and Judicial Politics. The original database was based on a prototype first developed by Professor Lisa M. Holmes of the University of Vermont.

6 The database was designed to average the amount of time taken to nominate and confirm federal judges, and to determine whether that average amount of time had changed over the years. Specifically, we sought to determine the average amount of time between vacancy and the president's nomination of a candidate, and between the nomination and either the Senate's confirmation or the failure of a candidate. Unfortunately, hearing dates were not available for all nominees; thus, we were unable to determine the average amount of time between nomination and hearing, and between hearing and confirmation. In order to ensure that our methodology was consistent, we chose to count every calendar day, as further described below at pages 3-4. This method was consistent with our attempt to view the process from the vantage point of the "consumers" of the court – i.e., those who require access to the courts and desire timely resolution of their cases.

7 Because the database can collect and analyze only quantifiable data, the current report, which provides an update on the database, addresses solely data relating to delay. However, as noted in the original report, there are many other measures by which the federal judicial appointment process should also be evaluated. For example, the selection of high-quality judges is paramount and should not be sacrificed to ensure speedy appointment. As also noted in the original report, there are numerous factors which contribute to delay, and bipartisan cooperation and coordination in nominating and reviewing judges is essential to an efficient appointment process.

8 The tables and figures accompanying this report were generated from the Lower Federal Court Confirmation Database described above. The data for the original database, which covered the 1977-1998 period, came primarily from the Congressional Research Service, with supplemental data provided by the Senate Judiciary Committee librarian and minority staff, the Federal Judicial Center, and the American Bar Association. The data for the 1999-2004 period were gathered with the assistance of Paul M. Collins, Jr., Conor Dowling, and Lisa A. Solowiej and were drawn from publicly available data from the Federal Judicial Center, the United States Senate, the White House and the Alliance for Justice.

9 It is not possible to identify precisely how much this change in the ABA's role has affected the time it takes to nominate or confirm judges. However, as a general matter, the ABA's investigation of judicial nominees commences after receipt of a candidate's responses to the ABA's Personal Data Questionnaire (PDQ) and a signed waiver. In non-problematic cases, the ABA's investigation is completed within 30 days after receiving the PDQ and waiver. However, in exceptional cases warranting additional investigation, a period of more than 30 days may be needed. Similarly, the ABA will attempt an expedited

investigation if the circumstances so require. *See* Letter from Martha W. Barnett, President, American Bar Association, to Alberto R. Gonzales, Counsel to President G.W. Bush, April 23, 2001; American Bar Association, *The ABA Standing Committee on Federal Judiciary: What It Is and How It Works* (2005).

10 During the 107th Congress, for the first time during the time period we studied, control of the Senate changed parties in mid-session, when, in June 2001, Vermont Senator Jim Jeffords left the Republican Party to become an independent, deciding to caucus with the Democrats. As a result, the Republicans lost control of the Senate to the Democrats.

11 Under Reagan, the 97th, 98th, and 99th Congresses were controlled by Republicans, and the 100th Congress was controlled by Democrats. During Clinton's presidency, the 104th, 105th, and 106th Congresses were controlled by the Republicans, and the 103rd Congress was controlled by Democrats. In G.W. Bush's first term, the 107th Congress was controlled first by Republicans, then by the Democrats (due to the Jeffords switch, *see supra* at p. 5, note 10), and the 108th Congress was controlled by the Republicans.

TABLE I  
PRESIDENTIAL AND SENATE ACTION: SUMMARY, 1977-2004

President	Congressional Term	Years	Senate Majority Party	Nomination Opportunities <sup>1</sup>	Nominations Made <sup>2</sup>	Average Number of Days for Presidential Action <sup>3</sup>	Number of Confirmations	Average Number of Days for Senate Action by Congressional Term <sup>4</sup>	Average Number of Days for Senate Action by Presidential Administration <sup>5</sup>
Carter		1977-1980		294	282	252 days	258		78 days
	95th	1977-1978	Dem.				60	38 days	
	96th	1979-1980	Dem.				198	90 days	
Reagan		1981-1988		441	435	250 days	373		64 days
	97th	1981-1982	Repub.				87	33 days	
	98th	1982-1984	Repub.				75	36 days	
	99th	1985-1986	Repub.				128	45 days	
	100th	1987-1988	Dem.				83	144 days	
Bush, G.H.		1989-1992		302	249	306 days	190		120 days
	101st	1989-1990	Dem.				70	79 days	
	102nd	1991-1992	Dem.				120	138 days	
Clinton		1993-2000		495	489	294 days	370		163 days
	103rd	1993-1994	Dem.				126	83 days	
	104th	1995-1996	Repub.				73	158 days	
	105th	1997-1998	Repub.				99	203 days	
	106th	1999-2000	Repub.				72	232 days	
		2001-2004		302	295	177 days	197		174 days
Bush, G.W.	107th	2001-2002	See Note E				100	133 days	
	108th	2003-2004	Repub.				97	226 days	
	95th-108th	1977-2004		1834	1750	259 days	1388	120 days	120 days

<sup>1</sup> A nomination opportunity arises when a new vacancy occurs, a prior nomination is withdrawn or fails to achieve confirmation, or a vacancy is inherited from a previous president.

<sup>2</sup> A nomination returned to the president that is resubmitted by the president counts as two separate nominations.

<sup>3</sup> The average number of days for presidential action is calculated as the average number of days between the date a nomination opportunity arises and a nomination is made.

<sup>4</sup> The average number of days for Senate action is calculated as the average number of days between the date a nomination is made and one of the following: confirmation, return of the nomination to the president, or withdrawal of the nomination by the president.

<sup>5</sup> January 3, 2001-January 20, 2001: split partisan control with Vice President Gore having the deciding vote; January 20, 2001-June 6, 2001: split partisan control with Vice President Cheney having the deciding vote; June 6, 2001-November 12, 2002: Democratic control; November 12, 2002-January 3, 2003: Republican control.

**TABLE 2**

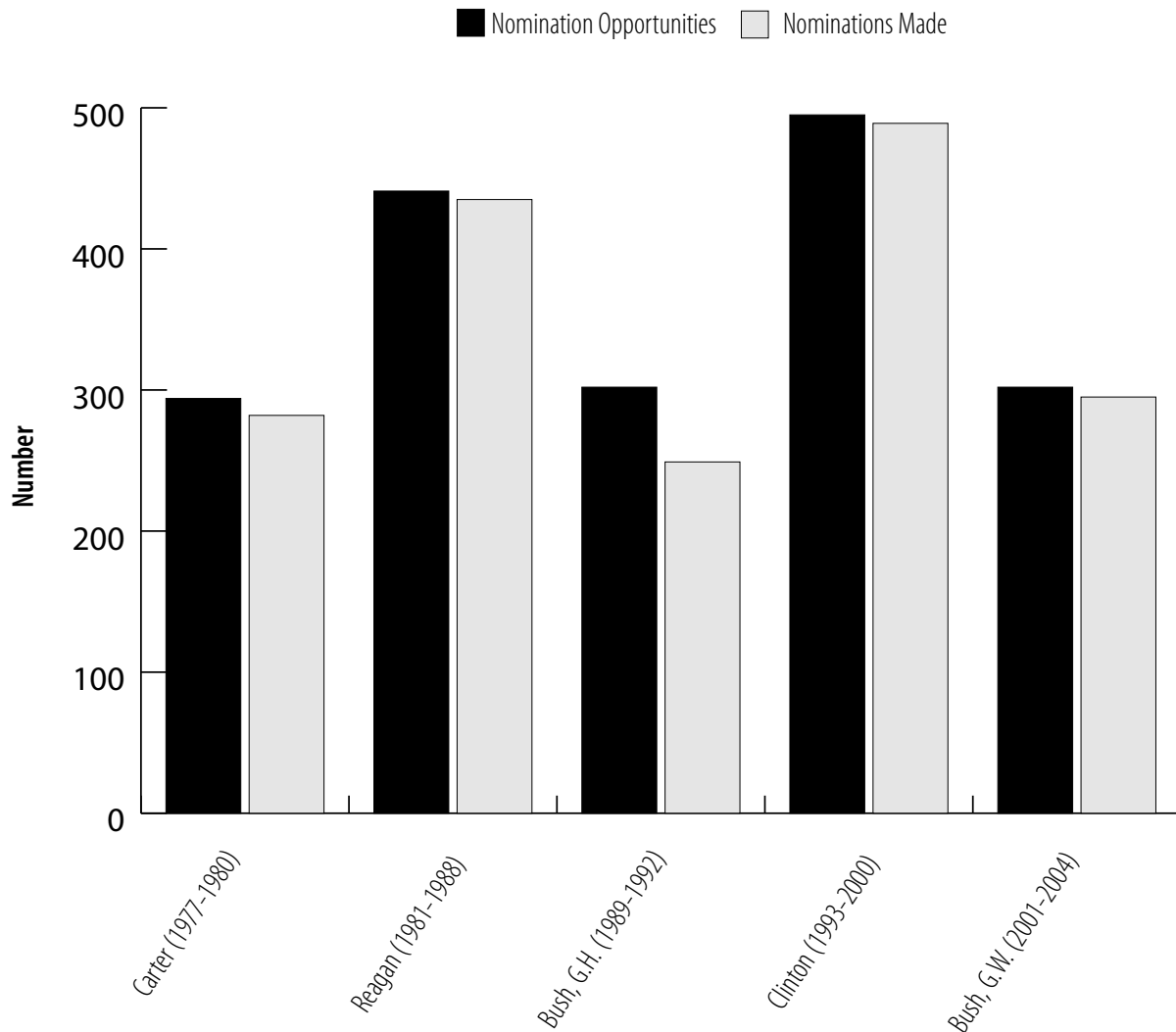
**PRESIDENTIAL ACTION: NOMINATION OPPORTUNITIES AND NOMINATIONS MADE, BY PRESIDENT, 1977-2004**

President	Nomination Opportunities	Nominations Made
Carter (1977-1980)	294	282
Reagan (1981-1988)	441	435
Bush, G.H. (1989-1992)	302	249
Clinton (1993-2000)	495	489
Bush, G.W. (2001-2004)	302	295
Carter-Bush (1977-2004)	1834	1750

Note: A nomination opportunity arises when a new vacancy occurs, a prior nomination is withdrawn or fails to achieve confirmation, or a vacancy is inherited from a previous president.

**FIGURE 2**

**PRESIDENTIAL ACTION: NOMINATION OPPORTUNITIES AND NOMINATIONS MADE, BY PRESIDENT, 1977-2004**

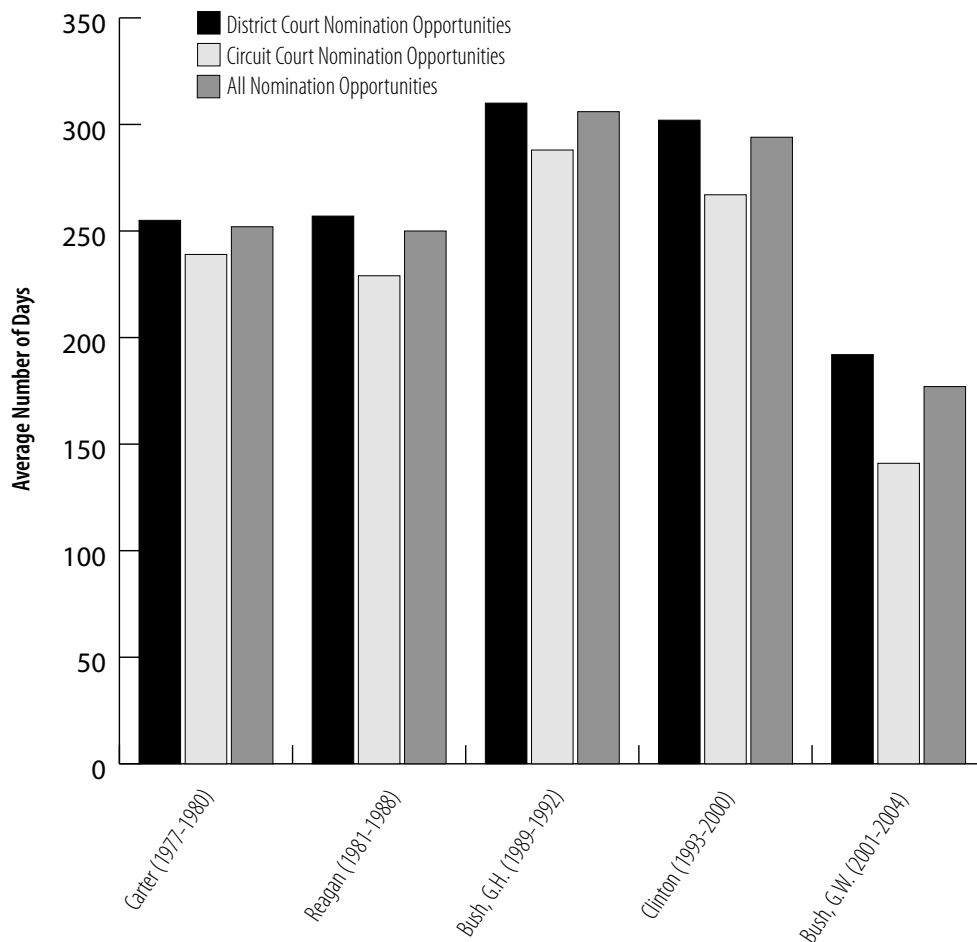


**TABLE 3**  
**PRESIDENTIAL ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION OPPORTUNITY AND NOMINATION, BY TYPE OF COURT AND PRESIDENT, 1977-2004**

President	District Court Nomination Opportunities	Circuit Court Nomination Opportunities	All Nomination Opportunities
Carter (1977-1980)	255 (234)	239 (60)	252 (294)
Reagan (1981-1988)	257 (339)	229 (102)	250 (441)
Bush, G.H. (1989-1992)	310 (241)	288 (61)	306 (302)
Clinton (1993-2000)	302 (380)	267 (115)	294 (495)
Bush, G.W. (2001-2004)	192 (214)	141 (88)	177 (302)
Carter-Bush (1977-2004)	268 (1408)	230 (426)	259 (1834)

Note: A nomination opportunity arises when a new vacancy occurs, a prior nomination is withdrawn or fails to achieve confirmation, or a vacancy is inherited from a previous president. Numbers in parentheses indicate the number of nomination opportunities.

