

# SELECTION AND RETENTION OF JUDGES



DEPARTMENT OF LEGISLATIVE SERVICES 2015

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# **Selection and Retention of Judges**

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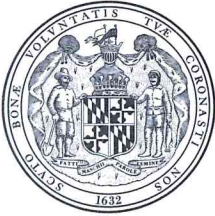
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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF THE EXECUTIVE DIRECTOR  
MARYLAND GENERAL ASSEMBLY

Warren G. Deschenaux  
Executive Director

November 5, 2015

Ladies and Gentlemen:

Circuit court judges are the only judges in Maryland who run in partisan, contested elections to retain their seats after appointment by the Governor and after the expiration of a judge's 15-year term. The election process for circuit court judges has been a recurring issue for the General Assembly for more than 30 years. The attached report, *Selection and Retention of Judges*, was prepared by the Department of Legislative Services, Office of Policy Analysis, in response to continuing legislative interest in this issue.

The report was prepared by Susan H. Russell and reviewed by Douglas R. Nestor. The manuscript was prepared by Catherine Zabloutny and Michelle J. Purcell.

I trust that this information will be of assistance to you.

Sincerely,

Warren G. Deschenaux  
Executive Director

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# **Selection and Retention of Judges**

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This paper will review the constitutional requirements establishing the qualifications of judges and governing the selection and retention of judges in Maryland, the historical development of these requirements, recent study commission recommendations and legislative activity relating to election of circuit court judges, the judicial appointment process, and judicial selection methods in other states.

## **Constitutional Requirements**

### **Qualifications of Judges**

A judge of the Court of Appeals, the Court of Special Appeals, a circuit court, or the District Court must be:

- a citizen of the United States and Maryland;
- a qualified and registered voter;
- a resident of the State for at least 5 years;
- a resident of the applicable geographical area for at least 6 months immediately preceding election or appointment;
- at least 30 years old, but less than 70;
- a member of the Maryland Bar; and
- “most distinguished for integrity, wisdom and sound legal knowledge.” (Md. Constitution, Art. I, § 12 and Art. IV, §§ 2, 3, 5A(f), and 41D.)

## **Selection and Retention of Appellate Judges**

When a vacancy occurs on the Court of Appeals or Court of Special Appeals (by the death, resignation, removal, retirement, disqualification by reason of age, or rejection by the voters of an incumbent, the creation of a new judgeship, or otherwise) the Governor is required to appoint a qualified person to fill the office, by and with the advice and consent of the Senate.

The judge's continuance in office is subject to approval or rejection by the registered voters of the appellate judicial circuit or geographical area from which the judge was appointed at the next general election following the expiration of 1 year from the date of the occurrence of the vacancy and at the general election next occurring every 10 years thereafter.

An appellate judge runs in an uncontested, "retention" election, in which the judge's name appears on the ballot, without opposition, and the voters vote yes or no for his or her retention in office. If the voters reject the retention in office of a judge, or if the vote is tied, the office becomes vacant 10 days after certification of the election returns. (Md. Constitution, Art. IV, § 5A.)

## **Selection and Retention of Circuit Court Judges**

When a vacancy occurs on a circuit court (by death, resignation, removal, disqualification by reason of age or otherwise, expiration of a judge's 15-year term, creation of a new judgeship, or in any other way), the Governor is required to appoint a qualified person to fill the office. The appointee holds the office until the election and qualification of a successor. A successor is required to be elected at the first biennial general election for Representatives in Congress after the expiration of the term of 15 years (if the vacancy occurred in that way) or the first such general election after 1 year after the occurrence of the vacancy in any other way than through expiration of a term. (Md. Constitution, Art. IV, § 5.)

A circuit court judge runs in a "contested" election, in which any challenger who meets the constitutional requirements may run.

Circuit court judges are nominated by the two principal political parties during the primary election. Because Maryland holds closed primaries, in which only members of a particular political party may vote for that party's candidates for nomination, candidates for circuit court judge register their candidacies with both parties so as to appear on the ballots of both principal political parties during the primary. The practice of "cross-filing" candidacies dates back to 1941. The candidates who receive the majority of votes in each of the primaries move on to the general election ballot, where their names appear without any indication of their party affiliation, along with the names of any petition candidates and nonprincipal political party candidates who have received their party's nomination.

