Anchoring or Expanding? Gender and Judicial Nominations

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Abstract

Since both parties committed to adding women to the federal bench in the 1970s, Democratic and Republican presidents have sought out qualified women for judgeships. Diversifying the bench offers symbolic and substantive benefits to both parties, but those benefits come at the cost of finding non-traditional nominees. Presidents can take one of two different approaches to diversification: maintain existing diversity by anchoring women to a seat, or increase diversity by considering women for every opening. Given presidents consider many factors, including electoral benefits, when selecting potential judges, we expect partisan politics influence approach. Examining all lower court nominations made between 1981 and 2022, we find that Republican presidents tend to anchor while Democratic presidents expand diversity. Additionally, Senate diversity influences diversification, as women are more likely to get nominated when the relevant state Senate delegation includes a woman. Overall, we offer new perspectives on the mechanisms of judicial diversification.

As Democrats responded to the Supreme Court's 2022 ruling in *Dobbs v. Jackson Women's Health Organization* with pledges to protect reproductive rights (Itkowitz et al. 2022), news broke that President Joe Biden planned to nominate an anti-abortion conservative to a district court in Kentucky (Vazquez, Diaz and Lee 2022). The move was old-fashioned senatorial horsetrading – Biden would nominate Republican Senate Minority Leader Mitch McConnell's homestate pick in exchange for McConnell's cooperation on future nominations (Klein 2022) – but no one liked it. Democratic senators were furious Biden went around them to negotiate with someone who regularly stymied their agenda (Stern 2022), and they demanded to know why a president who prioritized and was praised for diversifying the federal bench wanted to appoint a White male member of the Federalist Society to it (Mejia and Thomson-DeVeaux 2021*b*). Republicans accused McConnell of trading party resources for personal gain, even as he rushed to call the arrangement a personal favor (Hulse 2022). Eventually Senator Rand Paul promised to procedurally shutter the deal if it went through, claiming McConnell should have consulted with his fellow Kentuckian first (Everett 2022). Unsurprisingly, the nomination never happened; as partisan, identity, and procedural concerns proliferated, Biden and McConnell's agreement fell apart.

Identifying nominees for appointment to a federal district or circuit court and getting them confirmed is a complex task. Partisanship drives the process, with presidents seeking nominees whose selection scores political praise and whose judging promises to uphold their policies (Nemacheck 2008; Steigerwalt 2010), and Senate opponents using their advisory roles to score political points of their own (Epstein and Segal 2005; Smith 2014; Tushnet 2004). Procedural norms and rules like senatorial courtesy and the blue slip process drive presidents to consult with senators and thus give individual senators' networks, personalities, and preferences sway over the process too (Binder and Maltzman 2004). Both parties' commitments to making the judiciary less White and less male further complicates this process (Cameron and Kastellec 2023; Goldman 1997), as senators struggle to dismiss non-traditional nominees when diversifying the bench is popular (Kenney 2013), allows for the selection of more

extreme nominees (Asmussen 2011), and creates opportunities for credit claiming (Dancey, Nelson and Ringsmuth 2020). For partisan and electoral reasons, presidents and senators weigh these considerations differently (Calmes 2021; Crowder-Meyer and Cooperman 2018), but the end result is a judiciary that is more politically polarized and more diverse than it was in the 1970s (Mejia and Thomson-DeVeaux 2021*a*; Solberg and Waltenburg 2020), with each president building on gains made by his partisan predecessor.

While the ideological and procedural nature of lower court nominations is well documented (Binder and Maltzman 2009; Hartley and Holmes 2002; Steigerwalt 2010), scholars know significantly less about diversification's place in the process (but see Boyd, Collins Jr. and Ringhand 2023; Bratton and Spill 2002). Given women have joined the bench in consistently higher numbers since the Carter administration (Goldman 1997), scholars need to better understand gender's role. When do presidents nominate women to the federal bench? To answer this question, we examine the collision of gender, partisanship, and procedure in all lower court nominations from the start of the Reagan administration to the Biden administration's first Congress (1981 to 2022). Our analysis suggests both parties value bench diversification but approach it differently, with Democratic presidents naming women to any available seat and Republican presidents "anchoring" and replacing one woman with another. We also find that female senators play a key role in inclusion, as their presence significantly increases the likelihood a woman gets nominated to a court in their home states.

Our analysis contributes to the literature in three significant ways. First, we pivot from the literature on "firsts" to examine the next step of diversification. Putting the first woman on a court fundamentally alters the gender composition of the judiciary, as a court rarely reverts to an all-male institution after a woman infiltrates it (Escobar-Lemmon et al. 2021*b*). Judicial firsts also change the idea of who can be a judge, leading more women to think they can be lawyers and judges, too (Escobar-Lemmon et al. 2021*a*). But increasing women's representation on the bench is equally important. While having women on the bench does not directly translate to higher feelings of judicial legitimacy (Chen and Savage

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Forthcoming), women's inclusion in the judiciary does produce better and more equitable outcomes (Boyd 2013; Boyd, Epstein and Martin 2010; Haire and Moyer 2015), and female judges feel more comfortable with their work when they have female colleagues (Johnson and Reid 2020). Consequently, identifying if and how presidents move from firsts to lasting diversity is crucial for understanding the federal judiciary's processes and outputs.

To that same end, our research also shows that women in one institution can help diversify another. Research on Congress broadly and the Senate specifically shows that while all members of Congress tend to follow partisan priorities, female representatives and senators still seek to advance women's interests within their party, from trumpeting their party's friendliness toward women (Swers 2013), to fronting causes that could scare women away (Clayton, O'Brien and Piscopo 2019), to recruiting more women to run for office (Dittmar, Sanbonmatsu and Carroll 2018). Collectively, this research shows that women's presence in an institution affects its policies and future membership. Our work goes a step further by suggesting that female senators also use their position to increase the gender diversity of other institutions and thus affect women's overall inclusion in the government.

Finally, our approach shows how partisan asymmetry affects the nominations process. Early studies of diversity focused on broad dynamics without considering partisan differences in approach, at least partially because only one party was diversifying the bench (Haire and Moyer 2015). But in recent years, both parties put more effort into diversifying the judiciary and advertising their efforts (Badas and Simas 2022; Greenhouse 2021), which makes understanding partisan differences important, given parties parties report to different constituencies and thus approach politicking differently (Crowder-Meyer and Cooperman 2018; Grossmann and Hopkins 2016). Republican campaigns promise to put conservatives on the federal bench, while Democratic ones focus more on identifying diverse judges (Kaplan 2018). These promises, in turn, lead to different approaches in the prioritization, selection, and confirmation of female judges (Calmes 2021). Our data allow us to probe these dynamics in detail while also accounting for the political environment more broadly.

Increasing Women's Representation in the Federal Judiciary

The broad transformation of the federal bench from an all-White, all-male institution to one that "looks like America" happened in fits and starts, but presidents have consistently nominated more women to it since the 1970s (Haire and Moyer 2015).[1] Going back to the 1930s, presidents occasionally suggested White women and Black men for judgeships, but senators' protection of their selection prerogatives led them to punish presidents who suggested anyone other than their preferred (White and male) nominees, which in turn drove presidents to approach diversification with caution (Goldman 1997). Things changed during the 1970s, as presidents took more control of the judicial selection process (Goldman 1997), and both parties made "the appointment of women to positions of top responsibility," including the Supreme Court, a priority in their official platforms.[2] With their parties' encouragement, presidents sought to transform the look of the federal judiciary while still aligning it with their policy goals (Goldman et al. 2001). The question was how.

Presidents in both parties began the diversification process by putting "firsts" on each court. As Escobar-Lemmon et al. (2021b) explain, the first woman on a court is important for symbolic and substantive reasons. For one thing, judicial firsts disrupt the idea that only men can be judges (Feenan 2008), which leads more women to legal careers and creates

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[1] Presidents initially were more willing to place Black men in federal judgeships (Goldman 1997), but for many reasons, the diversification of the bench was nonlinear, with Black, Hispanic, and Asian American representation remaining short of population parity (Blanco 2021). First, blatant racism affected early diversification efforts as southern senators – representing significant Black populations – often refused to sign off on Black nominees (Goldman et al. 2001). Second, demography matters. Census data shows Black and Hispanic Americans tend to live in urban areas and the South (Passel, Lopez and Cohn 2022; Tamir 2021), while Asian Americans cluster in the West (Budiman and Ruiz 2021); as such, senators have unequal opportunities to select minority nominees for the bench. Race and ethnicity also correlate with partisanship, which makes it easier for Democrats to identify co-partisan minority nominees, though Republicans are making gains with Hispanic and Asian Americans (Philpot 2017; White and Laird 2020). While sexism toward female judges makes it more difficult for them to obtain judgeships (Boyd, Collins Jr. and Ringhand 2024), women form a solid proportion of partisans in both parties (Pew Research Center 2018), and about half the population in every state (Kaiser Family Foundation 2021), making them available for consideration. Because different dynamics drive the underlying processes of race and ethnic versus gender diversification, we focus this study on gender. For discussion of intersectionality's role, see Moyer, Harris and Solberg (2022).

[2] For the 1972 Democratic Party platform, see `https://tinyurl.com/25dsxu3z`. For the 1972 Republican platform, see `https://tinyurl.com/c92jyy4c`.

more mentors for the women who follow them (Badas and Stauffer 2023*b*; Rhode 2017). And, because people object to courts reverting to all-male institutions (Hawes 2023), few courts do it (Escobar-Lemmon et al. 2021*a*), which means putting a woman on a court permanently transforms it. Substantively, a woman's presence on a court also changes outcomes, as male judges approach some "women's issues," such as sex discrimination, differently when they work with female judges (Boyd, Epstein and Martin 2010; Haire and Moyer 2015). Similarly, asking a female judge to write certain opinions can validate them, especially when those opinions go against women's interests (Matthews, Kreitzer and Schilling 2020; King and Schoenherr 2024). Put simply, firsts change the look, feel, and outputs of the judiciary.