**FIGURE 3**  
**PRESIDENTIAL ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION OPPORTUNITY AND NOMINATION, BY TYPE OF COURT AND PRESIDENT, 1977-2004**

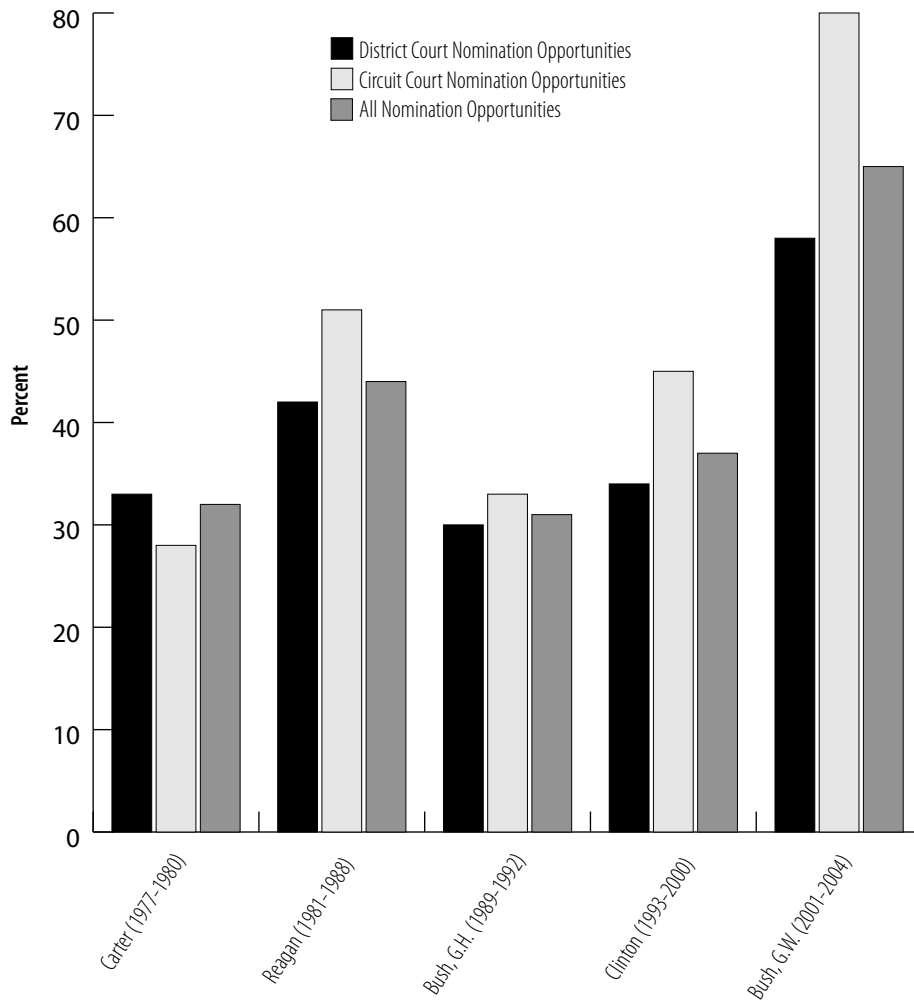


**TABLE 4**  
**PRESIDENTIAL ACTION: PERCENT OF NOMINATION OPPORTUNITIES ACTED UPON BY THE PRESIDENT**  
**IN 180 DAYS OR LESS, BY TYPE OF COURT AND PRESIDENT, 1977-2004**

President	District Court Nomination Opportunities	Circuit Court Nomination Opportunities	All Nomination Opportunities
Carter (1977-1980)	33%	28%	32%
Reagan (1981-1988)	42%	51%	44%
Bush, G.H. (1989-1992)	30%	33%	31%
Clinton (1993-2000)	34%	45%	37%
Bush, G.W. (2001-2004)	58%	80%	65%
Carter-Bush (1977-2004)	39%	50%	42%

Note: A nomination opportunity arises when a new vacancy occurs, a prior nomination is withdrawn or fails to achieve confirmation, or a vacancy is inherited from a previous president.

**FIGURE 4**  
**PRESIDENTIAL ACTION: PERCENT OF NOMINATION OPPORTUNITIES ACTED UPON BY THE PRESIDENT**  
**IN 180 DAYS OR LESS, BY TYPE OF COURT AND PRESIDENT, 1977-2004**



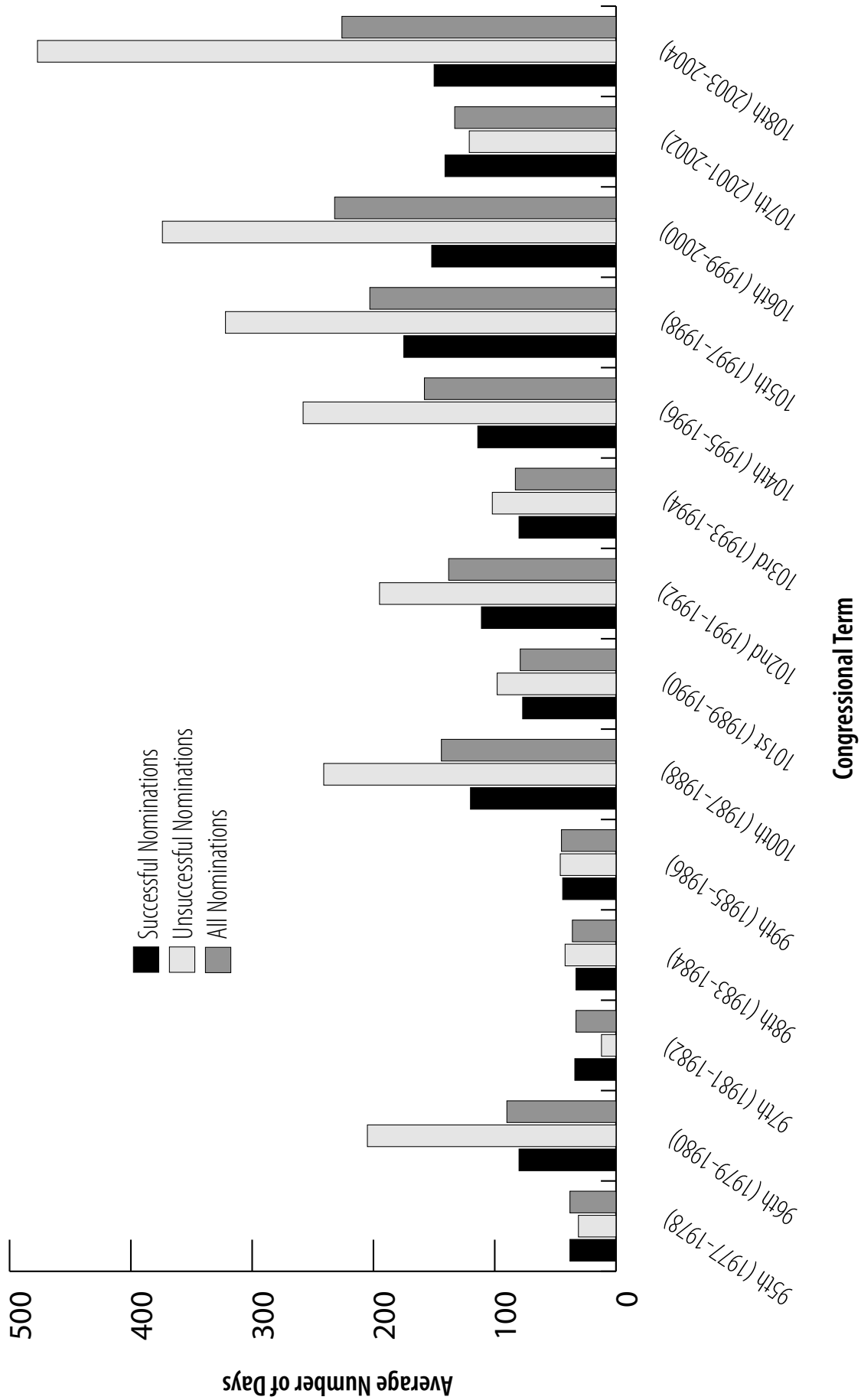


**TABLE 5**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION,**  
**BY CONGRESSIONAL TERM AND SUCCESS OF NOMINATION, 1977-2004**

<b>Congressional Term</b>	<b>Successful Nominations</b>	<b>Unsuccessful Nominations</b>	<b>All Nominations</b>
95th (1977-1978)	38 days (60)	31 days (5)	38 days (65)
96th (1979-1980)	80 days (198)	205 days (18)	90 days (216)
97th (1981-1982)	34 days (87)	12 days (3)	33 days (90)
98th (1983-1984)	33 days (75)	42 days (26)	36 days (101)
99th (1985-1986)	44 days (128)	46 days (13)	45 days (141)
100th (1987-1988)	120 days (83)	241 days (21)	144 days (104)
101st (1989-1990)	77 days (70)	98 days (4)	79 days (74)
102nd (1991-1992)	111 days (120)	195 days (55)	138 days (175)
103rd (1993-1994)	80 days (126)	102 days (14)	83 days (140)
104th (1995-1996)	114 days (73)	258 days (32)	158 days (105)
105th (1997-1998)	175 days (99)	322 days (24)	203 days (123)
106th (1999-2000)	152 days (72)	374 days (40)	232 days (112)
107th (2001-2002)	141 days (100)	121 days (78)	133 days (178)
108th (2003-2004)	150 days (97)	477 days (29)	226 days (126)
95th-108th Congress (1977-2004)	96 days (1388)	214 days (362)	120 days (1750)

Note: Numbers in parentheses indicate the number of nominations. Final action is the confirmation, return to the president, or withdrawal of a nomination.

