

GOP scuttles justice review in Senate

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Invoking “states rights” and the Constitution, Senate Republicans Thursday torpedoed an ambitious plan to create a national blue ribbon bipartisan commission to do a top-to-bottom review of the U.S. criminal justice system and report back potential reforms in 18 months.

The 57-43 roll call – three short of the 60 supermajority needed – dramatized again how politically divided the chamber has become.

Almost identical legislation cleared the House in the last Congress on a simple voice vote with Republican backing and had been approved with bipartisan support in the Senate Judiciary Committee last year as well.

Given endorsements from the American Bar Association and many police and sheriffs organizations, proponents had hoped to clear the 60 vote supermajority required in the Senate. But under a barrage of last-minute attacks, Republican support wilted. And the chief sponsor, Sen. Jim Webb (D-Va.), found himself deserted by even his long time associate and fellow Vietnam veteran, Sen. John McCain (R-Ariz.).

“We’re not done,” Webb told POLITICO. “There were very specific answers to everything that was raised there. There is no states rights issue in convening the best minds in America to give you advice and observations about the overall criminal justice system.”

“I thought he was voting with us,” Webb said of McCain. The Arizona Republican argued in a separate hallway interview that the state-rights complaint was valid and also took issue with how the 14-member commission, seven Republicans and seven Democrats, would be chosen.

Indeed, Republicans argued that the White House would have too much influence, effectively creating a 9-7 majority for the administration. But Webb said the specific language that one set of commission seats be chosen “in agreement” with the White House had been the exact phrasing chosen by the GOP. And Republicans are specifically promised control over one of the two co-chairs.

Sen. Kay Bailey Hutchison (R-Texas) took the lead in the GOP’s attacks, describing the commission as “an overreach of gigantic proportions” and “not a priority in these tight budget times.”

“We’re absolutely ignoring the U.S. Constitution if you do this,” said Sen. Tom Coburn (R-Okla.) in closing. “We have no role unless we’re violating human rights or the U.S. Constitution to involve ourselves in the criminal court system or penal system in my state

or any other state...I would urge a no vote against this and honor our Constitution.”

The scene was in sharp contrast with events before the 2010 mid-term elections.

In July that same year, nearly identical legislation sailed through the House with the backing of Hutchison’s fellow Texan, Rep. Lamar Smith –now chairman of the House Judiciary Committee. Support was so strong that the bill was called up under expedited proceedings and passed without any member even demanding a recorded vote.

By contrast, just four Senate Republicans backed Webb Thursday: Sens. Lindsey Graham of South Carolina, Orrin Hatch of Utah, Olympia Snowe of Maine and Scott Brown of Massachusetts.

Hatch is a former Senate Judiciary Committee chairman. And Graham, a close friend of McCain, is prominent as well on the committee which reported a similar version of the bill in January last year – also before the 2010 elections.

Individual Republican senators said they had come under pressure from local district attorneys and judges in drug courts to oppose Webb. But the Democrat countered that he had strong support from the drug court judiciary and the model for his proposal was the influential presidential commission on crime and the judicial system in the mid 1960’s led by then-Attorney General Nicholas Katzenbach.

Webb said that 40 years later it is reasonable to have a second review, especially given the high incarceration rate in the U.S. at a time of relatively low crime rates.

“Our criminal justice system is broken in many areas,” he told the Senate in his own floor comments. “We need a national commission to look at the criminal justice system from point of apprehension through reentry into society of people who have been incarcerated.”