In the federal court system, nearly every district and circuit court has had at least one woman serve on it. The black lines in Figure 1 show the proportion of district (Figure 1a) and circuit (Figure 1b) courts that have had at least one woman on them over time. Turning first to Figure 1a, we see that between 1961, when Judge Sarah Hughes took her seat on the District Court of the Northern District of Texas, and 2023, 94% of the 89 state-based district courts have had at least one woman on them;[3] only four district courts have never had a woman take the bench.[4] Similarly, Figure 1b shows that since Judge Florence Allen joined the Sixth Circuit in 1934, all 11 regional circuit courts have had at least one woman on them.[5] Importantly, history shows that once a woman joins a court, that court almost always maintains a feminine presence in perpetuity. Looking to the grey dashed lines in Figure 1, which indicate the number of courts with at least one woman on them in any given year, we see that with few exceptions, benches stay diversified, with 91% of district courts and 100% of circuit courts having a woman on them in 2023.

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[3]There are 94 district courts; we exclude the four senator-less territorial courts in Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and Puerto Rico, and the D.C. District Court, from our analysis.

[4]The four are the Western District of North Carolina, the Eastern District of Oklahoma, the Middle District of Tennessee, and the District of North Dakota.

[5]There are 13 circuit courts, but we exclude the D.C. Circuit Court and the Federal Circuit.

(a) Number of District Courts with at Least One Woman

Inclusion of Women on District Courts Over Time
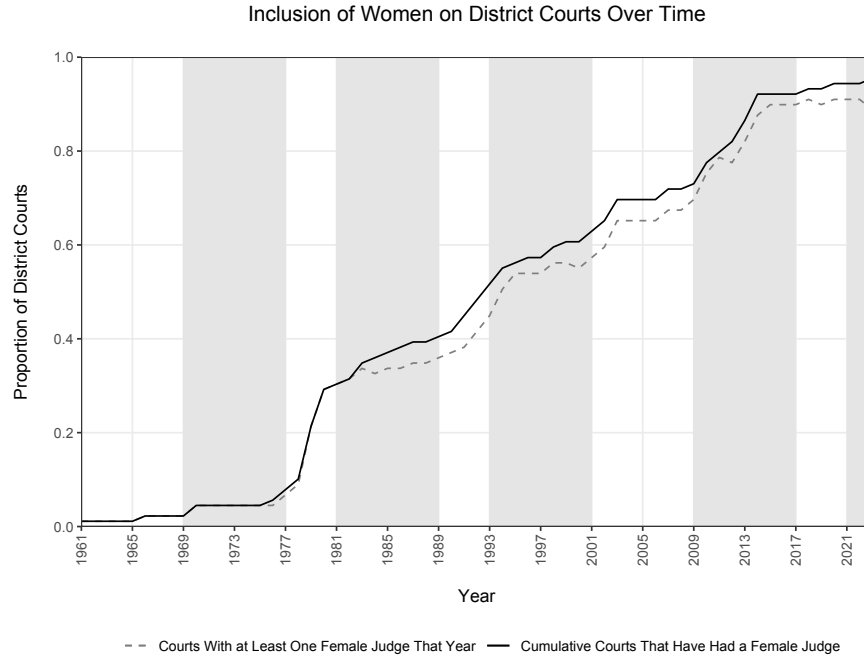
(b) Number of Circuit Courts with at Least One Woman

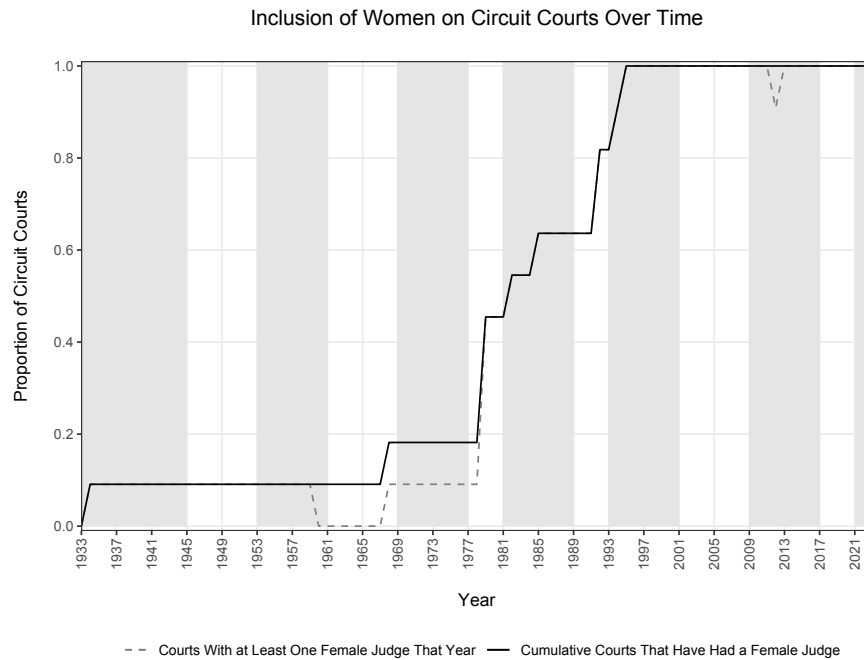Inclusion of Women on Circuit Courts Over Time

Figure 1: a) Number of district courts that have historically (black line) or in any given year (grey dashed line) had at least one woman on them; b) Number of circuit courts that have historically (black line) or in any given year (grey dashed line) had at least one woman on them. White and shaded grey areas separate presidential administrations.

As the first generation of female judges began retiring in the 1990s (Moyer and Haire 2015), presidents had decide how to proceed with diversification (Kenney 2013). Initially, they simply replaced one woman with another (Bratton and Spill 2002), creating a "woman's seat" on many courts. But as the number of female lawyers grew and electoral and ideological pressures to nominate women to the bench increased (Badas and Stauffer 2023a; Rhode 2017), presidents in both parties increased women's representation (Badas and Stauffer 2024), and now 85% of district and all circuit courts have more than one woman serving. While this move was electorally savvy, it also significantly altered the world in which female judges work. Women who sit alone speak less, experience isolation from their colleagues, and feel increased pressure to perform at a high level and in accordance with gender stereotypes (Lindholm, Gregory and Johnson 2018; Karpowitz, Mendelberg and Shaker 2012), while women who sit with other women feel integrated and emboldened to simply do their jobs (Collins Jr., Manning and Carp 2010; Johnson and Reid 2020), which in turn changes judicial processes and outputs (Boyd, Collins Jr. and Ringhand 2023; Szmer et al. 2023).[6] That is, putting more women on the bench also makes it easier for women to be on the bench, which has long-term consequences for judicial composition and output.

Procedural Constraints on Nominations

While presidents from both parties care about putting women on the federal bench, they also want to nominate someone whose ideological preferences align with their own (Epstein et al. 2007). This goal creates conflict around the nomination and confirmation process as senators, constitutionally tasked with providing "advice and consent" on judicial nominees, are equally concerned about the ideological composition of the bench (Scherer 2005), especially when presidents and senators alike use confirmation battles to wage partisan war-

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[6]While gender becomes less relevant as more elite women interact with the judiciary (Gleason, Jones and McBean 2019), many female judges still modify their behavior to meet gendered performance expectations (Moyer et al. 2021). These findings underscore our broader point about the value of gender diversity in the federal courts.

fare and score political points (Badas and Simas 2022; Dancey, Nelson and Ringsmuth 2020). Members of the president's party do everything they can to confirm a nominee while opposition party senators seek to obstruct nominations (Jo 2017; Ostrander 2016; Tushnet 2004), and interest groups wielding money and influence add fuel to partisan fire by making their own demands about nominees and attempting to influence narratives about them (Cameron et al. 2020; Steigerwalt 2010). The consequent partisan gridlock can delay confirmation for months, if not years, and even lead to failure (Bell 2002; Binder and Maltzman 2002, 2009; Bond, Fleisher and Krutz 2009), and it leads presidents to consider senatorial preferences when deciding who gets a nomination (Massie, Hansford and Songer 2004).

Senators possess many tools than can obstruct lower court nominations and thus broadly constrain the president's selection process, but senators representing the state where a nominee will serve wield specific and significant power over lower court nominations. While the filibuster lost much of its potency after the 2013 "nuclear option" rules change led to lower courts nominees securing confirmation with simple-majority votes (O'Connell 2015; Ostrander 2017), senators have many other obstruction tools to deploy (Wallner 2017), including "holds" that keep nominations from being taken up for debate (Howard and Roberts 2015, 2019). But senatorial courtesy and its institutionalization via the blue slip process gives home state senators a virtual veto over nominations for positions within their home state (Binder, Madonna and Smith 2007; Binder and Maltzman 2004), particularly regarding district court nominations (Dinan 2019). Senators use these procedural maneuvers and norms to keep displeasing nominees off district courts in their home states and away from the circuit court seats "assigned" to their states; the norm of senatorial courtesy, for example, enabled Senator Paul's preemptive block of Biden's Kentucky deal with McConnell.