**FIGURE 5**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION,**  
**BY CONGRESSIONAL TERM AND SUCCESS OF NOMINATION, 1977-2004**



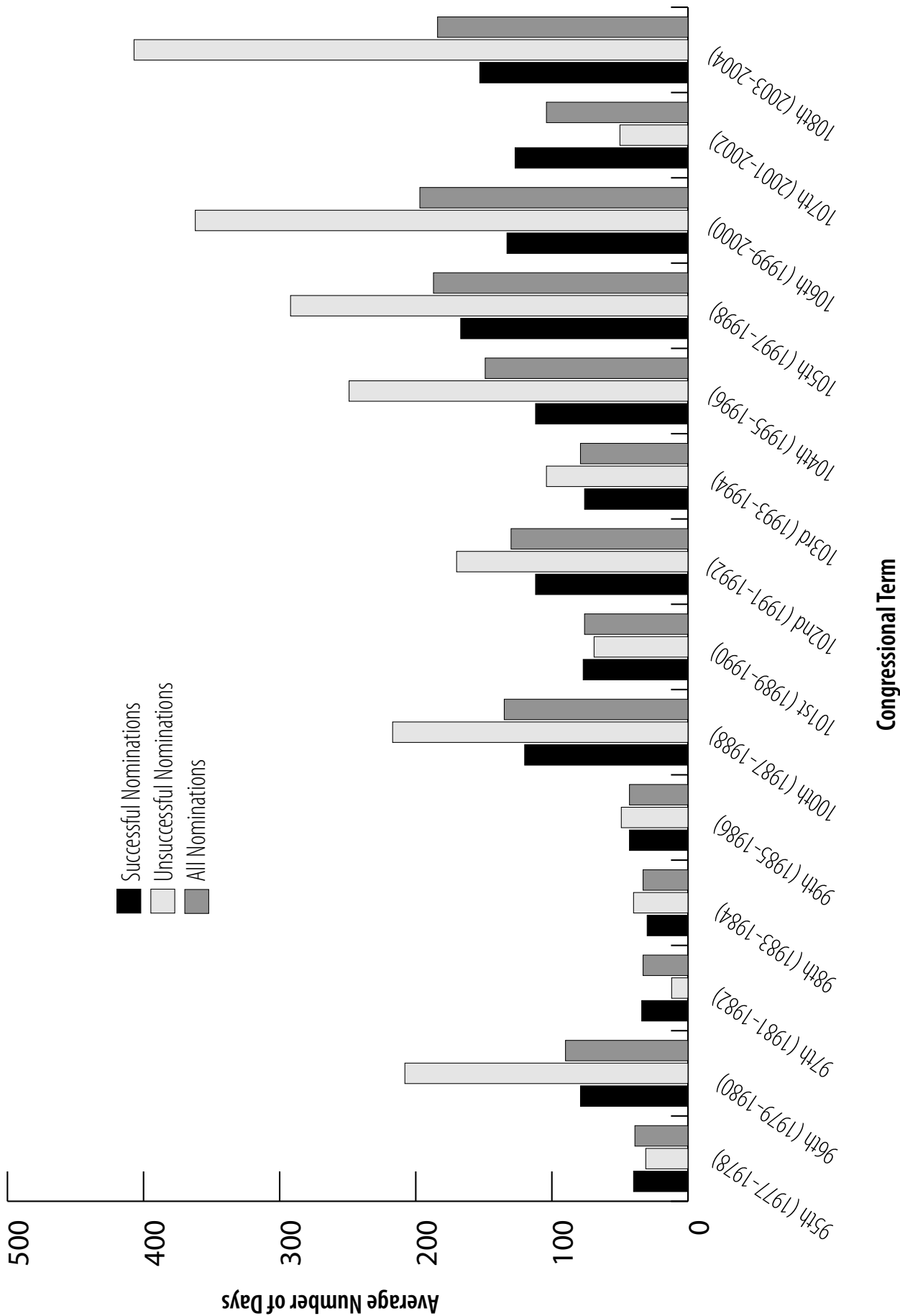
Note: Final action is the confirmation, return to the president, or withdrawal of a nomination.

**TABLE 6****SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, ALL DISTRICT COURT NOMINATIONS, BY CONGRESSIONAL TERM AND SUCCESS OF NOMINATION, 1977-2004**

<b>Congressional Term</b>	<b>Successful Nominations</b>	<b>Unsuccessful Nominations</b>	<b>All Nominations</b>
95th (1977-1978)	40 days (47)	31 days (5)	39 days (52)
96th (1979-1980)	79 days (154)	208 days (14)	90 days (168)
97th (1981-1982)	34 days (68)	12 days (2)	33 days (70)
98th (1983-1984)	30 days (61)	40 days (18)	33 days (79)
99th (1985-1986)	43 days (95)	49 days (12)	43 days (107)
100th (1987-1988)	120 days (66)	217 days (12)	135 days (78)
101st (1989-1990)	77 days (48)	69 days (3)	76 days (51)
102nd (1991-1992)	112 days (100)	170 days (44)	130 days (144)
103rd (1993-1994)	76 days (107)	104 days (11)	79 days (118)
104th (1995-1996)	112 days (62)	249 days (23)	149 days (85)
105th (1997-1998)	167 days (79)	292 days (15)	187 days (94)
106th (1999-2000)	133 days (57)	362 days (22)	197 days (79)
107th (2001-2002)	127 days (83)	50 days (35)	104 days (118)
108th (2003-2004)	153 days (79)	407 days (11)	184 days (90)
95th-108th Congress (1977-2004)	97 days (1106)	177 days (227)	108 days (1333)

Note: Numbers in parentheses indicate the number of nominations. Final action is the confirmation, return to the president, or withdrawal of a nomination.

**FIGURE 6**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, ALL DISTRICT COURT NOMINATIONS, BY CONGRESSIONAL TERM AND SUCCESS OF NOMINATION, 1977-2004**



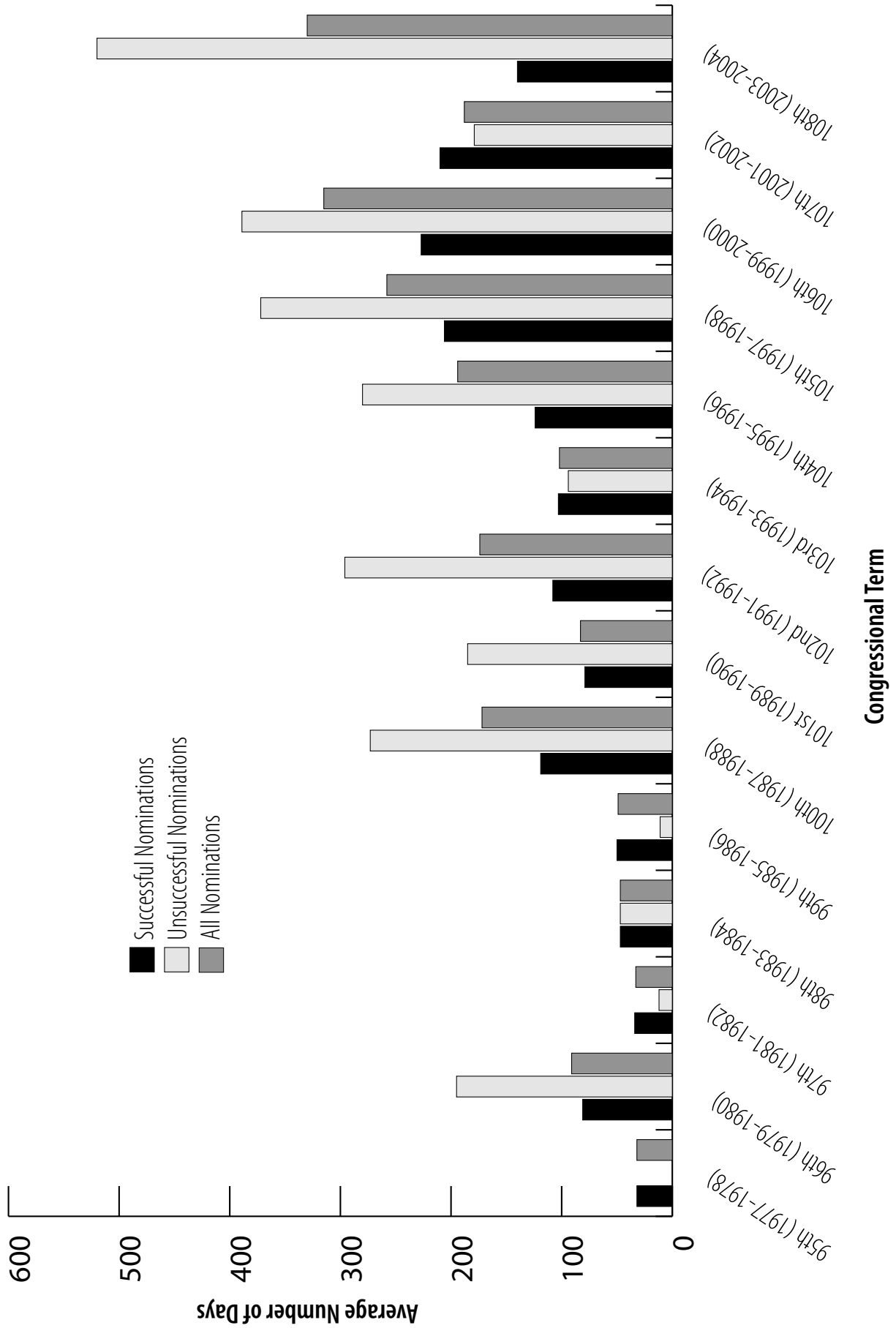
Note: Final action is the confirmation, return to the president, or withdrawal of a nomination.

**TABLE 7****SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, ALL CIRCUIT COURT NOMINATIONS, BY CONGRESSIONAL TERM AND SUCCESS OF NOMINATION, 1977-2004**

<b>Congressional Term</b>	<b>Successful Nominations</b>	<b>Unsuccessful Nominations</b>	<b>All Nominations</b>
95th (1977-1978)	32 days (13)	--	32 days (13)
96th (1979-1980)	81 days (44)	195 days (4)	91 days (48)
97th (1981-1982)	34 days (19)	12 days (1)	33 days (20)
98th (1983-1984)	47 days (14)	47 days (8)	47 days (22)
99th (1985-1986)	50 days (33)	11 days (1)	49 days (34)
100th (1987-1988)	119 days (17)	273 days (9)	172 days (26)
101st (1989-1990)	79 days (22)	185 days (1)	83 days (23)
102nd (1991-1992)	108 days (20)	296 days (11)	174 days (31)
103rd (1993-1994)	103 days (19)	94 days (3)	102 days (22)
104th (1995-1996)	124 days (11)	280 days (9)	194 days (20)
105th (1997-1998)	206 days (20)	372 days (9)	258 days (29)
106th (1999-2000)	227 days (15)	389 days (18)	315 days (33)
107th (2001-2002)	210 days (17)	179 days (43)	188 days (60)
108th (2003-2004)	140 days (18)	520 days (18)	330 days (36)
95th-108th Congress (1977-2004)	106 days (282)	276 days (135)	161 days (417)

Note: Numbers in parentheses indicate the number of nominations. Final action is the confirmation, return to the president, or withdrawal of a nomination.

**FIGURE 7**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, ALL CIRCUIT COURT NOMINATIONS, BY CONGRESSIONAL TERM AND SUCCESS OF NOMINATION, 1977-2004**



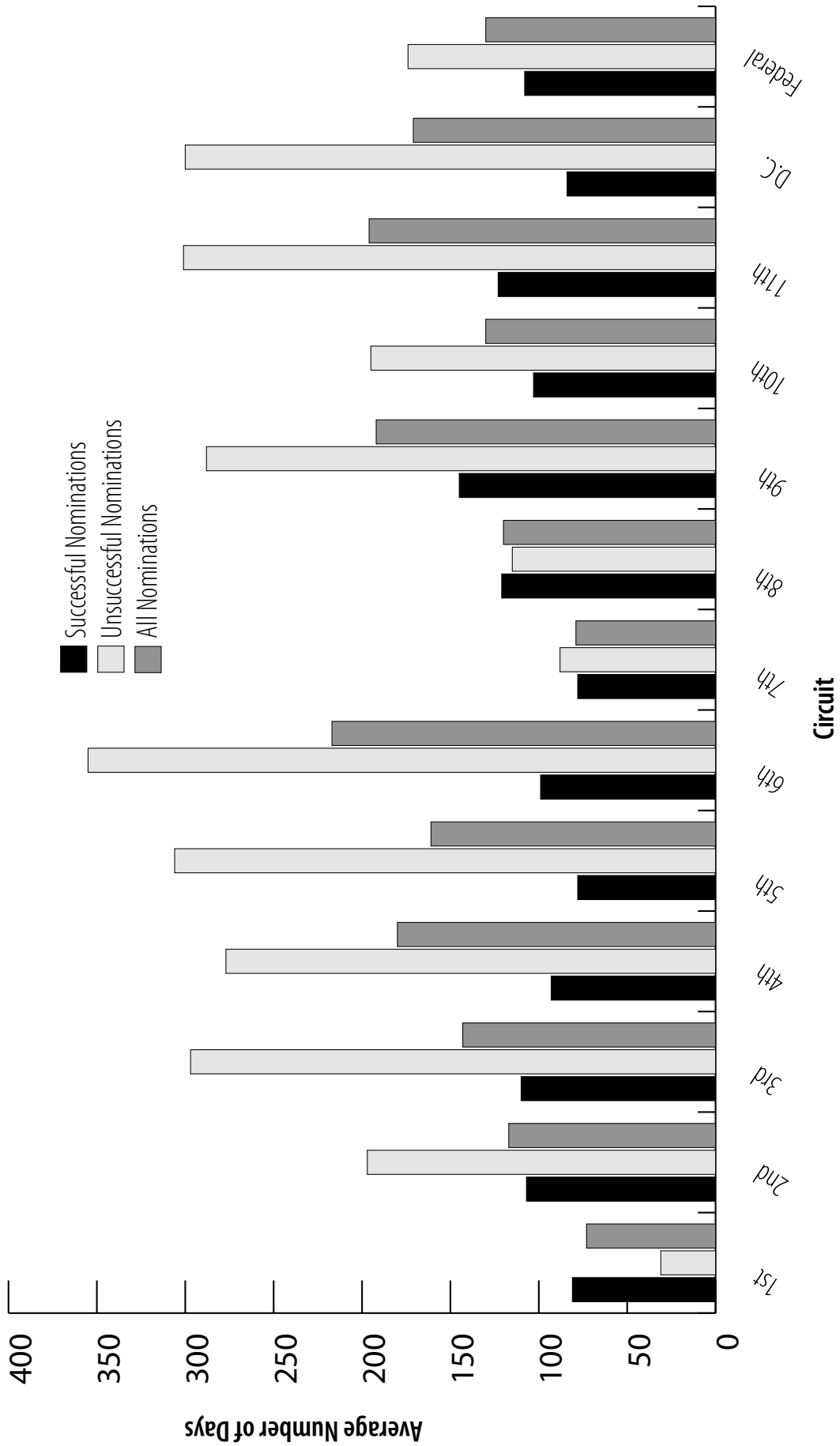
Note: Final action is the confirmation, return to the president, or withdrawal of a nomination.