After the presidential primary in March 2004, a suit was filed in St. Mary's County circuit court requesting an injunction to prevent the State Board of Elections from certifying the primary results of circuit court judge candidates on the grounds that unaffiliated voters, who generally are not permitted to vote in party nominating elections (*i.e.*, primaries), are unconstitutionally disenfranchised from participating in the initial selection process for circuit court judges. Following a ruling by the trial court, the case, *Suessman v. Lamone*, 383 Md. 697 (2004), was appealed to the Court of Appeals. The court held that there is a legitimate State interest in keeping partisanship out of judicial elections, while holding on to the party primary system. The court held that the "State's attempts to achieve this goal do not violate the equal protection provisions of

either the Maryland or Federal Constitutions simply because some voters who decline to join a political party nevertheless wish to vote in that party's primary."

## Selection and Retention of District Court Judges

The Governor, by and with the advice and consent of the Senate, is required to appoint a judge to the District Court whenever a vacancy occurs. A judge appointed by the Governor may take office upon qualification and before confirmation by the Senate, but ceases to hold office at the close of the regular annual session of the General Assembly next following the appointment or during which the judge was appointed by the Governor, if the Senate does not confirm the appointment before then. The term of office of a District Court judge is 10 years. If the 10-year term of a judge expires before the judge reaches age 70, that judge **shall** be reappointed by the Governor, with the Senate's consent, for another 10-year term or until attaining the age of 70, whichever occurs first. (Md. Constitution, Art. IV, § 41D.)

**Exhibit 1** summarizes the various requirements for selection and retention of judges.

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### Exhibit 1 Requirements for Selection and Retention of Judges in Maryland

	<u>Initial Selection</u>	<u>Senate Confirmation</u>	<u>Subject to Election</u>	<u>Type of Election</u>	<u>Term</u>
<b>Appellate Courts</b>	Appointed by Governor	Yes	Yes	Retention	10 years
<b>Circuit Courts</b>	Appointed by Governor <i>or</i> Elected by Voters	No	Yes	Contested	15 years
<b>District Court</b>	Appointed by Governor	Yes	No	N/A	10 years

Source: Department of Legislative Services

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## Historical Background

Maryland's first constitution, adopted in 1776, provided for appointed judges. Article 48 of the Constitution of 1776 empowered the governor "for the time being, with the advice and consent of the council, [to] appoint the chancellor and all judges and justices" and Article 40



provided that “the chancellor [and] all judges ... shall hold their commissions during good behaviour, removable only for misbehaviour, on conviction in a court of law.” The rationale was stated in Article 30 of the Declaration of Rights:

That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the chancellor and all judges ought to hold commissions during good behaviour ....

In the 19th Century, with the advent of Jacksonian democracy, popular election of judges was adopted in many states, including Maryland. Under the Constitution of 1851, many of the officers who had formerly been appointed by the Governor were made subject to the elective process, including State judges, who were to be elected for 10-year terms. The requirement that judges be elected was retained in the Constitution of 1864; however, the length of the term was increased to 15 years. These provisions were essentially carried forward in Maryland’s fourth and final constitution, the Constitution of 1867.

A reevaluation of the election system began in the 20th Century. In 1937, the American Bar Association adopted a merit selection policy, and in 1940, Missouri became the first state to establish a merit selection method of choosing judges, which came to be known as the “Missouri Plan.” Under this method of judicial selection, candidates were nominated by a committee that examined their experience and credentials; those appointed by the Governor were then subjected to retention elections. Eight more states adopted a merit selection plan for at least some judicial vacancies over the next 30 years. In the 1970s, 15 additional states adopted a form of merit selection for at least some levels of their judiciaries.

In Maryland, The Missouri Plan came to be known as “The Niles Plan.” Judge Emory H. Niles first proposed the plan in his address as outgoing president of the Maryland State Bar Association in June 1962 and lobbied to have it included in the new constitution drafted in 1967.

The Constitutional Convention of 1967-68 proposed a complete revision of the Maryland Constitution. With respect to the judiciary, the proposed constitution provided for four tiers of courts, all fully State-funded and consolidated at each level, merit selection and retention of all judges, and the abolition of orphans’ courts. Although the constitution was rejected by the voters in May 1968, several of its proposals relating to the judiciary were later achieved, including the creation of the District Court (by constitutional amendment in 1970), the establishment of judicial nominating commissions (by executive order in 1970), and the elimination of contested elections for appellate judges (by constitutional amendment in 1976).