Given individual senators have so much power to obstruct a nomination, presidents at a minimum consider pivotal senators' preferences when selecting a nominee, and in the best cases consult with those senators before making a decision. Consideration leads to compromise, like picking a nominee more aligned with a senator's ideological preferences

(Binder and Maltzman 2009), or selecting an ideologically-extreme nominee who diversifies the bench (Asmussen 2011). Consultation also offers senators opportunities to suggest that people within their networks, such as friends, acquaintances, former colleagues, and talented local lawyers, would be ideal for judicial positions (Goelzhauser 2016; Goldman 1997). These informal suggestions are important for many reasons, including they widen the net of potential judges (Kenney 2013), and allow senators to credit claim when a home state hero joins the bench (Dancey, Nelson and Ringsmuth 2020). For female senators particularly, who desire to advance women's causes and constantly encourage women to run for office (Dittmar, Sanbonmatsu and Carroll 2018; Swers 2013), these consultations provide opportunities to do both by suggesting women's names for judgeships. And, to their credit, these appeals appear to work (Badas and Stauffer 2024), with more women joining the federal bench as more women join the Senate.

Partisanship and Competing Considerations

Because presidents consider so many factors when identifying a nominee, judicial nominations are time and effort intensive (Cameron and Kastellec 2023); this is why presidents are often slow to make nominations when their time is most valuable (King and Ostrander 2020). To lower the cost, presidents and senators often draw names from existing and trusted networks (Goldman 1997). These networks are efficient at identifying ideologically-agreeable nominees (Bird and McGee 2022; Calmes 2021), but they also tend to reflect the composition of the Senate, which is overwhelmingly White and male (Goelzhauser 2016; Kenney 2013). Finding qualified women for judgeships thus requires presidents and many senators go beyond their typical networks and put in extra work, like Carter did when he set up committees to find diverse and qualified nominees (Binder and Maltzman 2009). Doing so, however, requires additional effort that presidents and senators could use elsewhere. Presidents (and the senators who consult on lower court nominations) thus have to make a decision about how much work to put into the gender diversification of the courts: they can maintain the

current diversity of the bench or they can permanently modify their candidate pool.

Seat maintenance involves treating a seat held by a woman as a "woman's seat" in perpetuity (Arrington 2018; Bratton and Spill 2002). This anchoring strategy reduces the workload associated with identifying qualified women by focusing extended attention on a single seat. It also gives presidents (especially Republican ones) opportunities to push through more ideologically-extreme candidates during periods of partisan gridlock (Asmussen 2011; Solowiej, Martinek and Brunell 2005), as politicians seek to avoid backsliding to an all-male bench (Escobar-Lemmon et al. 2021*b*).[7] At the same time, however, seat maintenance puts pressure on presidents and senators to find female nominees for anchored seats, which can lead to delays in nominations, compromises on candidate characteristics, or the decision to "shelve" a female nominee until a woman retires – consider, for example, that President Trump decided not to nominate then-Judge Amy Coney Barrett to replace Justice Anthony Kennedy at least in part because he wanted her available for Justice Ruth Bader Ginsburg's seat if it became available (Greenhouse 2021).

The other option is ensuring that women are perpetually in the nominations pool and thus a consistently-available option for nominations. This is what President Carter did when he established panels for finding qualified circuit court judges in the 1970s (Goelzhauser 2016); what President George W. Bush did by looking for conservative women (Haire and Moyer 2015); and what Presidents Barack Obama and Joe Biden did when seeking nominees from non-traditional backgrounds (Kaplan 2018; Mejia and Thomson-DeVeaux 2021*b*). Initially, developing infrastructure to keep women in the nominations pool is costly (Cameron and Kastellec 2023), but that cost decreases as infrastructure hardens and the network built from it expands. Theoretically, if the pool is deep enough, seats do not need to be anchored and presidents can just select a candidate of any gender from the pool.

Electoral incentives should drive the decision of which path to take, and partisan

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[7]See the Congressional Research Service report on judicial nominations through Biden's first Congress, located at `https://tinyurl.com/3duahepy`.

asymmetry suggests each party will follow a different one (Grossmann and Hopkins 2016). Democrats, who appeal to identity-based constituencies, feel pressure to put women into positions of power and reap electoral benefits for doing so (Crowder-Meyer and Cooperman 2018; Swers 2013). While Democrats have an advantage in identifying promising women who could be judges and thus had an easier time selecting women for judgeships (Boyd, Epstein and Martin 2010; Norgren 2018), they have also shown a willingness to increase women's representation at the expense of ideological purity if the situation demands it (Asmussen 2011). Alternatively, Republicans, who care most about conservatism credentials, focus more on a nominee's ideological purity than on their identity (Bird and McGee 2022; Solowiej, Martinek and Brunell 2005). They acknowledge that nominating women is important (Asmussen 2011), made efforts to identify more women for judgeships (Greenhouse 2021), and will claim credit when a woman takes a seat (Dancey, Nelson and Ringsmuth 2020), but they also lack electoral incentives to compromise on ideology for the sake of increased representation (Crowder-Meyer and Cooperman 2018), and thus refuse to do so.

Consequently, we suspect that Democrats should continuously appoint women to judgeships so they can reap the electoral benefits of putting women on the bench, while Republicans should engage in seat maintenance so they can focus on finding conservative nominees to draw adoration from the party faithful. Such different strategies should yield divergent patterns in nominations. And this is what we find. As Figure 2 shows, Democratic presidents nominated more than twice as many women to the lower courts as Republicans between 1981 and 2022.

Figure 2: Gender, Party, and Lower Court Nominations 1981-2022
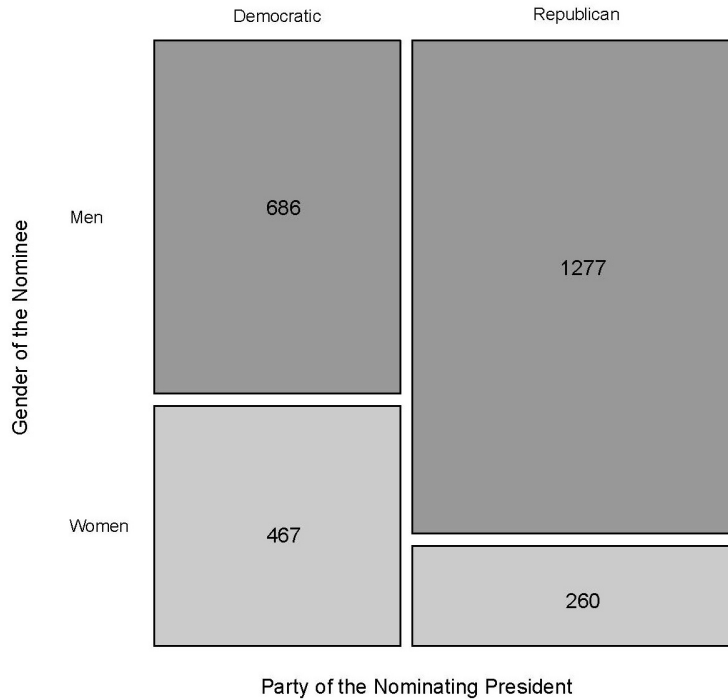
We add one procedural caveat to the broader story of partisan strategies. The inclusion of women in state Senate delegations should lower the cost of either approach and increase the probability that a woman gets nominated. Given home-state senators consultant roles, female senators' personal desire to increase women's representation in government (Dittmar, Sanbonmatsu and Carroll 2018; Swers 2013), and their easier access to and knowledge of local networks of accomplished women who could fill a judicial seat, delegations that include a woman should be more likely to produce female nominees for the federal bench, regardless of the senator's party.

Expectations

Presidents' broad objective of putting more women on the federal bench is complicated by ideological goals, senatorial prerogatives and procedures, the breadth of senators' networks of potential nominees, and presidential willingness to invest in diversification. Our

analysis suggests partisanship adds another layer onto this process, as Democratic presidents have repeatedly put more women on the bench than their Republican counterparts. Simply looking at the time trend, which we show in Figure 3, might suggest that Democrats' early selection pool depth advantaged them in ways that still resonate today.[8] But, as we just explained, we suspect a better explanation is available: that the parties have always approached diversifying the bench differently because there are electoral incentives for doing so (Crowder-Meyer and Cooperman 2018; Grossmann and Hopkins 2016).

Figure 3: Percentage of Female Nominations to Lower Court Positions: 1981-2022
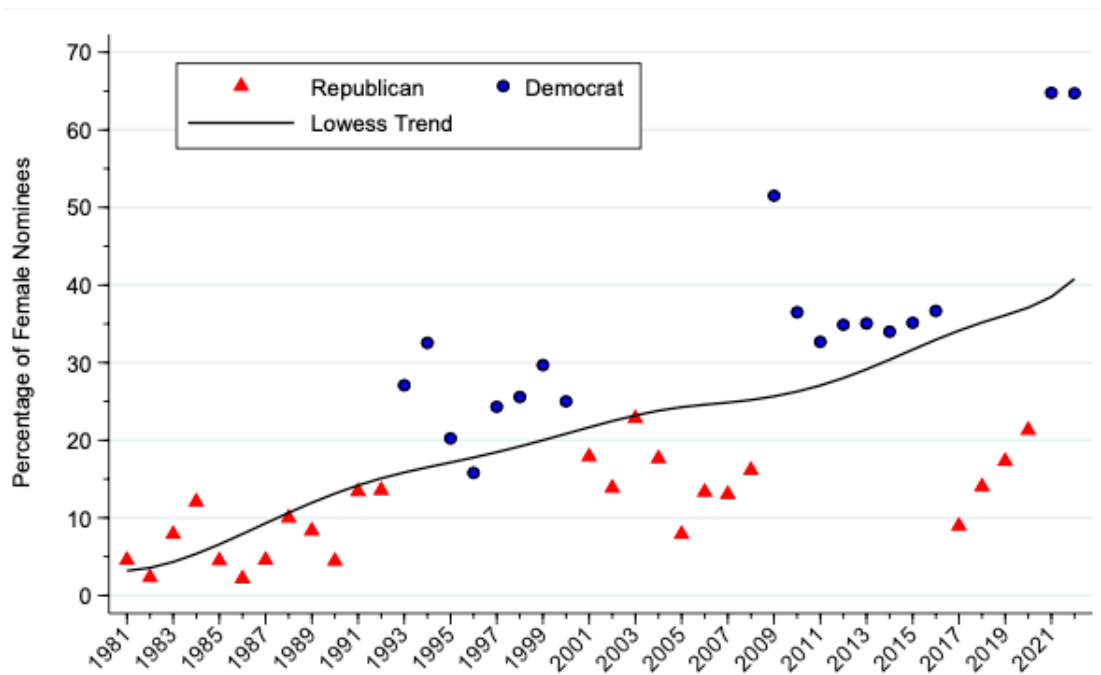
Expectation 1a: Democratic presidents are no more likely to nominate a woman to a judicial position vacated by a woman as compared to a position vacated by a man.