**TABLE 8****SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, ALL CIRCUIT COURT NOMINATIONS, BY CIRCUIT AND SUCCESS OF NOMINATION, 1977-2004**

<b>Circuit</b>	<b>Successful Nominations</b>	<b>Unsuccessful Nominations</b>	<b>All Nominations</b>
1st Circuit	81 days (11)	31 days (2)	73 days (13)
2nd Circuit	107 days (24)	197 days (3)	117 days (27)
3rd Circuit	110 days (23)	297 days (5)	143 days (28)
4th Circuit	93 days (19)	277 days (17)	180 days (36)
5th Circuit	78 days (33)	306 days (19)	161 days (52)
6th Circuit	99 days (27)	355 days (23)	217 days (50)
7th Circuit	78 days (14)	88 days (2)	79 days (16)
8th Circuit	121 days (20)	115 days (5)	120 days (25)
9th Circuit	145 days (47)	288 days (23)	192 days (70)
10th Circuit	103 days (19)	195 days (8)	130 days (27)
11th Circuit	123 days (10)	301 days (7)	196 days (17)
D.C. Circuit	84 days (21)	300 days (14)	171 days (35)
Federal Circuit	108 days (14)	174 days (7)	130 days (21)
All Circuits	106 days (282)	276 days (135)	161 days (417)

Note: Numbers in parentheses indicate the number of nominations. Final action is the confirmation, return to the president, or withdrawal of a nomination.

**FIGURE 8**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, ALL CIRCUIT COURT NOMINATIONS, BY CIRCUIT AND SUCCESS OF NOMINATION, 1977-2004**



Note: Final action is the confirmation, return to the president, or withdrawal of a nomination.



**TABLE 9**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, ALL CIRCUIT COURT NOMINATIONS,**  
**BY CONGRESSIONAL TERM AND CIRCUIT, 1977-2004**

Congressional Term	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	DC	Federal	All Circuit
95th (1977-1978)	18 days (1)	--	18 days (1)	22 days (1)	36 days (2)	44 days (2)	--	50 days (1)	28 days (2)	30 days (3)	--	--	--	32 days (13)
96th (1979-1980)	26 days (1)	69 days (3)	77 days (1)	63 days (3)	94 days (14)	128 days (4)	111 days (2)	101 days (2)	91 days (13)	64 days (1)	--	86 days (4)	--	91 days (48)
97th (1981-1982)	--	43 days (4)	17 days (1)	62 days (1)	29 days (3)	32 days (3)	29 days (3)	20 days (2)	--	--	--	42 days (2)	12 days (1)	33 days (20)
98th (1983-1984)	63 days (1)	--	--	89 days (3)	20 days (3)	28 days (1)	49 days (2)	55 days (1)	41 days (4)	--	--	23 days (3)	56 days (4)	47 days (22)
99th (1985-1986)	12 days (1)	42 days (3)	17 days (2)	10 days (1)	35 days (1)	41 days (6)	65 days (3)	33 days (2)	73 days (5)	57 days (4)	34 days (1)	59 days (4)	61 days (1)	49 days (34)
100th (1987-1988)	--	395 days (1)	70 days (5)	--	180 days (4)	--	106 days (1)	128 days (1)	193 days (6)	158 days (2)	118 days (1)	205 days (2)	260 days (3)	172 days (26)
101st (1989-1990)	87 days (2)	78 days (2)	66 days (1)	85 days (1)	112 days (2)	71 days (1)	--	32 days (1)	81 days (3)	--	116 days (3)	84 days (4)	60 days (3)	83 days (23)
102nd (1991-1992)	70 days (2)	193 days (1)	224 days (4)	174 days (5)	150 days (3)	178 days (4)	41 days (1)	153 days (2)	112 days (1)	255 days (2)	200 days (4)	255 days (1)	162 days (1)	174 days (31)
103rd (1993-1994)	61 days (1)	88 days (4)	115 days (2)	97 days (2)	124 days (4)	84 days (2)	--	71 days (1)	63 days (1)	86 days (1)	202 days (1)	111 days (2)	98 days (1)	102 days (22)
104th (1995-1996)	65 days (1)	--	--	287 days (2)	240 days (1)	149 days (3)	100 days (2)	--	282 days (5)	63 days (3)	199 days (1)	395 days (1)	169 days (1)	194 days (20)
105th (1997-1998)	164 days (1)	251 days (4)	200 days (2)	279 days (3)	454 days (1)	283 days (3)	--	185 days (1)	314 days (9)	--	136 days (2)	71 days (1)	204 days (2)	258 days (29)
106th (1999-2000)	--	--	220 days (5)	245 days (3)	529 days (2)	485 days (3)	97 days (1)	298 days (2)	338 days (9)	296 days (2)	64 days (1)	375 days (3)	272 days (2)	315 days (33)
107th (2001-2002)	116 days (2)	88 days (3)	324 days (1)	182 days (7)	168 days (8)	259 days (12)	--	116 days (6)	168 days (7)	174 days (8)	407 days (1)	323 days (3)	46 days (2)	188 days (60)
108th (2003-2004)	--	148 days (2)	166 days (3)	337 days (4)	455 days (4)	512 days (6)	223 days (1)	190 days (3)	325 days (5)	84 days (1)	449 days (2)	290 days (5)	--	330 days (36)
95th-108th Congress	73 days (13)	117 days (27)	143 days (28)	180 days (36)	161 days (52)	217 days (50)	79 days (16)	120 days (25)	192 days (70)	130 days (27)	196 days (17)	171 days (35)	130 days (21)	161 days (417)

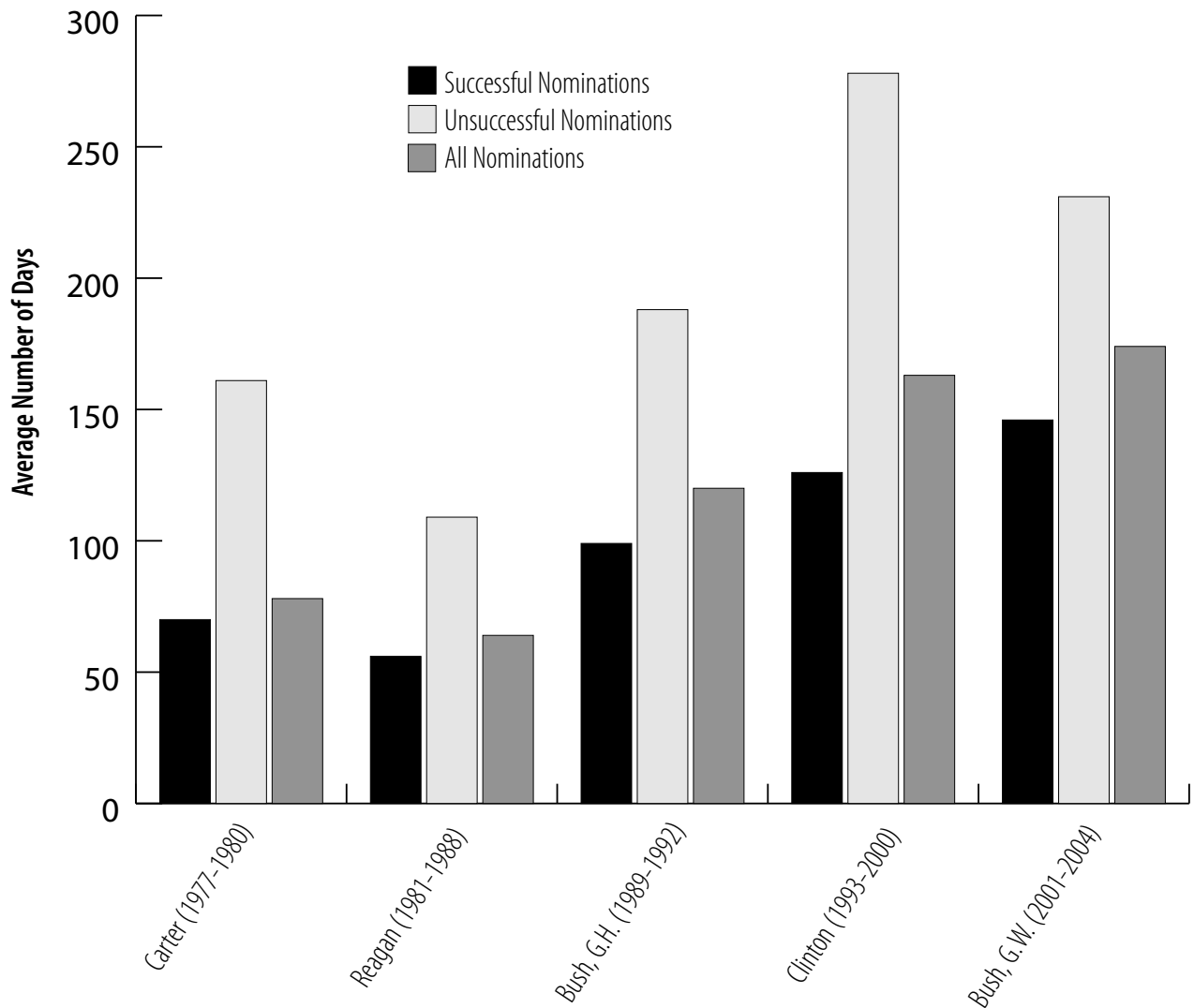
Note: Numbers in parentheses indicate the number of nominations. Final action is the confirmation, return to the president, or withdrawal of a nomination.

**TABLE 10**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION,**  
**BY PRESIDENT AND SUCCESS OF NOMINATION, 1977-2004**

President	Successful Nominations	Unsuccessful Nominations	All Nominations
Carter (1977-1980)	70 days (258)	161 days (24)	78 days (282)
Reagan (1981-1988)	56 days (373)	109 days (62)	64 days (435)
Bush, G.H. (1989-1992)	99 days (190)	188 days (59)	120 days (249)
Clinton (1993-2000)	126 days (370)	278 days (119)	163 days (489)
Bush, G.W. (2001-2004)	146 days (197)	231 days (98)	174 days (295)
Carter-Bush (1977-2004)	96 days (1388)	214 days (362)	120 days (1750)

Note: Numbers in parentheses indicate the number of nominations. Final action is the confirmation, return to the president, or withdrawal of a nomination.