The constitutional amendment establishing the District Court (Chapter 789 of 1969, ratified November 3, 1970) provided for a 10-year term with no elections for District Court judges. Another proposed constitutional amendment passed by the General Assembly in 1969 (Chapter 791) contained parallel provisions (with the exception of a 15-year term) for appellate

and circuit court judges, but that amendment was rejected by the voters at the 1970 general election.

The current system of 10-year terms and retention elections for appellate court judges was created by a constitutional amendment introduced on behalf of the Mandel Administration and passed by the General Assembly in 1975 (Chapter 551). This amendment was ratified by the voters at the general election in 1976, leaving only circuit court judges subject to contested elections.

### **Recent Study Commission Recommendations and Legislative Activity**

A number of study commissions during the 20th century have recommended changes in the manner of selecting circuit court judges, the most recent being the Commission to Study the Judicial Branch of Government in the 1980s and the Commission on the Future of Maryland Courts in the 1990s.

The Commission to Study the Judicial Branch of Government was created by the General Assembly by resolution in the 1981 session and issued its final report in December 1982. Among its major recommendations was a recommendation that the constitutional requirement for the election of circuit court judges should be amended to allow for retention elections for 10-year terms.

Legislation to implement this recommendation was proposed by the Hughes Administration during the 1984 session (Senate Bill 493/House Bill 686), but both bills received unfavorable reports in their respective houses of origin. A similar measure introduced in 1985 (Senate Bill 73) passed the Senate after a three-day filibuster, only to receive an unfavorable report from the House Judiciary Committee.

Three years later, in 1988, the Schaefer Administration proposed legislation (Senate Bill 313/House Bill 502) to provide for retention elections for circuit court judges; this time it passed the House, but was reported unfavorably by the Senate Judicial Proceedings Committee.

The Commission on the Future of Maryland Courts, created by Chapter 561 of 1995, renewed the call for a change in the method of selecting and retaining circuit court judges. In its 1996 final report, the commission recommended that circuit court judges should stand for retention elections for 14-year terms; however, legislation was never introduced to implement this recommendation.

Since 1996 almost four dozen bills have been introduced relating to the appointment and election of circuit court judges. The largest number of these (20) would have provided for retention elections (generally for 10-year terms) and required Senate confirmation of appointees. The next largest category of bills would have addressed the election process itself by requiring circuit court judges to be elected on a nonpartisan basis; the majority of these (8) would have allowed any registered voter to vote in a primary election regardless of party affiliation, while others (5) would

have required a candidate for circuit court judge to be elected at a general election on a nonpartisan basis and prohibited nomination at a party primary. **Appendix 1** summarizes the bills introduced between 1996 and 2015 relating to the appointment and election of circuit court judges.

## **Appointment Process**

Governor Marvin Mandel established the first judicial nominating commissions (originally called judicial selection commissions) by executive order in 1970 to recommend to the Governor the names of persons for appointment to the appellate and trial courts of Maryland. Each governor since then has used the nominating commission process to screen candidates for judicial vacancies.

The current executive order (Executive Order 01.01.2015.09, effective February 2, 2015) establishes the Appellate Courts Judicial Nominating Commission and 16 Trial Courts Judicial Nominating Commissions.

The appellate commission has 17 members, including 12 persons appointed by the Governor, and 5 persons submitted for appointment by the president of the Maryland State Bar Association. The chair is designated by the Governor. The appellate commission is responsible for recommending the candidates legally and most fully professionally qualified to fill any vacancy that occurs on the Court of Appeals or the Court of Special Appeals.

Each Trial Courts Judicial Nominating Commission is composed of 13 members, including 9 persons appointed by the Governor and 4 persons submitted for nomination by the presidents of the bar associations in the political subdivisions for which the commission is responsible. The chair of each commission is designated by the Governor. Each trial courts judicial nominating commission is responsible for recommending the candidates legally and most fully professionally qualified to fill all trial court vacancies (District Court or circuit court) that occur in its respective commission district.

A commission member is not eligible for appointment to a judicial vacancy that occurs during the term for which the member was appointed to the commission.

When a vacancy occurs or is about to occur in a judicial office in Maryland, the appropriate nominating commission is notified of the vacancy by the Administrative Office of the Courts (AOC). This notification activates the commission process. Under the terms of the Governor's executive order, the commission has 85 days from the date of notification to submit its report to the Governor.