Expectation 1b: Republican presidents are more likely to nominate a woman to a judicial position vacated by a woman as compared to a position vacated by a man.

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[8]For a tabular breakdown of partisan differences in women's nominations, see Table A1 in the supplemental appendix.

Given senatorial courtesy and the blue slips process, senators from the relevant Senate delegation are traditionally consulted during the pre-nomination process (Goldman 1997). This is because, as Binder and Maltzman (2004, 9) state, the blue slips process "creates a structural incentive for the president to recognize the interests of even ideologically distant home state senators during the process of selecting nominees." While not deterministic, the practice creates an opportunity for the descriptive representation in the Senate to influence descriptive representation on the lower federal courts, as women in the Senate may choose to advocate more for women's representation on the bench (Dittmar, Sanbonmatsu and Carroll 2018; Swers 2013). As such, we expect that in cases where the relevant Senate delegation for a given vacancy includes at least one woman, the nominee for that position will be more likely to be a woman as well.

> **Expectation 2**: Vacancies for a position where the relevant Senate delegation includes women will be more likely to have women as a nominee.

Data and Method

To examine the dynamics of nominating women to the federal bench, we collected data on all formal presidential nominations to lower federal courts between the 97th Congress (President Reagan's first) and the 117th Congress (President Biden's first). This 1981 to 2022 timeline encompasses the era in which women held seats and could be replaced.[9] Starting with the Reagan administration also allows us to examine lower court nominations in an era of increased attention to ideological coherence (Goldman 1997). When gathering our data, we collected the details of each nomination from Congress.gov, which tracks actions, votes, and the final disposition of all formal presidential nominations to the lower courts. Nominee gender for confirmed nominees comes from the Federal Judicial Center's (FJC) Biographical Directory, and we used press releases and professional web pages to find the same information

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[9]Because Congresses run from January to January, the 117th Congress technically ended January 3, 2023, but the final confirmation cleared in December 2022. For consistency, we use 2022 as our endpoint.

for unconfirmed nominees.[10] We also used the FJC Biographical Directory to identify the identity characteristics of the judge who previously held the seat.[11]

Because we are interested in who gets nominated, our unit of analysis is the formal presidential nomination and not the vacancy itself. We examine nominations because judicial vacancies often span Congresses and administrations,[12] and presidents may make several nominations to a single vacancy under a variety of political contexts – including different presidents – before successfully filling the seat (Binder and Maltzman 2009). Additionally, based on our interest in the role of Senate delegations, we remove nominations to the D.C. courts from our analysis.[13] We consequently examine 1,809 district court and 480 circuit court nominations.

While district court and circuit court nominations are similar in many respects, the processes are different enough that we analyze nominations to each type separately (Martinek, Kemper and Winkle 2002; Primo, Binder and Maltzman 2008). One key difference between these courts is that the blue slips process is a much weaker constraint for circuit than district court nominations, which means senators have more say over district court seats than they do circuit court seats (Dinan 2019). For each type of nomination, we examine who got nominated to the open seat, and our dependent variable is whether a woman (1) or man (0) was nominated to a federal judgeship.

To identify the replacement strategy, we used Congress.gov and the FJC Biographical Directory to identify whether a woman (1) or a man (0) previously held the seat. Because

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[10]FJC data is available at `https://tinyurl.com/mwwzawbh`.

[11]Congress has the constitutional authority to create new judgeships as it deems appropriate. According to the Congressional Research Service, Congress last expanded the judiciary in 1990, see `https://tinyurl.com/nhe8fzz6`. For those seats, we start our analysis with the first nominee to replace the original judge.

[12]An individual may be nominated to the same position multiple times. Each re-nomination is a separate observation within our data. We retain these cases because each re-nomination is intentional, not automatic (Rybicki 2013). Doing so also preserves relevant institutional contexts such as Senate delegations.

[13]This is not to say the D.C. courts are not worthy of study, just that their nominations processes are different because senators are not involved. We examine the D.C. courts descriptively in Table A2 in the supplemental appendix and our findings regarding partisan asymmetry in approach hold.

we are interested in partisan differences, we also identify whether a Republican (1) or Democratic (0) president made that nomination, and then interact that variable with the variable indicating the gender of the previous seat holder. Congress.gov also matches each district court position to a corresponding home state, and each circuit nominee with the state where their seat exists (e.g., a judge on the Fourth Circuit who will work in South Carolina). These state identifications allow us to identifying whether or not a relevant delegation included a female senator.[14] For circuit court nominations, we also include the proportion of female senators in a given circuit, as individual senator influence has significantly waned in recent years (Dinan 2019). Additionally, we used this data to determine how well-aligned the Senate delegation was with the nominating president, categorizing each delegation-president pairing as wholly aligned, wholly opposed, or a mixture of the two.

We also control for several factors the influence the overall likelihood of getting nominated. First, we control for the possibility of strategic retirement by identifying situations of "party switching," where the president has an opportunity to fill a vacancy created by someone nominated by a president of the opposite party (e.g., President Obama nominates for a vacancy created by the departure of a Reagan administration appointee, see Spriggs and Wahlbeck 1995). Further, since the time left in a congressional session may influence nominating decisions (Binder and Maltzman 2002), we include the number of days left in a congressional session at the time a nomination is made.

To measure political contexts broadly, we control for whether the president faces an opposition (1) or allied (0) Senate, as presidents modify their approach when faced with out-party control (Binder and Maltzman 2009). As previous attempts to fill a position may influence presidential nominating strategies (Asmussen 2011), we also account for whether the previous nomination was successfully confirmed (1) or not (0).[15] Additionally, we exam-

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[14]While a handful of Senate delegations include two women, these cases are rare enough that we simply examine the presence of at least one woman in the delegation.

[15]Occasionally, a person gets nominated, that nomination fails at the end of a Congress (often due to inaction), and that person gets nominated again in the next Congress. Now-Justice John G. Roberts, for

ine presidential approval via Gallup data, as well as whether the president and Senate are of the same party.[16]

Finally, we take steps to control for the possibility that women's increased inclusion in the government broadly and the judiciary specifically might better explain bench diversification. First, because the gender composition of a bench could influence the decision to nominate another woman to that bench (Escobar-Lemmon et al. 2021a), we control for the proportion of female judges on each bench at the time of nomination. Additionally, given the gender diversity of the legal profession and the Senate has increased over time, we include fixed effects by congressional term. We use congressional term because nominations fall within them and any outstanding nominations are "returned" at the end of a given term.[17] Finally, because state-level factors may lead to divergent nominating strategies, we include state fixed effects.[18]

Results

We begin by examining the probability a president nominates a woman to a lower court seat, separating our analyses by district and circuit court nominations. Our dependent variable is a dichotomous indicator of whether a given nominee was a woman. As such, we use logistic regressions to estimate the effects of the variables described above on the likelihood a woman is nominated. We provide full regression estimates for the circuit and district court models in Table 1, but for ease of interpretation, we use graphical representations to discuss

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example, was nominated to the D.C. Circuit Court twice (in May 2001 and January 2003) before the Senate confirmed him in May 2003 (Toobin 2008). Because our unit of analysis is the individual nomination, our data treats each nomination as its own observation, so renominations show up as a "new" nomination.

[16]Gallup stopped issuing routine presidential approval surveys, so for the Trump and Biden administrations, we switched to the daily approval estimates provided by `https://fivethirtyeight.com/`.

[17]Table A3 in the supplemental appendix provides regression estimates with yearly fixed effects and the results remain substantively the same.

[18]As circuit courts encompass multiple states, we do not include state fixed effects in our main model (see Table 1). Table A4 in the supplemental appendix demonstrates our results are robust to state-level fixed effects specifications at the circuit level, however.

the results below.