**FIGURE 10**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION,**  
**BY PRESIDENT AND SUCCESS OF NOMINATION, 1977-2004**

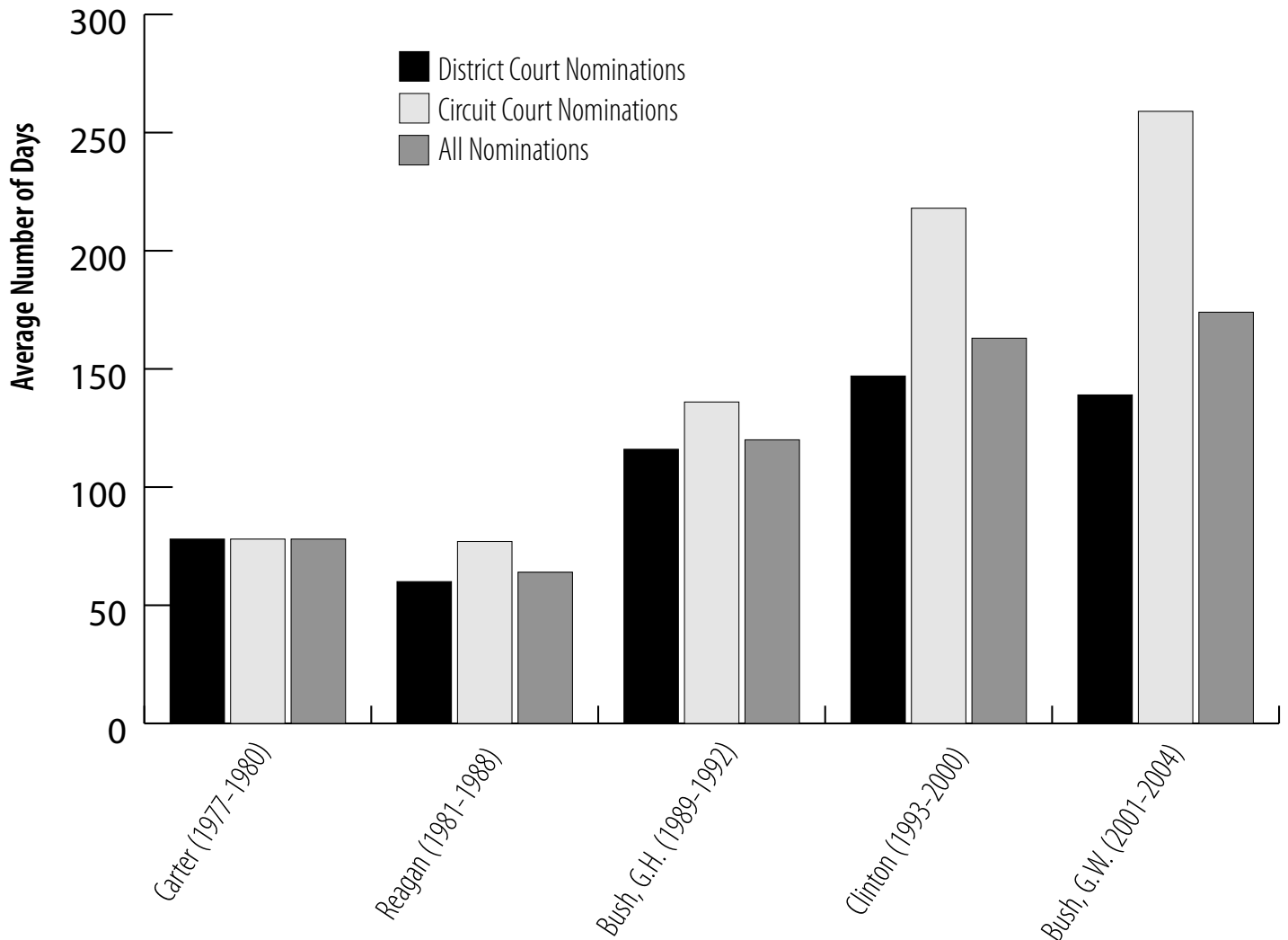


**TABLE II**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION,**  
**BY PRESIDENT AND COURT, 1977-2004**

President	District Court Nominations	Circuit Court Nominations	All Nominations
Carter (1977-1980)	78 days (221)	78 days (61)	78 days (282)
Reagan (1981-1988)	60 days (333)	77 days (102)	64 days (435)
Bush, G.H. (1989-1992)	116 days (195)	136 days (54)	120 days (249)
Clinton (1993-2000)	147 days (376)	218 days (113)	163 days (489)
Bush, G.W. (2001-1004)	139 days (208)	259 days (87)	174 days (295)
Carter-Bush (1977-2004)	108 days (1333)	161 days (417)	120 days (1750)

Note: Numbers in parentheses indicate the number of nominations. Final action is the confirmation, return to the president, or withdrawal of a nomination.

**FIGURE II**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION,**  
**BY PRESIDENT AND COURT, 1977-2004**

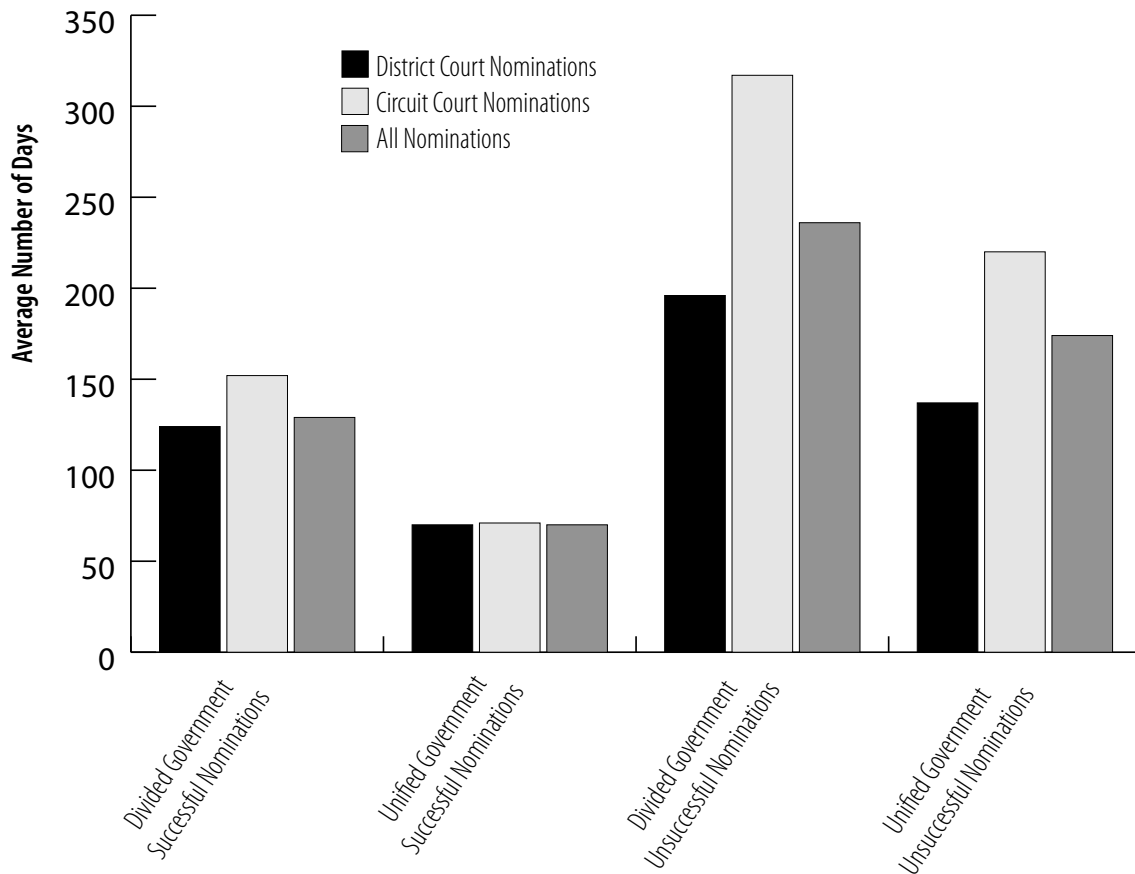


**TABLE 12**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, BY DIVIDED VERSUS UNIFIED GOVERNMENT, SUCCESS OF NOMINATION, AND COURT, 1977-2004**

	Divided Government	Unified Government	All Nominations
<b>District Court Nominations</b>			
Successful	124 days (493)	70 days (613)	94 days (1106)
Unsuccessful	196 days (154)	137 days (73)	177 days (227)
<b>Circuit Court Nominations</b>			
Successful	152 days (120)	71 days (162)	106 days (282)
Unsuccessful	317 (days (78)	220 days (57)	276 days (135)
<b>All Nominations</b>			
Successful	129 days (613)	70 days (775)	96 days (1388)
Unsuccessful	236 days (232)	174 days (130)	214 days (362)

Note: Numbers in parentheses indicate the number of nominations. Divided government is when the President is of one party and the Senate majority is of the opposite party, while unified government is when the President and the Senate majority are of the same party. Final action is the confirmation, return to the president, or withdrawal of a nomination.

**FIGURE 12**  
**SENATE ACTION: AVERAGE NUMBER OF DAYS BETWEEN NOMINATION AND FINAL SENATE ACTION, BY DIVIDED VERSUS UNIFIED GOVERNMENT, SUCCESS OF NOMINATION, AND COURT, 1977-2004**

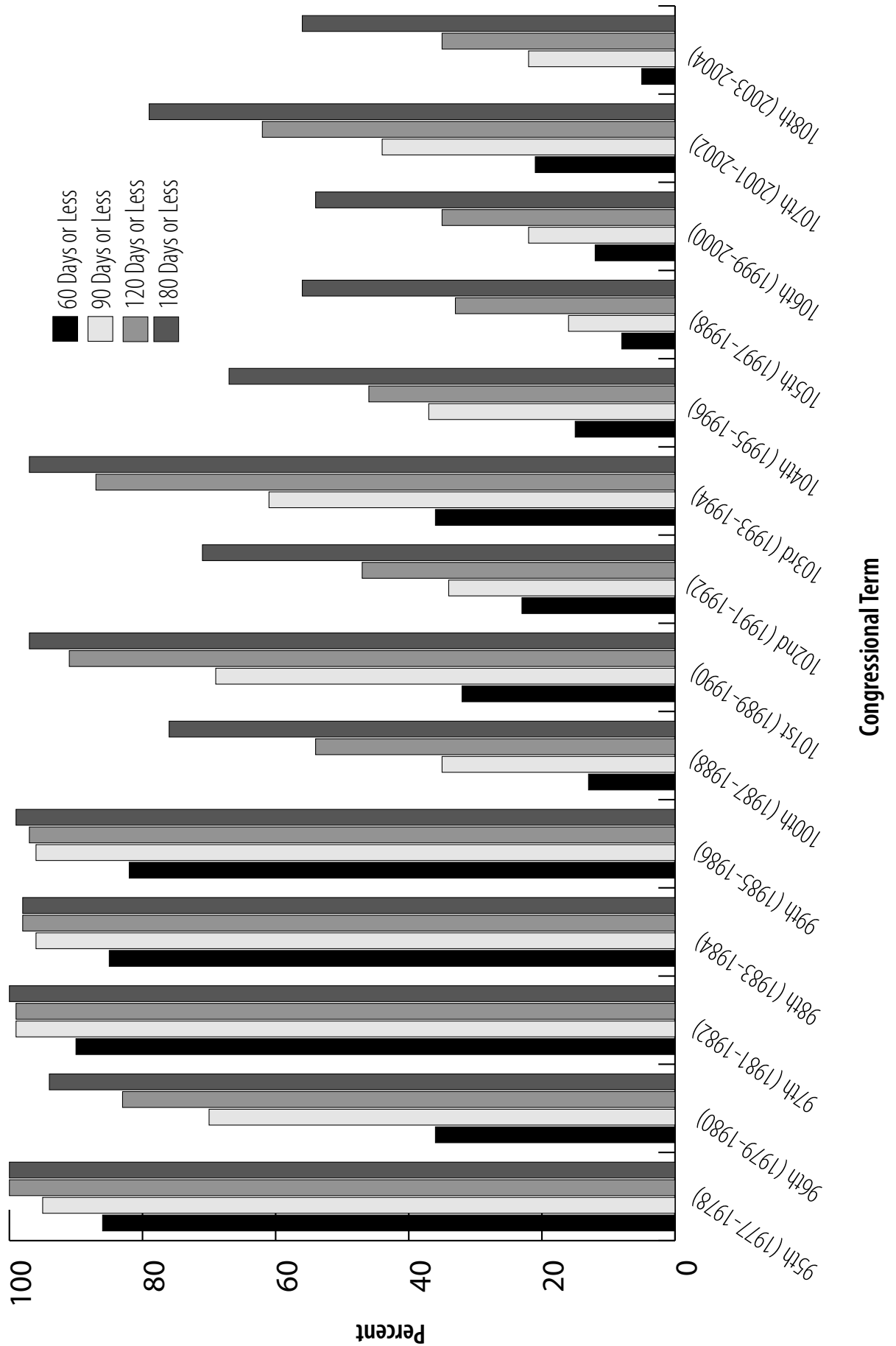


**TABLE 13**

**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, BY CONGRESSIONAL TERM, 1977-2004**

<b>Congressional Term</b>	<b>60 days or less</b>	<b>90 days or less</b>	<b>120 days or less</b>	<b>180 days or less</b>
95th (1977-1978)	86%	95%	100%	100%
96th (1979-1980)	36%	70%	83%	94%
97th (1981-1982)	90%	99%	99%	100%
98th (1983-1984)	85%	96%	98%	98%
99th (1985-1986)	82%	96%	97%	99%
100th (1987-1988)	13%	35%	54%	76%
101st (1989-1990)	32%	69%	91%	97%
102nd (1991-1992)	23%	34%	47%	71%
103rd (1993-1994)	36%	61%	87%	97%
104th (1995-1996)	15%	37%	46%	67%
105th (1997-1998)	8%	16%	33%	56%
106th (1999-2000)	12%	22%	35%	54%
107th (2001-2002)	21%	44%	62%	79%
108th (2003-2004)	5%	22%	35%	56%
95th-108th Congress (1977-2004)	36%	55%	67%	81%