Upon receiving notification of a vacancy, the commission chair sets a closing date by which applicants for the office must file a personal data questionnaire with the AOC and a date for an initial commission meeting, which must be at least 15 calendar days after the closing date. Blank personal data questionnaires are available on the Maryland Judiciary's website.

Each commission is required to seek out qualified applicants from a diversity of backgrounds to fill a vacancy and to review all applications submitted, unless the Governor (1) reappoints an incumbent judge to fill the vacancy or (2) appoints a person to fill the vacancy

from any list of candidates submitted during the preceding two years for a prior vacancy on that court. The commission must notify and request recommendations from the Maryland State Bar Association and other appropriate bar associations and may also seek recommendations from interested citizens and from its own members.

If fewer than three candidates apply for a vacancy, the vacancy must be automatically re-advertised. If, after re-advertisement, there remain fewer than three applicants, the commission may proceed with evaluating the applicants.

A commission may seek information beyond that contained in the materials submitted by an applicant. The commission may obtain pertinent information from knowledgeable persons known to commission members, the Attorney Grievance Commission, judges, personal references given by the candidate, criminal justice agencies, or other sources. The commission must place notices in at least one newspaper read by members of the general public identifying the applicants and inviting written and signed comments to the commission regarding the applicants. A criminal justice agency, including the Criminal Justice Information System Central Repository, may release criminal history record information to a commission upon request of its chair, for the purpose of evaluating a candidate.

A commission must interview each applicant in person unless, due to extraordinary circumstances, a candidate is unable to appear in person. In cases of extraordinary circumstances, and with the prior approval of the Governor, an interview may be held via video teleconference.

In considering a person's application for appointment to fill a vacancy, a commission is required to consider the applicant's integrity, maturity, temperament, diligence, legal knowledge, intellectual ability, professional experience, community service, and any other qualifications that the commission considers important for judicial service, as well as the importance of having a diverse judiciary.

At least 11 members must be present at a voting session of the Appellate Courts Judicial Nominating Commission, and at least nine members must be present at a voting session of any Trial Courts Judicial Nominating Commission. In order to be recommended to the Governor for appointment, an applicant must receive the votes of a majority of members present at a voting session of the appropriate commission, as taken by secret ballot. A commission may conduct more than one round of balloting during its deliberations, in order to achieve the required number of candidates.

A commission must recommend at least three qualified candidates for appointment to fill each vacancy. If there are multiple vacancies on the same court, a commission must submit to the Governor a list of at least three qualified persons for each individual vacancy.

Upon request of the Governor, a commission must reconvene for further deliberations, or re-advertise a vacancy to new applicants. If a commission determines that fewer than three qualified applicants have applied for the vacancy, the commission must notify the Governor, who may direct the commission to re-advertise the vacancy to new applicants or to submit the names of applicants it recommends.

A commission must report in writing to the Governor the names of the persons found by the commission to be legally and most fully professionally qualified to fill a vacancy and release the list to the public concurrently with submission of the report to the Governor.

Persons on a list submitted to the Governor, but who are not appointed, are included in a pool and will be automatically considered for later appointment to a vacancy on the same court for which nominated. The pool candidates are included along with a new commission list, provided that the subsequent vacancy occurs within two years after submission of the initial list.

## **Other States**

Other states use a wide variety of methods for choosing judges, and few use the same method for all levels of their judiciary. In some states, the method varies by county.

In most states, at least some judges are chosen in partisan or nonpartisan elections, with mid-term vacancies filled by gubernatorial appointment. In seven states (Alaska, Delaware, Hawaii, Maine, Massachusetts, New Jersey, and Rhode Island), no judges run for election. In many states, some judges are appointed by the governor and then run in retention elections. In South Carolina and Virginia, judges are selected by the legislature. In Connecticut, the governor nominates judges from candidates recommended by a judicial selection committee; the governor's nominee must then be appointed by the legislature.