Table 1: Nominating Female Judges: 1981–2022

	Dependent variable:	
	Female Nominee	
	Circuit	District
Prev Judge Female	−0.193	−0.054
	(0.447)	(0.201)
Republican President	−19.113	−4.052***
	(988.823)	(0.677)
Prev Judge Female×Republican President	1.231*	0.932***
	(0.647)	(0.316)
Opposed Delegation	0.026	0.082
	(0.285)	(0.155)
Mixed Delegation	−0.030	0.076
	(0.301)	(0.165)
Female Home State Senator	0.384	0.367**
	(0.311)	(0.186)
Prev Judge Party Switch	−0.015	0.223*
	(0.248)	(0.121)
Opposition Senate	−0.108	−0.780**
	(0.807)	(0.364)
Proportion Bench Female	−1.149	−1.767***
	(1.640)	(0.508)
Previous Nomination Failed	0.024	−0.064
	(0.270)	(0.143)
Days Left in Congressional Session	0.0004	0.001*
	(0.001)	(0.0004)
Proportion Senators Female in Circuit	−1.691	
	(1.102)	
Presidential Approval	−0.009	−0.006
	(0.019)	(0.010)
Constant	1.907*	1.624***
	(1.111)	(0.626)
Observations	480	1,809
Log Likelihood	−234.144	−940.898
Akaike Inf. Crit.	534.289	2,041.795

*p<0.1; **p<0.05; ***p<0.01

Note: Congress and state fixed effects included. In the circuit model, the standard error for the "Republican President" variable is inflated; our reference category is the 97th Congress and Reagan did not nominate women to the federal circuit until the 100th Congress. We include Table A5 in the supplemental appendix to demonstrate this does not lead to issues in our substantive findings.

Our examination begins with our expectation that Democratic and Republican presidents approach nominating women to the bench differently. Figures 4a and 5a show the predicted likelihood of nominating a woman to replace a female or male judge by Democratic and Republican presidents at the circuit and district levels, respectively.[19] Because confidence intervals do not lend themselves to easy interpretation (Schenker and Gentleman 2001; Wright, Klein and Wieczorek 2018), we also provide first difference estimations in Figures 4b and 5b. These figures suggest there are partisan differences in nominating women to federal judgeships.

Turning first to the circuit courts, as the left side of Figure 4 shows, Democratic presidents are equally likely to nominate a woman to a circuit court judgeship whether the position was previously held by a male or female judge. Democratic presidents have a 0.50 probability of nominating a woman to a seat vacated by a male judge, and a 0.49 probability of nominating a woman to a seat vacated by another woman. Put simply, Democratic presidents are as likely as not to nominate a woman to a circuit court seat, regardless of the gender of the judge who help it previously. When combined with the fact that Democrats have increasingly nominated women federal bench over time, this finding suggests that Democratic presidents are putting women up for any available seat, not just seats previously held by women, and lends support to Expectation 1a.

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[19]Following Hanmer and Kalkan (2013), predicted values are generated using simulations of observed values.

(a) Likelihood of Female Nominee: Circuit Courts

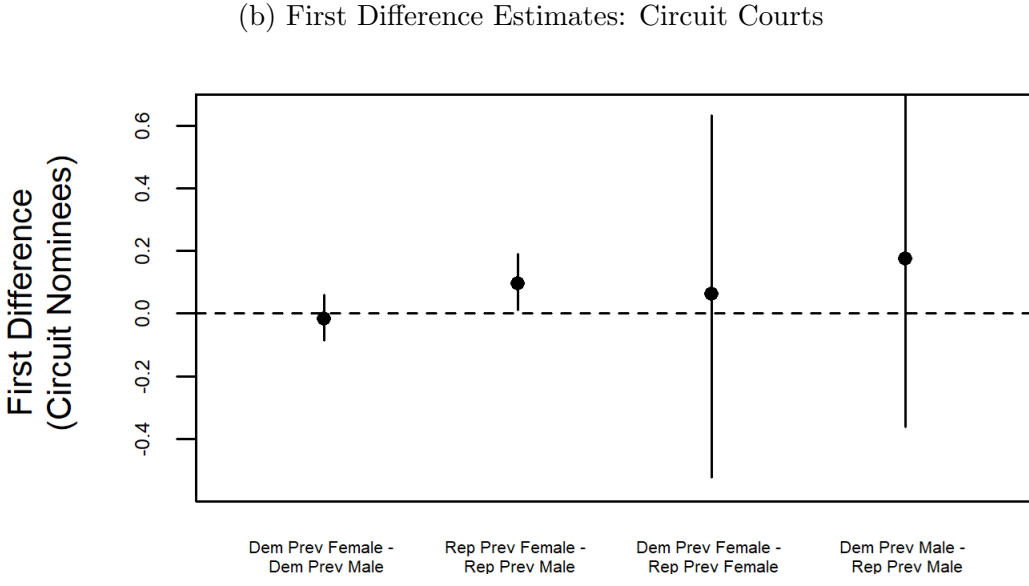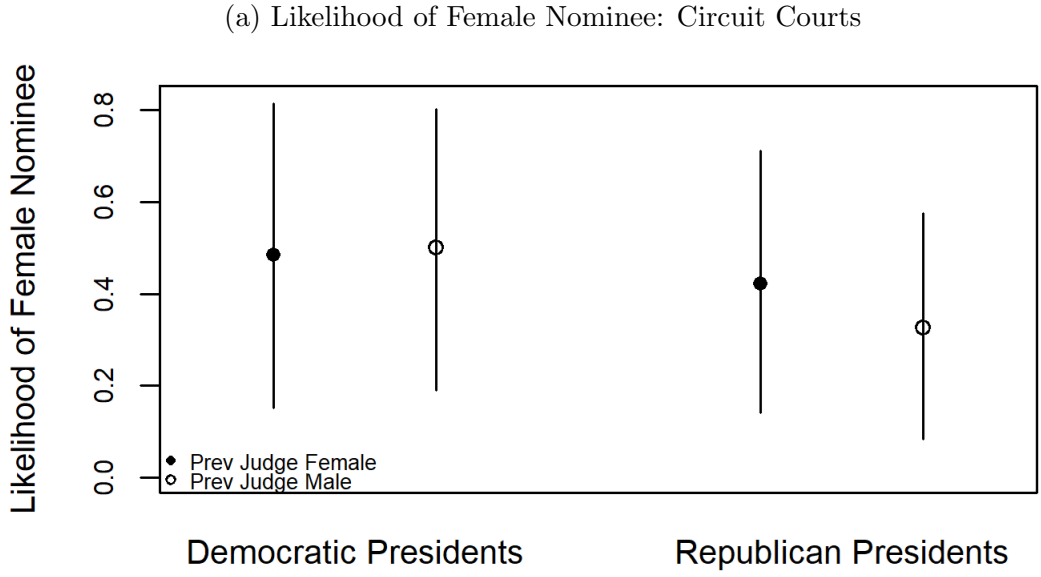
(b) First Difference Estimates: Circuit Courts

Figure 4: a) Likelihood of female nominee for circuit courts with vertical bars representing 95% confidence intervals and b) first differences of nominating judges by gender. Vertical bars represents 95% confidence intervals and vertical bars crossing the dotted line at zero do not significantly differ. Full regression results are included in column 1 of Table 1.

Democratic presidents may not anchor, but we find strong evidence that Republican presidents do. Republican presidents are significantly more likely to nominate women to a circuit vacancy previously held by a woman (0.42) than they are to nominate a woman to a circuit vacancy previously held by man (0.32, $p<0.05$). Unlike Democratic presidents, Republican presidents are more likely to replace a female judge with another female judge

than they are to consider a woman for a seat vacated by a man. From this, we find support for Expectation 1b and provide evidence of anchoring behavior by Republican presidents at the circuit level.

At the district level, we find additional evidence of anchoring for Republican presidents, as seen in Figures 5a and 5b. Republican presidents are again more likely to nominate women to vacancies previously held by a female judge (0.19) than a male judge (0.10, $p<0.05$). Similar to their behavior for circuit nominations, Democratic presidents do not tie nominations to the gender of the previous seat holder and continue to nominate women to seats previously held by male judges (0.64) and do so at a significantly higher rate than Republican presidents (0.10, $p<0.05$). Combining these findings with the results from the circuit level, we find strong support for Expectations 1a and 1b, finding that Democratic presidents nominate women to any seat, and Republican presidents engage in anchoring. Further, as Figures A1a and A1b in the supplemental appendix demonstrate, confirmation success does not differ by nominee gender, contrary to Asmussen's (2011) findings. That is to say, Republicans are not nominating women less because they are less likely to get confirmed. Taken together, these findings provide strong evidence that partisan asymmetry affects the nominations process, with Democrats leaning into diversification and Republicans engaging in it in a more limited manner.