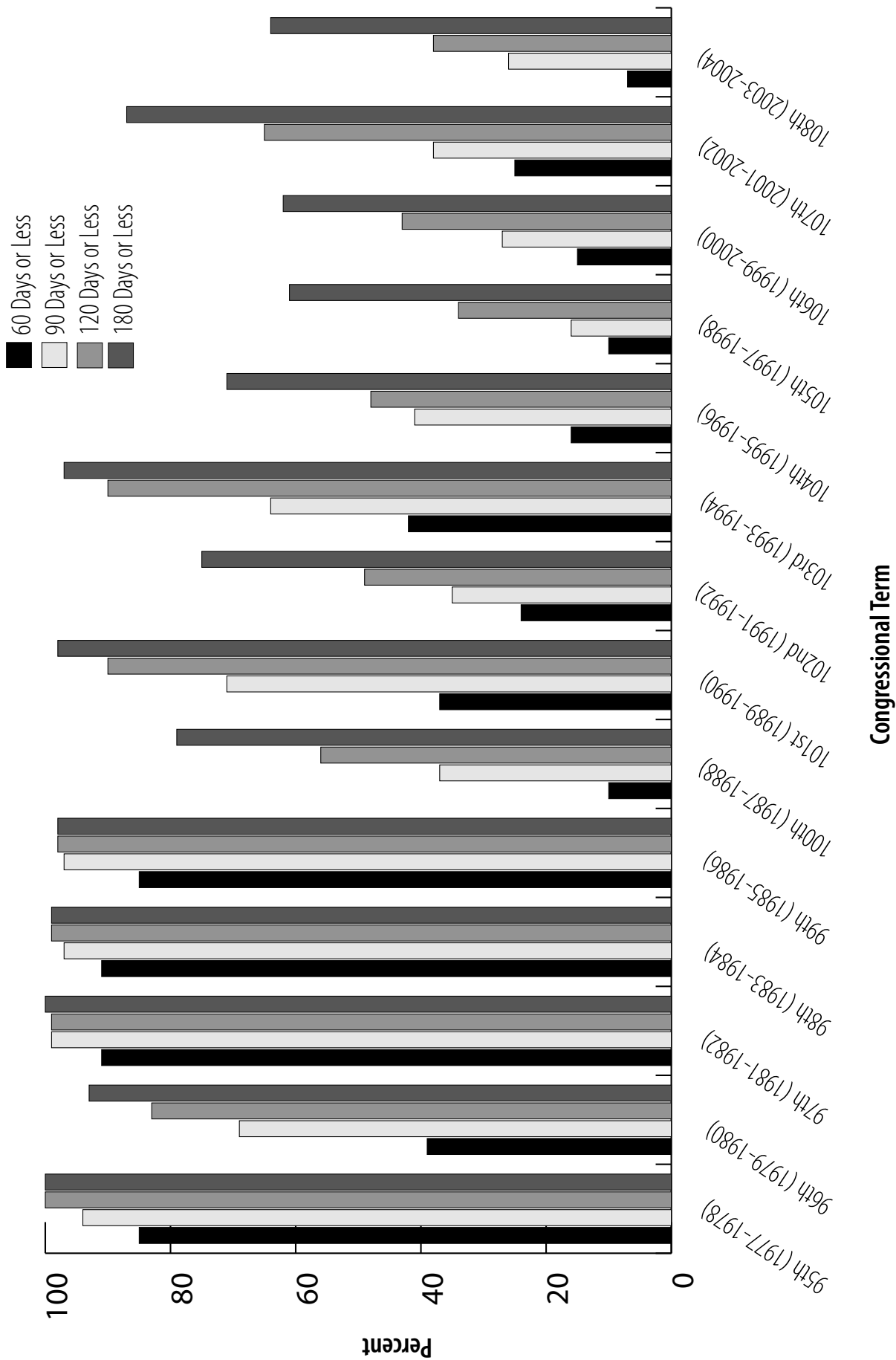
**FIGURE 13**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, BY CONGRESSIONAL TERM, 1977-2004**



**TABLE 14**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS,  
 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL DISTRICT COURT NOMINATIONS,  
 BY CONGRESSIONAL TERM, 1977-2004**

<b>Congressional Term</b>	<b>60 days or less</b>	<b>90 days or less</b>	<b>120 days or less</b>	<b>180 days or less</b>
95th (1977-1978)	85%	94%	100%	100%
96th (1979-1980)	39%	69%	83%	93%
97th (1981-1982)	91%	99%	99%	100%
98th (1983-1984)	91%	97%	99%	99%
99th (1985-1986)	85%	97%	98%	98%
100th (1987-1988)	10%	37%	56%	79%
101st (1989-1990)	37%	71%	90%	98%
102nd (1991-1992)	24%	35%	49%	75%
103rd (1993-1994)	42%	64%	90%	97%
104th (1995-1996)	16%	41%	48%	71%
105th (1997-1998)	10%	16%	34%	61%
106th (1999-2000)	15%	27%	43%	62%
107th (2001-2002)	25%	38%	65%	87%
108th (2003-2004)	7%	26%	38%	64%
95th-108th Congress (1977-2004)	39%	56%	70%	84%

**FIGURE 14**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL DISTRICT COURT NOMINATIONS, BY CONGRESSIONAL TERM, 1977-2004**

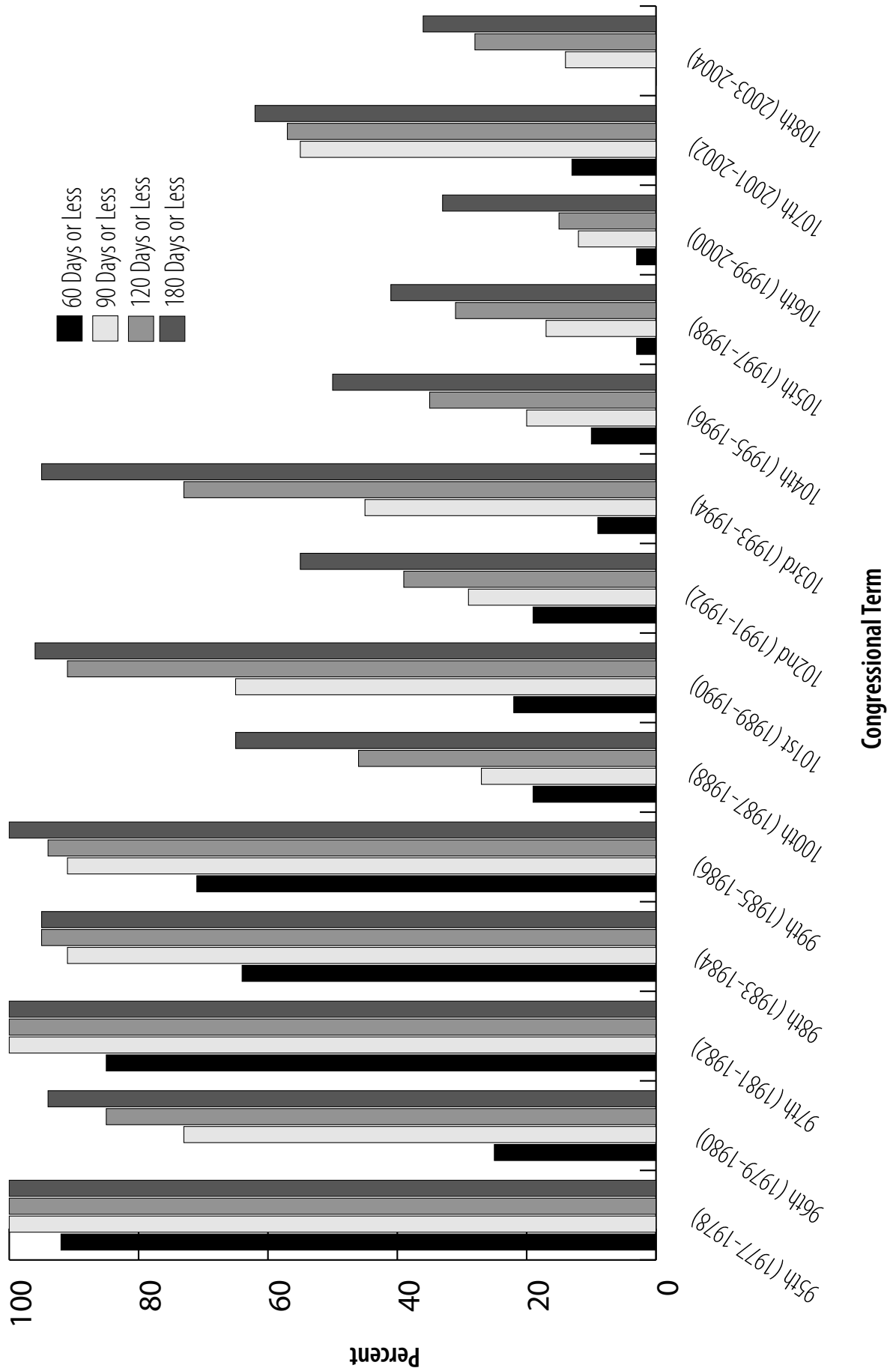




**TABLE 15**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL CIRCUIT COURT NOMINATIONS, BY CONGRESSIONAL TERM, 1977-2004**

<b>Congressional Term</b>	<b>60 days or less</b>	<b>90 days or less</b>	<b>120 days or less</b>	<b>180 days or less</b>
95th (1977-1978)	92%	100%	100%	100%
96th (1979-1980)	25%	73%	85%	94%
97th (1981-1982)	85%	100%	100%	100%
98th (1983-1984)	64%	91%	95%	95%
99th (1985-1986)	71%	91%	94%	100%
100th (1987-1988)	19%	27%	46%	65%
101st (1989-1990)	22%	65%	91%	96%
102nd (1991-1992)	19%	29%	39%	55%
103rd (1993-1994)	9%	45%	73%	95%
104th (1995-1996)	10%	20%	35%	50%
105th (1997-1998)	3%	17%	31%	41%
106th (1999-2000)	3%	12%	15%	33%
107th (2001-2002)	13%	55%	57%	62%
108th (2003-2004)	0%	14%	28%	36%
95th-108th Congress (1977-2004)	26%	51%	61%	70%

**FIGURE 15**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL CIRCUIT COURT NOMINATIONS, BY CONGRESSIONAL TERM, 1977-2004**