(a) Likelihood of Female Nominee: District Courts

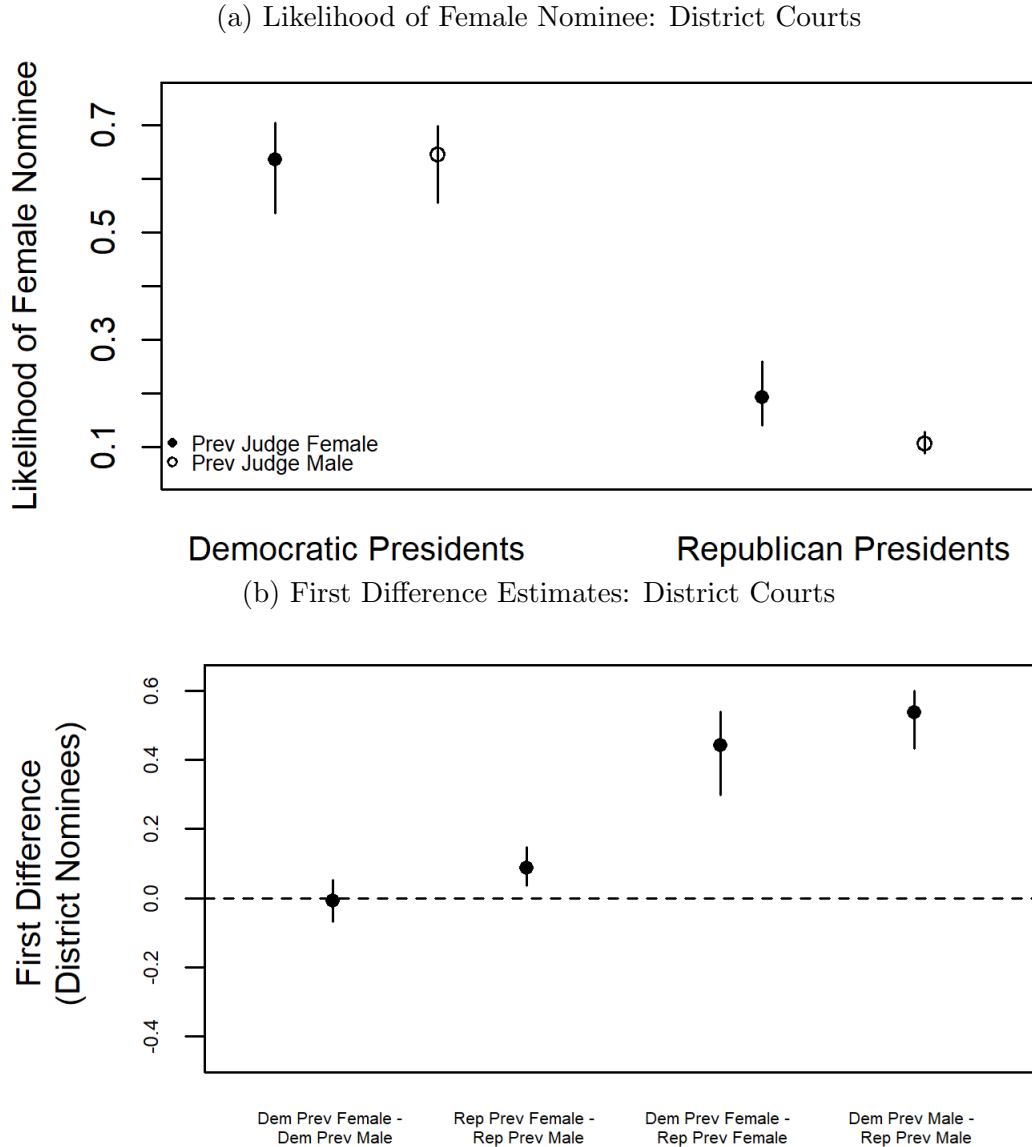

(b) First Difference Estimates: District Courts

Figure 5: a) Likelihood of female nominee for district courts with vertical bars representing 95% confidence intervals and b) first differences of nominating judges by gender. Vertical bars represents 95% confidence intervals and vertical bars crossing the dotted line at zero do not significantly differ. Full regression results are included in column 2 of Table 1.

Turning next to Expectation 2, we find partial support for our hypothesis that presidents are more likely to nominate a woman to vacancies when the relevant Senate delegation includes at least one woman. The logic behind this expectation is that senators have some influence over who gets nominated from their home states (Binder and Maltzman 2002; Binder 2007), and that influence allows female senators particularly to nominate women to

the bench. We find that having a woman in a state Senate delegation significantly increases the probability that a woman gets nominated to the district court, though we do not find a similar effect for circuit court nominations. At the district court level, Figure 6 demonstrates that having at least one woman in the relevant Senate delegation significantly increases the likelihood a woman gets nominated to a federal district court in that state. Specifically, female nominees are six percentage points more likely to be nominated to seats when there is at least one female senator in the delegation (0.34) than they are when the state delegation is all male (0.28, $p<0.05$). Alternatively, women are no more or less likely to be nominated to circuit court seats if a woman is in the relevant senate delegation (0.37) or not (0.30).[20]
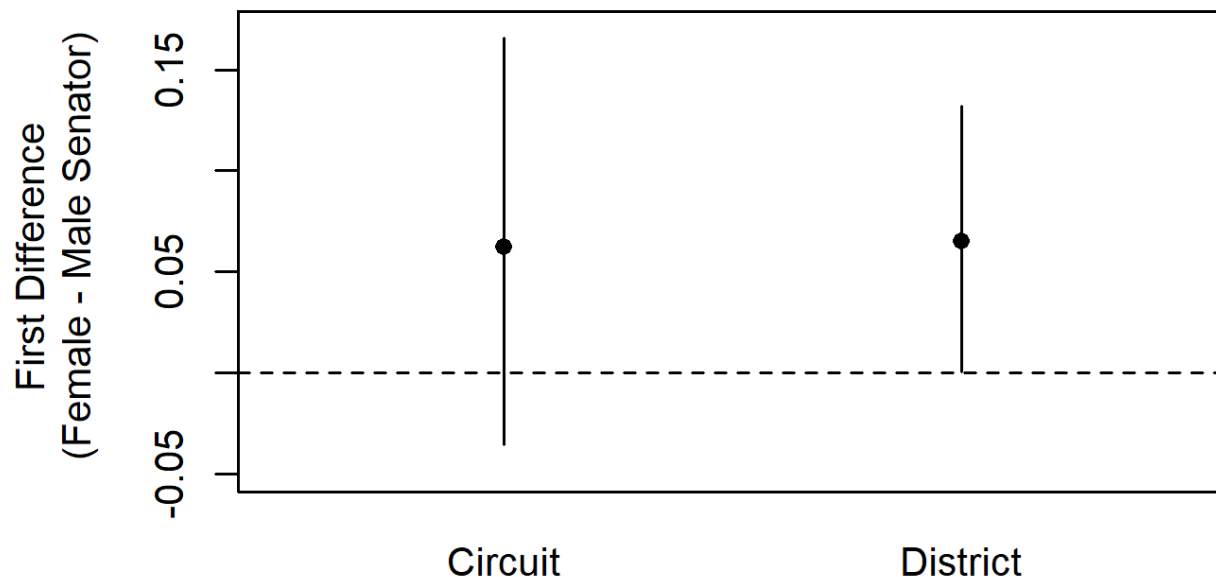
Figure 6: First differences of nominating judges by home state senator gender. Vertical bars represents 95% confidence intervals and vertical bars crossing the dotted line at zero do not significantly differ. Full regression results are included in columns 1 and 2 of Table 1.

These findings offer some support for our second expectation while also speaking to the broader importance of taking Senate dynamics into account when discussing judicial nominations. At a basic level, our results suggest that Senate diversity influences the diversity of the federal judiciary at the level where senators have the most influence – the district courts

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[20]Predicted probability plots are provided in the Figures A2a and A2b in the supplemental appendix.

that sit within their own states. When women are in power, they help put other women into positions of power. These findings also suggest that as influence wanes, female senators' voices might not sound as loudly. Given recent reports that circuit court nominations are getting more national attention, this finding is perhaps not surprising (Calmes 2021). At the same time, however, we hesitate to read too much into this null effect, as our sample size on circuit court nominations is small enough that we might expect to see similar findings with more data.

Aside from the results discussed above, we find little else influences the likelihood of a female nominee getting nominated to a circuit judgeship. At the district level, female nominees are significantly more likely to be nominated when there is a party switch. That is, a woman is more likely to be nominated when a Democratic (Republican) president is replacing a judge previously nominated by a Republican (Democratic) president. Further, women are more likely to be nominated at the beginning of a congressional session. Conversely, women are less likely to be nominated to district judgeships when facing an opposition Senate or as the proportion of women on the bench increases. These findings provide interesting avenues for future research on the selection of women to district judgeships. Put together, however, we see that the main determinants of women being nominated to the bench is anchoring behavior and the nominating president's party.

Ultimately, these findings suggest that while both parties have declared their support for increasing female representation on the courts, they have divergent strategies when doing so. Democrats routinely nominate women to the lower federal courts and we demonstrate that they do so significantly more than their Republican counterparts. Furthermore, while Democratic presidents seek to advance diversity on the bench, the Republican strategy of anchoring seems more tailored toward maintaining existing diversity – with the caveat that they are still growing *their* diversity by replacing retired Democratic female judges with Republican female judges. Importantly, we also show how these factors operate both at the district and the circuit court level and most importantly that the findings differ by court

level. Both single-court studies and investigations that pool models across the lower courts may miss or obscure this court-level variation.

Discussion and Conclusion

Having a judiciary that reflects the American population is crucial for having a representative and functioning judicial system. Pairing this broad democratic need with the electoral benefits offered by promoting diversification, presidents from both parties pledged to nominate more women to the federal bench starting in the 1970s. Since then, both Republican and Democratic presidents have nominated women to every level of the federal judiciary. But the parties – through their respective presidents – have wildly diverged in their tendency to nominate women to the lower federal courts. Over the past 40 years, Democratic presidents have consistently nominated more women to the lower federal courts than their Republican counterparts. Why?

We find the two parties take different strategies for nominating women to the federal bench. Specifically, Republican presidents anchor their diverse nominations by nominating women to positions vacated by women. In contrast, Democratic presidents simply nominate a high proportion of women to the bench, regardless of the vacating judge's gender. The parties likely diverge in strategies because they have electoral incentives for doing so – while both parties claim credit for their diverse nominees, Democrats are pressured to diversify the bench and Republicans gain more traction by heralding the conservatism of their judges. Interestingly, however, one of the long-term implications of our findings is that as Democratic presidents add diversity to the bench, future Republican presidents may in turn retain that added diversity through their anchoring behavior.