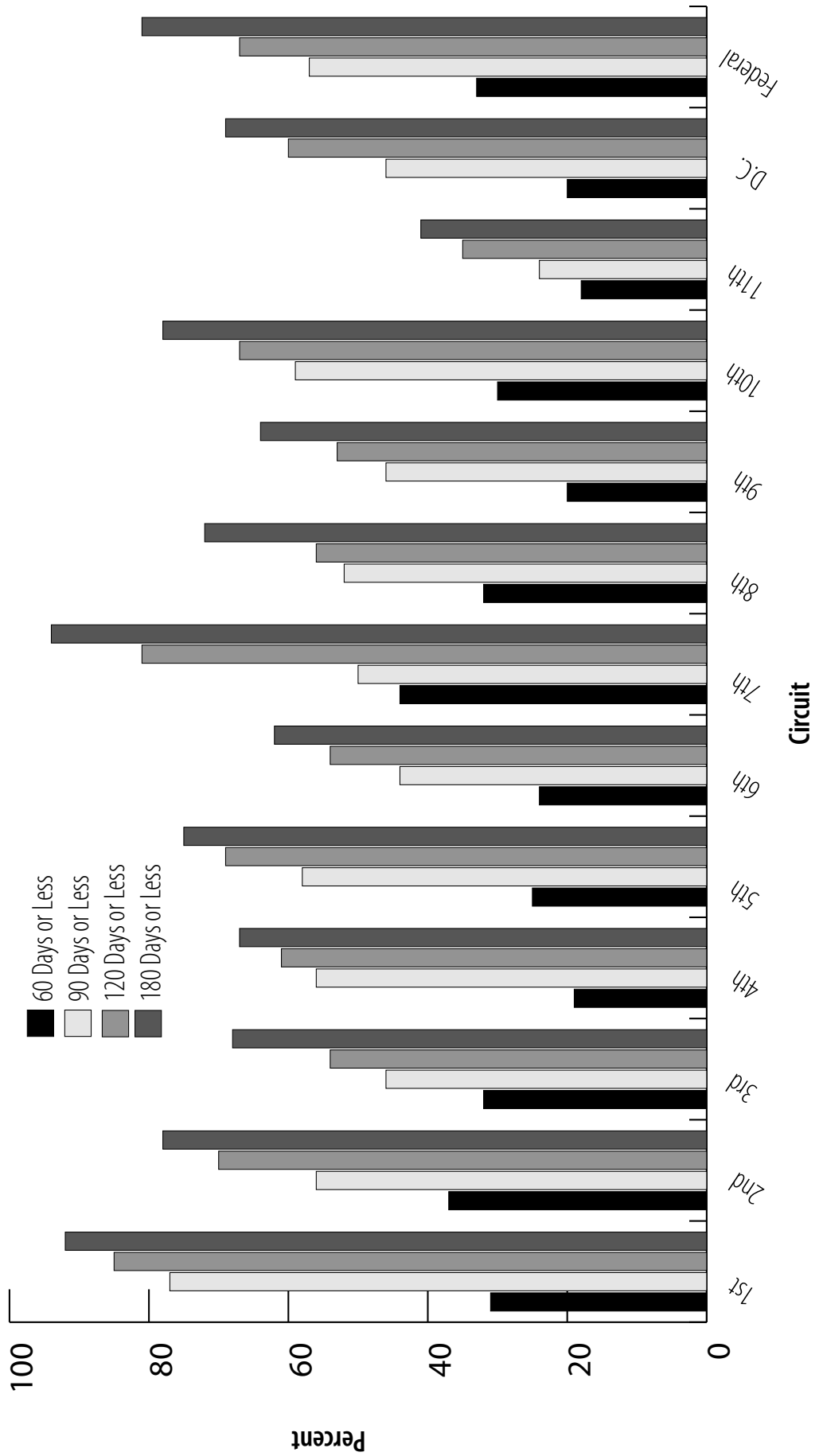


**TABLE 16**

**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL CIRCUIT COURT NOMINATIONS, BY CIRCUIT, 1977-2004**

<b>Circuit</b>	<b>60 days or less</b>	<b>90 days or less</b>	<b>120 days or less</b>	<b>180 days or less</b>
1st Circuit	31%	77%	85%	92%
2nd Circuit	37%	56%	70%	78%
3rd Circuit	32%	46%	54%	68%
4th Circuit	19%	56%	61%	67%
5th Circuit	25%	58%	69%	75%
6th Circuit	24%	44%	54%	62%
7th Circuit	44%	50%	81%	94%
8th Circuit	32%	52%	56%	72%
9th Circuit	20%	46%	53%	64%
10th Circuit	30%	59%	67%	78%
11th Circuit	18%	24%	35%	41%
D.C. Circuit	20%	46%	60%	69%
Federal Circuit	33%	57%	67%	81%
All Circuits	26%	51%	61%	70%

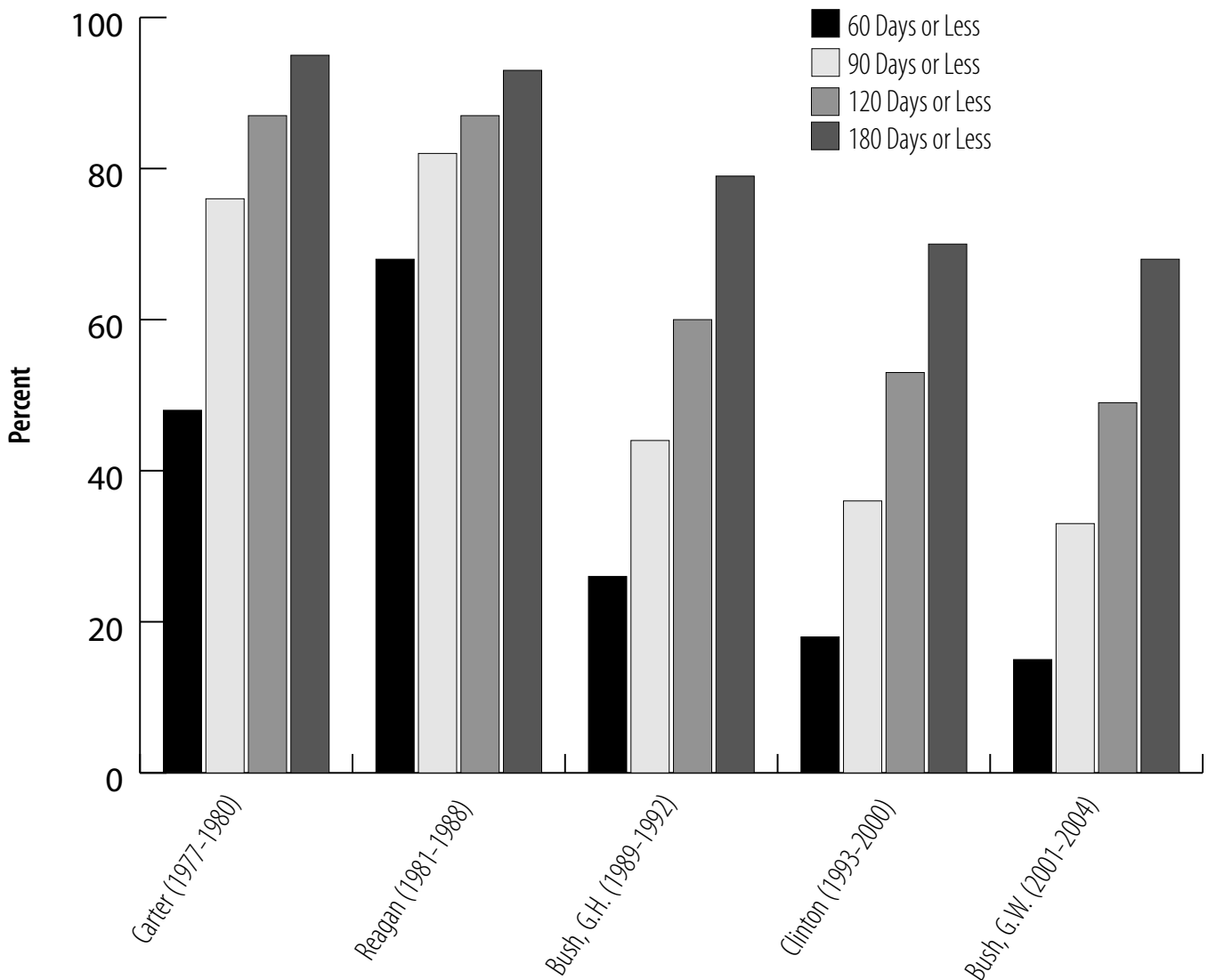
**FIGURE 16**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL CIRCUIT COURT NOMINATIONS, BY CIRCUIT, 1977-2004**



**TABLE 17**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, BY PRESIDENT, 1977-2004**

President	60 days or less	90 days or less	120 days or less	180 days or less
Carter (1977-1980)	48%	76%	87%	95%
Reagan (1981-1988)	68%	82%	87%	93%
Bush, G.H. (1989-1992)	26%	44%	60%	79%
Clinton (1993-2000)	18%	36%	53%	70%
Bush, G.W. (2001-2004)	15%	33%	49%	68%
Carter-Bush (1977-2004)	36%	55%	67%	81%

**FIGURE 17**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, BY PRESIDENT, 1977-2004**



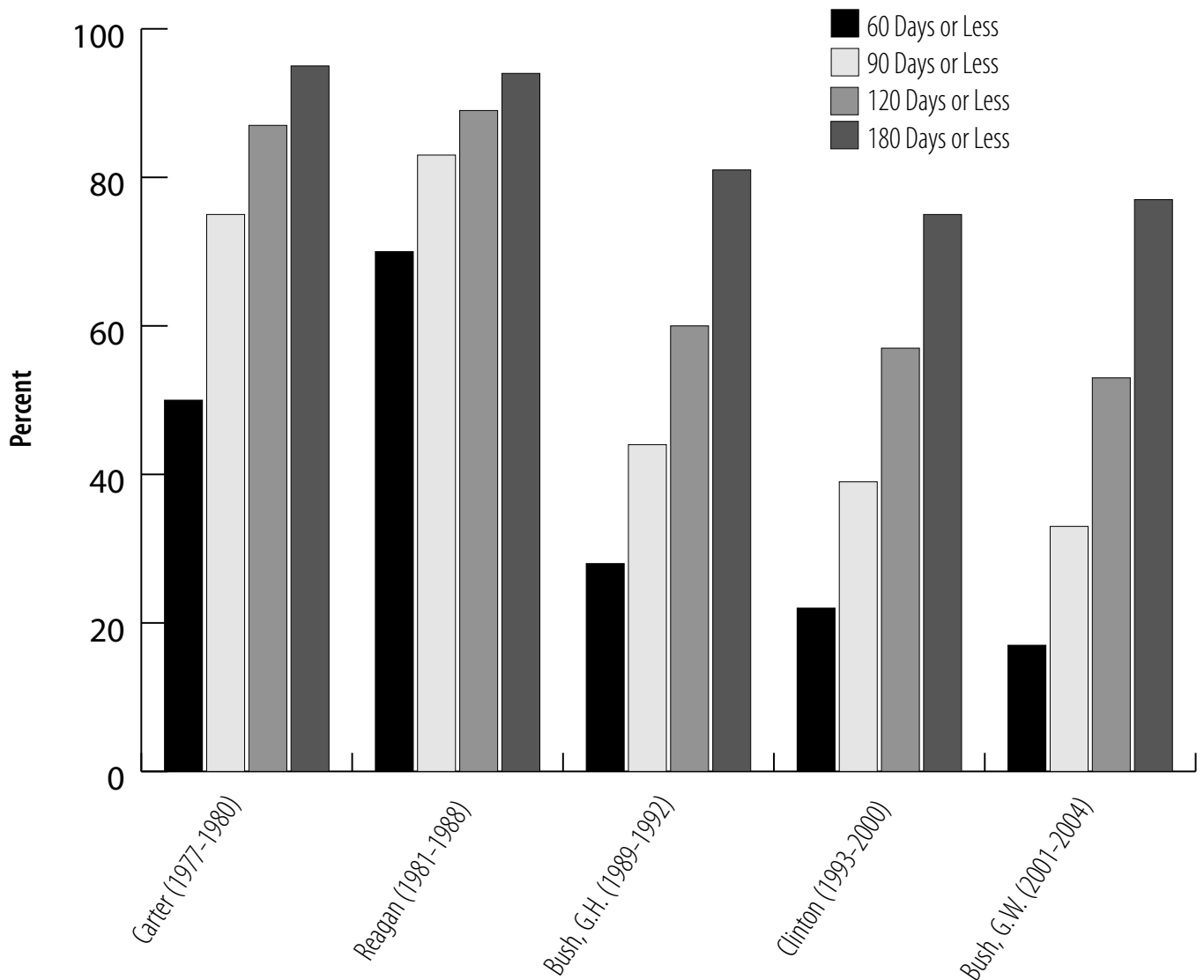
**TABLE 18**

**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL DISTRICT COURT NOMINATIONS, BY PRESIDENT, 1977-2004**

President	60 days or less	90 days or less	120 days or less	180 days or less
Carter (1977-1980)	50%	75%	87%	95%
Reagan (1981-1988)	70%	83%	89%	94%
Bush, G.H. (1989-1992)	28%	44%	60%	81%
Clinton (1993-2000)	22%	39%	57%	75%
Bush, G.W. (2001-2004)	17%	33%	53%	77%
Carter-Bush (1977-2004)	39%	56%	70%	84%

**FIGURE 18**

**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL DISTRICT COURT NOMINATIONS, BY PRESIDENT, 1977-2004**



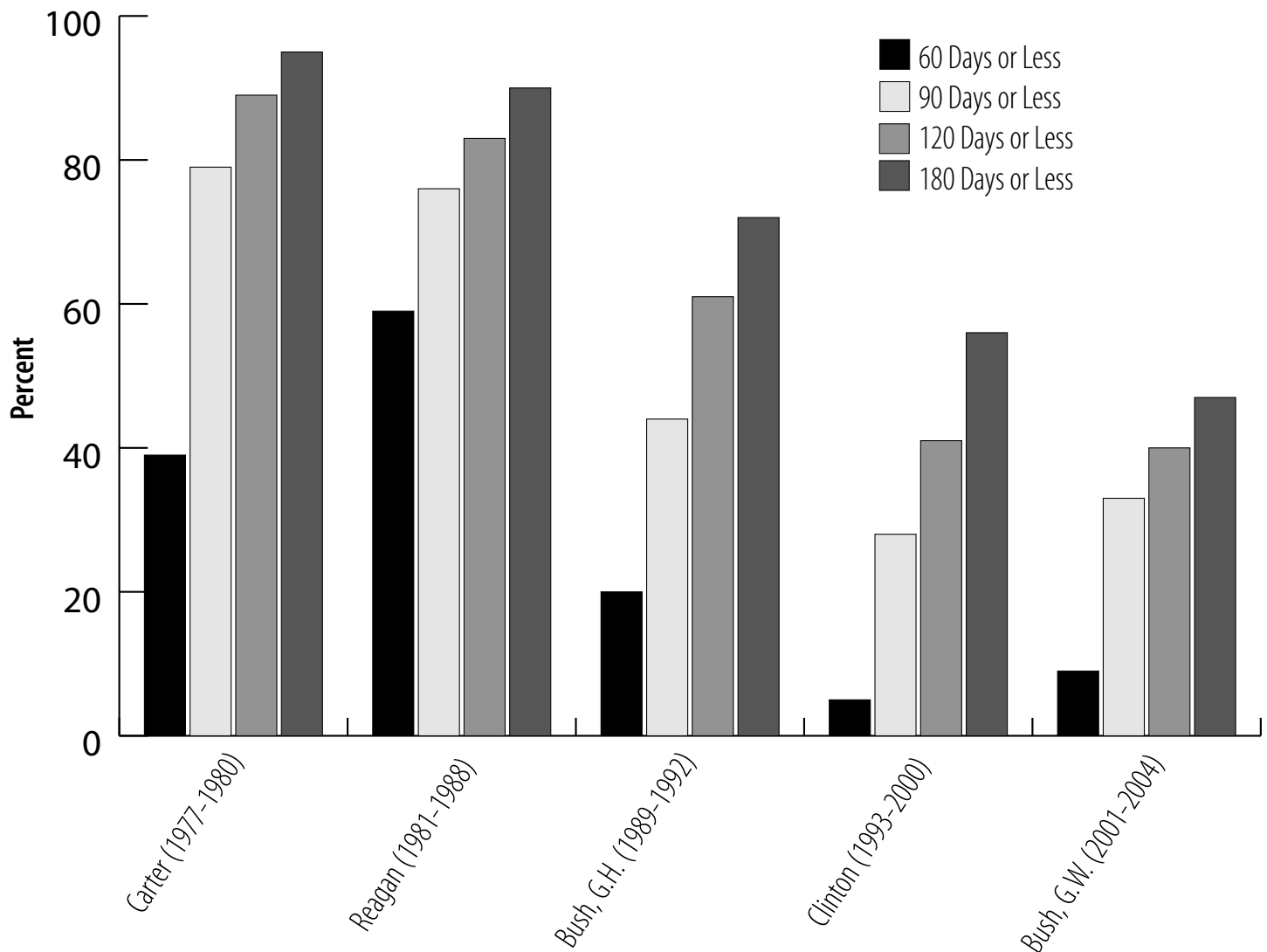
**TABLE 19**

**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL CIRCUIT COURT NOMINATIONS, BY PRESIDENT, 1977-2004**

President	60 days or less	90 days or less	120 days or less	180 days or less
Carter (1977-1980)	39%	79%	89%	95%
Reagan (1981-1988)	59%	76%	83%	90%
Bush, G.H. (1989-1992)	20%	44%	61%	72%
Clinton (1993-2000)	5%	28%	41%	56%
Bush, G.W. (2001-2004)	9%	33%	40%	47%
Carter-Bush (1977-2004)	26%	51%	61%	70%

**FIGURE 19**

**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL CIRCUIT COURT NOMINATIONS, BY PRESIDENT, 1977-2004**



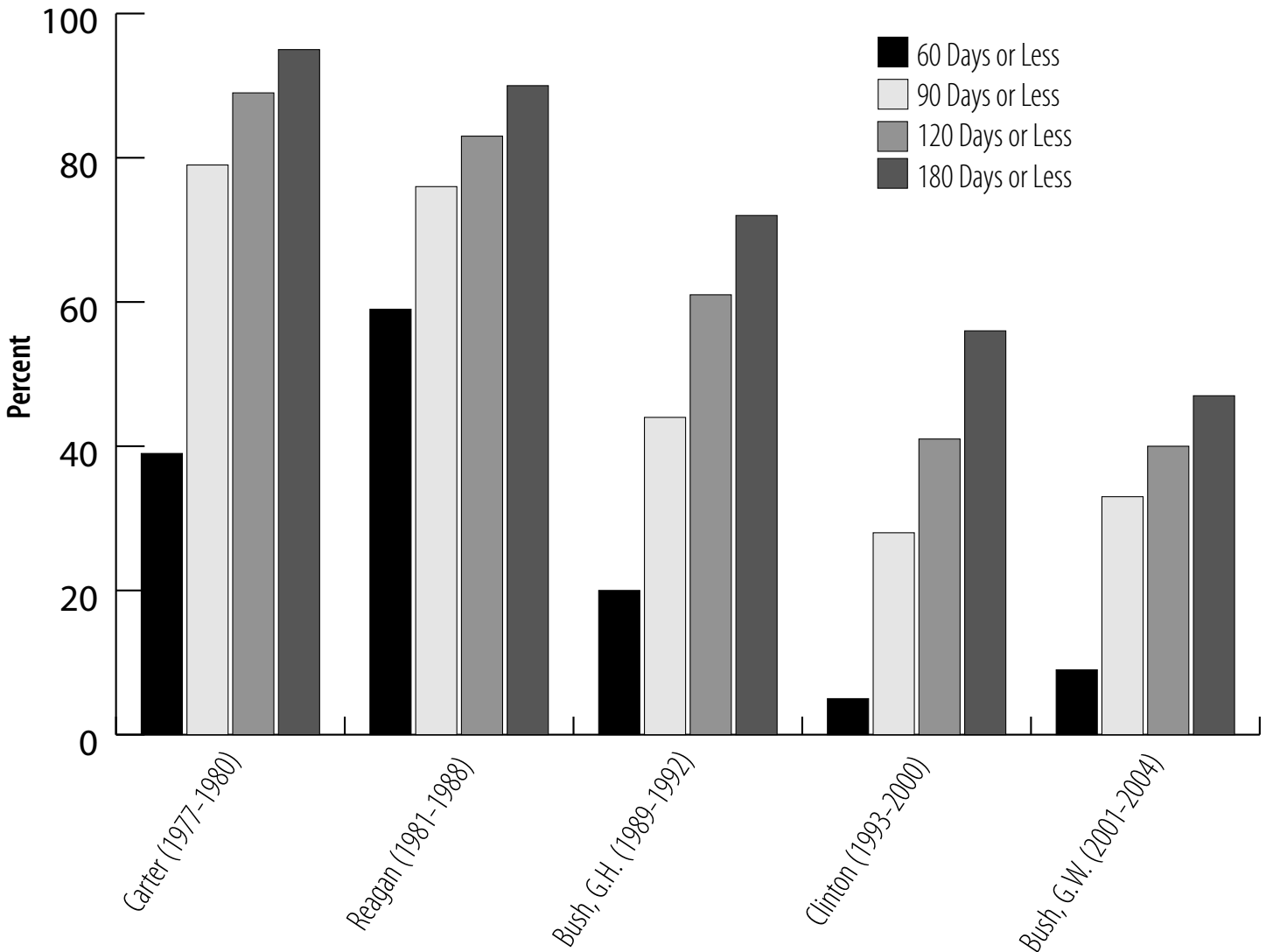
**TABLE 20**

**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, BY PARTISAN CONTROL OF GOVERNMENT, 1977-2004**

	60 Days or Less	90 Days or Less	120 Days or Less	180 Days or Less
Republican President-Republican Senate	61%	77%	81%	88%
Democratic President-Democratic Senate	44%	71%	87%	96%
Republican President-Democratic Senate	23%	39%	58%	77%
Democratic President-Republican Senate	11%	27%	39%	60%
All Nominations	36%	55%	67%	81%

**FIGURE 20**

**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, BY PARTISAN CONTROL OF GOVERNMENT, 1977-2004**

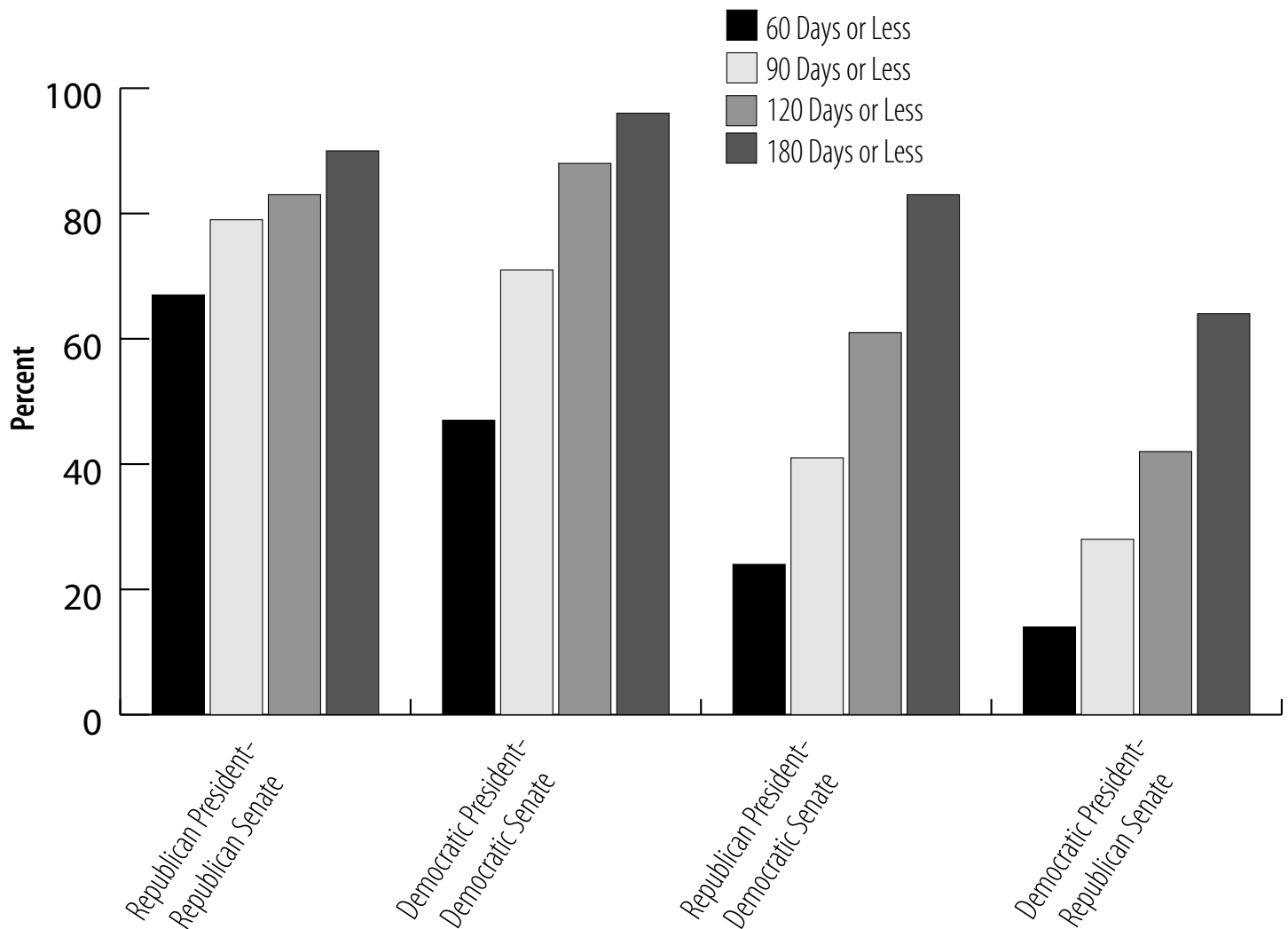




**TABLE 21**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL DISTRICT COURT NOMINATIONS, BY PARTISAN CONTROL OF GOVERNMENT, 1977-2004**

	60 Days or Less	90 Days or Less	120 Days or Less	180 Days or Less
Republican President-Republican Senate	67%	79%	83%	90%
Democratic President-Democratic Senate	47%	71%	88%	96%
Republican President-Democratic Senate	24%	41%	61%	83%
Democratic President-Republican Senate	14%	28%	42%	64%
All Nominations	39%	56%	70%	84%

**FIGURE 21**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL DISTRICT COURT NOMINATIONS, BY PARTISAN CONTROL OF GOVERNMENT, 1977-2004**



**TABLE 22**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL CIRCUIT COURT NOMINATIONS, BY PARTISAN CONTROL OF GOVERNMENT, 1977-2004**

	60 Days or Less	90 Days or Less	120 Days or Less	180 Days or Less
Republican President-Republican Senate	43	72	77	81
Democratic President-Democratic Senate	31	70	84	95
Republican President-Democratic Senate	21	34	47	59
Democratic President-Republican Senate	4	24	33	46
All Nominations	26	51	61	70

**FIGURE 22**  
**SENATE ACTION: PERCENT OF NOMINATIONS PROCESSED BY THE SENATE IN 60 DAYS OR LESS, 90 DAYS OR LESS, 120 DAYS OR LESS, AND 180 DAYS OR LESS, ALL CIRCUIT COURT NOMINATIONS, BY PARTISAN CONTROL OF GOVERNMENT, 1977-2004**