Beyond showing that different partisan goals and incentives drive different approaches toward nominations, we provide evidence that the representation of women in the Senate influences the likelihood of a woman being nominated to the judiciary. In this way, the diversity of one branch of government is shown to directly influence the diversification of

another. This relationship, however, is attenuated by the procedural structure of the Senate, as the result is not significant for circuit courts. Such a finding demonstrates the important role the Senate plays in the confirmation process, extending beyond mere voting for home-state senators putting judges on their home-state courts. These results suggest that in some ways, as the Senate slowly diversifies, so too does the federal bench.

These findings have several implications for future research on the diversification of government in general and the rise of women's representation in the lower federal courts specifically. Many prior studies have looked for anchoring behavior by examining the role of the previous judge's demographics in influencing the future nominee. However, we demonstrate that it has taken time for the bench to diversify enough for the replacement of women to be a common occurrence and thus be something political scientists can empirically examine. Furthermore, we demonstrate that there is a clear partisan divide in approach. Failing to account for this kind of partisan divergence in other accounts of diversification may equally obscure the mechanisms driving trends. Our work also suggests several future avenues of study. While we focus on gender, future work should equally consider the impact of race and ethnicity on nominee selection in similar ways as we examine gender. Future work can also extend toward the study of bureaucratic nominations and state-level contexts.

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Supplemental Appendix: Tables & Figures

A president's likelihood of nominating a woman to the federal bench has generally increased over the past 40 years within both parties. Democratic presidents dramatically outpace Republicans in the nomination of women to the lower federal courts. Additionally, while there is a noted increase in the propensity of Republican presidents nominating women to lower court seats during the George W. Bush administration, there is not a comparably significant shift in the propensity of President Trump to nominate women. By comparison, the Biden administration stands out as active in the nomination of women to lower court vacancies, with about 65% of his nominees being women.

Table A1: Female Nominations by Congress & Court Type

Congress (1st Year)	District Frequency	District Proportion	Circuit Frequency	Circuit Proportion	Total Frequency	Total Proportion
97 (1981)	3	4.48%	0	0.00%	3	3.45%
98 (1983)	10	12.99%	2	10.53%	12	2.50%
99 (1985)	9	8.57%	3	9.38%	12	8.76%
100 (1987)	4	5.19%	2	8.70%	6	6.00%
101 (1989)	4	7.84%	3	15.79%	7	10.00%
102 (1991)	29	20.14%	6	20.00%	35	20.11%
103 (1993)	35	30.17%	7	33.33%	42	30.66%
104 (1995)	26	30.95%	5	26.32%	31	30.10%
105 (1997)	23	24.73%	9	33.33%	32	26.67%
106 (1999)	25	30.86%	10	31.25%	35	30.97%
107 (2001)	24	20.34%	11	18.64%	35	19.77%
108 (2003)	17	18.09%	8	21.62%	25	19.08%
109 (2005)	14	22.58%	5	12.82%	19	18.81%
110 (2007)	17	21.79%	6	25.00%	23	22.55%
111 (2009)	37	44.05%	9	37.50%	46	42.59%
112 (2011)	47	38.21%	10	45.45%	57	39.31%
113 (2013)	66	39.76%	19	61.29%	85	43.51%
114 (2015)	27	45.76%	5	62.50%	32	47.76%
115 (2017)	30	23.81%	9	18.37%	39	22.29%
116 (2019)	42	25.00%	5	19.23%	47	24.23%
117 (2021)	76	64.96%	28	71.79%	104	66.67%

The number and proportion of women nominated to the circuit and district courts by Congress (1981-2022). This table provides a detailed, court-level, and over-time breakdown of Figures 2 and 3 in the text.

Table A2: Change in Number of Female Judges
on D.C. Courts by President

President	Circuit	District	Total
Reagan	+1	-2	-1
H.W. Bush	+1	0	+1
Clinton	0	+4	+4
W. Bush	-3	0	-3
Obama	+3	+1	+4
Trump	+1	0	+1
Biden	+1	0	+1
Democratic	+4	+9	+13
Republican	0	-2	-2

We exclude the D.C. courts from our analysis because D.C. is not currently a state and consequently does not have senatorial representation. Even so, we find similar trends in the nominating strategies of women to D.C. judgeships with Democratic presidents increasing the number of women at both the circuit and district levels. Furthermore, no Democratic president has reduced the number of women on a D.C. court. Conversely, Republican presidents overall have not increased the gender diversity on the D.C. courts. We do not find any evidence of anchoring, however, as since 1981, only four instances – two circuit and two district nominations – of women nominated to replace a female judge have occurred, all by Democratic presidents.

Table A3: Nominating Female Judges: Year Fixed Effects

	Dependent variable:	
	Female Nominee	
	Circuit	District
Prev Judge Female	−0.235	−0.069
	(0.463)	(0.203)
Republican President	−20.511	−4.239***
	(2,463.256)	(1.123)
Prev Judge Female×Republican President	1.240*	0.933***
	(0.664)	(0.319)
Opposed Delegation	−0.041	0.053
	(0.296)	(0.159)
Mixed Delegation	−0.057	0.074
	(0.313)	(0.168)
Female Home State Senator	0.379	0.384**
	(0.320)	(0.189)
Prev Judge Party Switch	−0.013	0.217*
	(0.257)	(0.123)
Opposition Senate	−0.056	−0.117
	(0.828)	(0.564)
Proportion Bench Female	−1.607	−1.615***
	(1.708)	(0.519)
Previous Nomination Failed	−0.001	−0.059
	(0.293)	(0.153)
Days Left in Congressional Session	0.001	0.001
	(0.001)	(0.001)
Proportional Senators Female in Congress	−1.872*	
	(1.127)	
Presidential Approval	−0.005	0.002
	(0.024)	(0.015)
Constant	1.877	1.054
	(1.336)	(0.769)
Observations	480	1,809
Log Likelihood	−227.508	−928.353
Akaike Inf. Crit.	563.016	2,058.706
Note:	*p<0.1; **p<0.05; ***p<0.01	

Note: Year and state fixed effects are omitted for space considerations. This table provides evidence that our main substantive findings in Tables 1 and A5 hold when using yearly fixed effects instead of congressional term fixed effects. The variables "Republican President" has inflated standard errors as Reagan did not nominate women to the circuit courts until 1987.

Table A4: Nominating Female Judges: 1987–2022 (Circuit w/ State FEs)

	Dependent variable:
	Female Nominee
Prev Judge Female	−0.824
	(0.591)
Republican President	−6.708***
	(1.859)
Prev Judge Female×Republican President	1.642**
	(0.828)
Opposed Delegation	−0.275
	(0.368)
Mixed Delegation	0.050
	(0.424)
Female Home State Senator	−0.055
	(0.494)
Prev Judge Party Switch	−0.068
	(0.293)
Opposition Senate	0.310
	(0.910)
Proportion Bench Female	−6.579**
	(2.556)
Previous Nomination Failed	−0.031
	(0.314)
Days Left in Congressional Session	−0.00003
	(0.001)
Proportion Senators Female in Circuit	−1.566
	(2.059)
Presidential Approval	−0.005
	(0.022)
Constant	−13.681
	(1,816.235)
Observations	446
Log Likelihood	−193.685
Akaike Inf. Crit.	545.371
Note:	*p<0.1; **p<0.05; ***p<0.01

Note: This table replicates Table 1 but includes state fixed effects for circuit courts. While we do not believe state fixed effects are appropriate at the circuit level, particularly with the devolution of circuit blue slips (Dinan 2019), we provide this model to demonstrate our substantive findings still hold when accounting for state-level factors.

Table A5: Nominating Female Judges: 1987–2022 (Circuit)

	Dependent variable:
	Female Nominee
Prev Judge Female	−0.193
	(0.447)
Republican President	−4.359***
	(1.516)
Prev Judge Female×Republican President	1.231*
	(0.647)
Opposed Delegation	0.026
	(0.285)
Mixed Delegation	−0.030
	(0.301)
Female Home State Senator	0.384
	(0.311)
Prev Judge Party Switch	−0.015
	(0.248)
Opposition Senate	−0.108
	(0.807)
Proportion Bench Female	−1.149
	(1.640)
Previous Nomination Failed	0.024
	(0.270)
Days Left in Congressional Session	0.0004
	(0.001)
Proportion Senators Female in Circuit	−1.691
	(1.102)
Presidential Approval	−0.009
	(0.019)
Constant	1.907*
	(1.111)
Observations	446
Log Likelihood	−234.144
Akaike Inf. Crit.	528.289
Note:	*p<0.1; **p<0.05; ***p<0.01

Note: Circuit nominations from Table 1 beginning with the 100th Congress (1987-1989). Reagan did not nominate any women from the 97th-99th Congresses, which inflated the standard errors for the "Republican President" variable in Table 1.

Table A6: Confirmation Success

|	Dependent variable:		
	Success		
	Circuit	Circuit (1987-2022)	District
Female Nominee	0.018	0.021	0.178
	(0.268)	(0.268)	(0.150)
Prev Judge Female	−0.044	−0.053	−0.197
	(0.461)	(0.461)	(0.229)
Republican President	16.030	−2.400	4.640***
	(1,030.592)	(1.566)	(1.095)
Prev Judge Female×Republican President	0.039	0.043	0.252
	(0.671)	(0.671)	(0.357)
Opposed Delegation	−0.069	−0.098	−0.923***
	(0.280)	(0.281)	(0.175)
Mixed Delegation	−0.008	−0.060	−0.062
	(0.306)	(0.310)	(0.194)
Female Home State Senator	−0.184	−0.172	0.071
	(0.317)	(0.317)	(0.216)
Prev Judge Party Switch	−0.094	−0.067	−0.116
	(0.255)	(0.257)	(0.139)
Opposition Senate	2.595**	2.578**	−1.792***
	(1.120)	(1.120)	(0.448)
Qualified Nominee	−0.475*	−0.449*	−0.289**
	(0.264)	(0.267)	(0.144)
Not Qualified Nominee	0.026	0.023	−1.663***
	(1.060)	(1.058)	(0.600)
Proportion Bench Female	−0.941	−0.917	0.173
	(1.654)	(1.656)	(0.577)
Previous Nomination Failed	0.296	0.278	0.693***
	(0.268)	(0.269)	(0.168)
Days Left in Congressional Session	0.003***	0.003***	0.004***
	(0.001)	(0.001)	(0.001)
Proportion Senators Female in Circuit	−1.385	−1.435	
	(1.118)	(1.118)	
Presidential Approval	−0.010	−0.011	0.054***
	(0.019)	(0.019)	(0.013)
Presidential Election Year	−0.884*	−1.054*	0.077
	(0.535)	(0.558)	(0.262)
Constant	1.164	1.230	−3.581***
	(1.160)	(1.164)	(0.749)
Observations	469	437	1,788
Log Likelihood	−236.699	−232.653	−761.099
Akaike Inf. Crit.	547.397	533.306	1,690.198

Note:	*p<0.1; **p<0.05; ***p<0.01

The standard errors are inflated in the first column for "Republican President" because all of Reagan's circuit nominees were confirmed in the 97th Congress, our reference category. As such, and to replicate Table A5, we include circuit nominations from the 100th Congress onward to demonstrate our substantive findings hold.

(a) First Difference Estimates of Confirmation: Circuit Courts
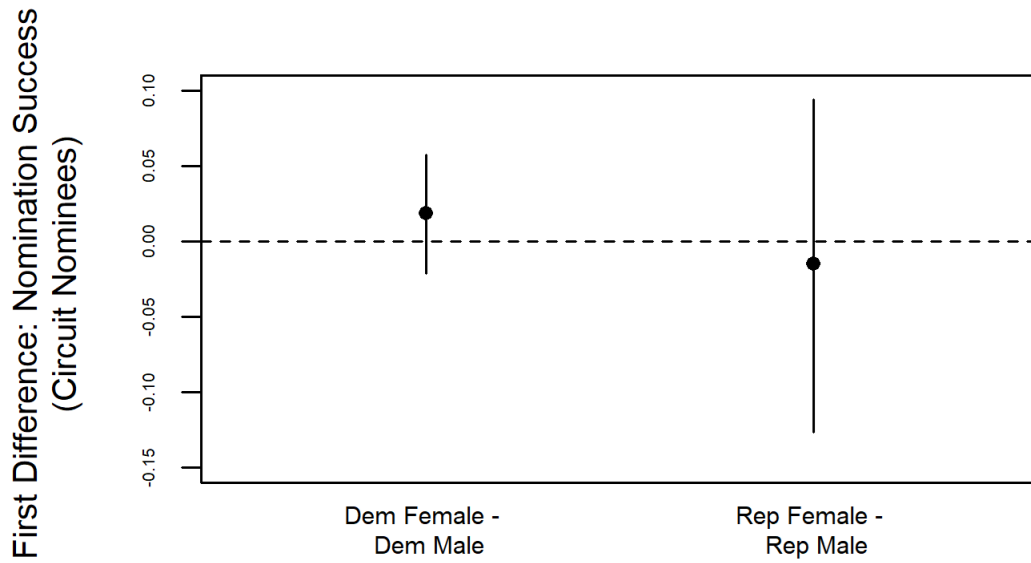
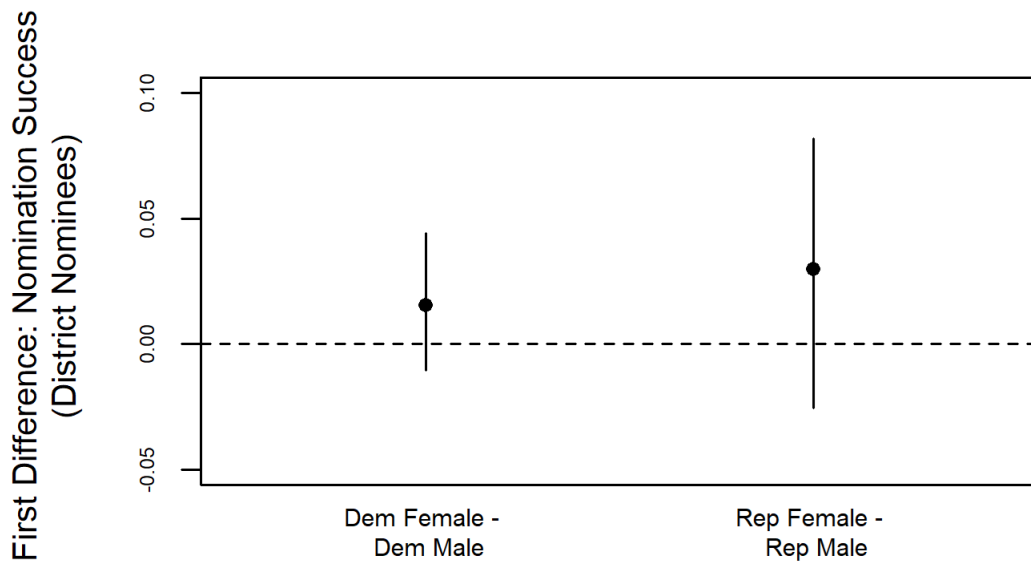(b) First Difference Estimates of Confirmation: District Courts

Figure A1: First differences of confirmation success by gender for a) circuit and b) district court nominations. Vertical bars represents 95% confidence intervals and vertical bars crossing the dotted line at zero do not significantly differ. Full regression results are included in columns 1 and 3, respectively, of Table A6.

(a) Likelihood of Female Nominee and Senator Gender: Circuit Courts
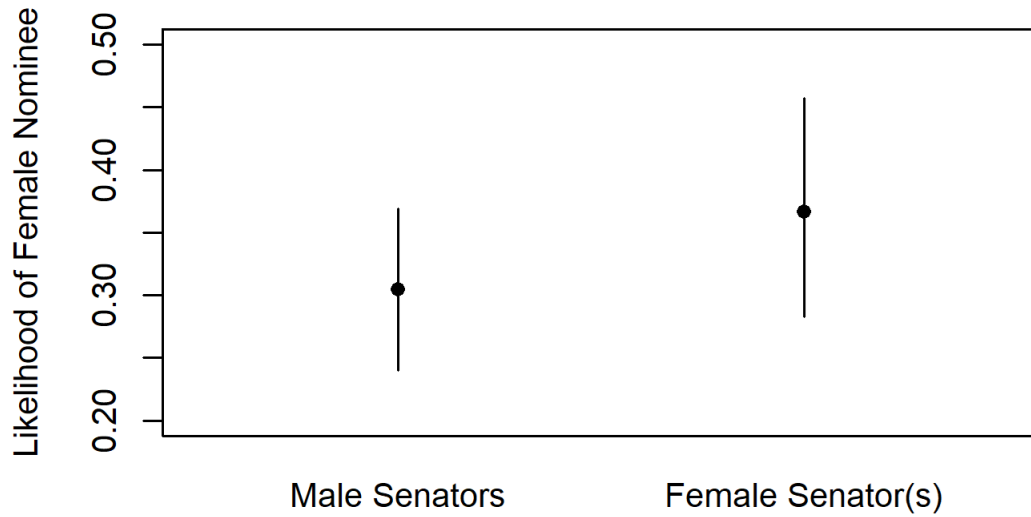
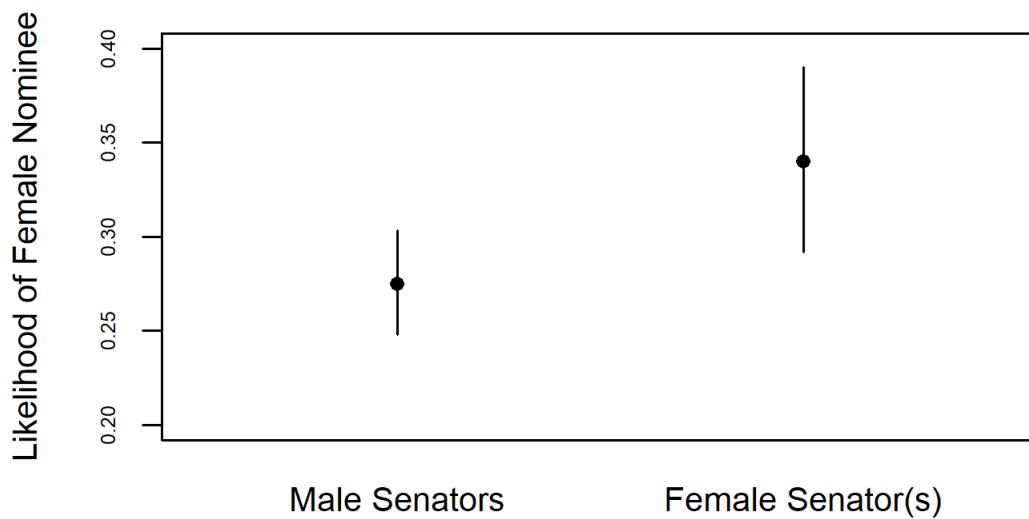(b) Likelihood of Female Nominee and Senator Gender: District Courts

Figure A2: Predicted probability plots of Figure 6. Likelihood of female nominee for a) circuit courts and b) district courts by gender composition of Senate delegation. Vertical bars represents 95% confidence intervals. Full regression results are included in columns 1 and 2, respectively, of Table 1.