**Appendix 2** summarizes judicial selection and retention methods in other states.

## **Appendix 1. Legislation Relating to the Appointment and Election of Circuit Court Judges**

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## Legislation Relating to the Appointment and Election of Circuit Court Judges 1996-2015

Year	Bill #	Title	Sponsor(s)	Crossfile	Prior Introduction	Final Status	Summary
1996	HB 268	Circuit Court Judges – Gubernatorial Appointments – Senate Confirmation	Delegate M. Burns		SB 3/1995	Withdrawn Judiciary	Proposed constitutional amendment to require Senate confirmation of appointees to the office of circuit court judge.
1996	SB 684	Judicial Nominating Commissions	Senator Young, <i>et al.</i>			Unfavorable Judiciary	Proposed constitutional amendment to establish judicial nominating commissions.
1997	HB 7	Ethics Laws – Financial Disclosure Statements – Judicial Candidates	Delegate Taylor, <i>et al.</i>			First Reading Economic and Environmental Affairs	Would have required a candidate for nomination or election to a judgeship to file additional financial disclosure statements under specified circumstances.
1997	HB 69	Election of Circuit Court Judges – Nonpartisan Elections	Delegate Workman			Unfavorable Judiciary	Would have required candidates for election to a circuit court to be elected on a nonpartisan basis, without regard to any political party affiliation.
2002	SB 150	Circuit Court Judges – Election and Term of Office	Senator Della			Unfavorable Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2003	HB 120	Circuit Court Judges – Election and Term of Office	Delegates Frush and Moe	SB 35	SB 150/2002	Unfavorable Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2003	HB 466	Election of Circuit Court Judges – Nonpartisan Elections	Delegate Mandel, <i>et al.</i>			Unfavorable Judiciary	Would have required candidates for election to a circuit court to be elected on a nonpartisan basis, without regard to any political party affiliation, and allowed any registered voter to vote in a primary election for circuit court judge regardless of party affiliation.



Year	Bill #	Title	Sponsor(s)	Crossfile	Prior Introduction	Final Status	Summary
2003	SB 6	Circuit Court Judges – Selection, Confirmation, and Tenure	Senator Giannetti			Unfavorable Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2003	SB 35	Circuit Court Judges – Election and Term of Office	Senator Della	HB 120	SB 150/2002	Unfavorable Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2003	SB 88	Circuit Court Judges – Appointment and Term of Office	Senator Frosh, <i>et al.</i>			Unfavorable Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2003	SB 701	Elections – Circuit Court Judges	Senators Brochin and Mooney			Re-referred Judicial Proceedings	Would have required a candidate for judge of the circuit court who is not an incumbent to declare which incumbent judge the candidate is challenging.
2004	HB 450	Circuit Court Judges – Election and Term of Office	Delegates Frush and Conroy		SB 120/2003	Unfavorable Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2004	HB 1544	Election of Circuit Court Judges – Nonpartisan General Elections	Delegate Zirkin			Withdrawn Judiciary	Would have required a candidate for election as a circuit court judge to be elected at a general election on a nonpartisan basis, and prohibited nomination at a primary election.
2004	SB 647	Circuit Court Judges – Appointment and Term of Office	Senator Ruben		SB 88/2003	Withdrawn Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.

Year	Bill #	Title	Sponsor(s)	Crossfile	Prior Introduction	Final Status	Summary
2005	HB 271	Circuit Court Judges – Election and Term of Office	Delegate Frush, <i>et al.</i>		HB 450/2004	Unfavorable Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2005	HB 276	Election of Circuit Court Judges – Primary Elections	Delegates Zirkin and Bohanan			First Reading Education, Health, and Environmental Affairs	As amended in the House, would have provided for a primary for nomination of candidates for circuit court judge by registered voters who are unaffiliated with any political party (in addition to existing party primary and petition processes).
2005	HB 700	Circuit Court Judges – Ballot Designations – Nominating Party	Delegate Anderson	SB 539		Unfavorable Judiciary	Would have required that a candidate for circuit court judge be designated on the ballot as the candidate of the political party whose primary the candidate won or that otherwise nominated the candidate.
2005	SB 167	Circuit Court Judges – Appointment and Term of Office	Senator Ruben		SB 647/2004	Withdrawn Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2005	SB 539	Circuit Court Judges – Ballot Designations – Nominating Party and Incumbency of Candidates	Senator Giannetti	HB 700		Re-assigned Education, Health, and Environmental Affairs	Would have required that a candidate for circuit court judge be designated on the ballot as the candidate of the political party whose primary the candidate won or that otherwise nominated the candidate.
2005	SB 730	Election of Circuit Court Judges – Nonpartisan General Elections	Senator Giannetti		HB 1544/2004	Re-assigned Education, Health, and Environmental Affairs	Would have required a candidate for election as a circuit court judge to be elected at a general election on a nonpartisan basis, and prohibited nomination at a primary election.

Year	Bill #	Title	Sponsor(s)	Crossfile	Prior Introduction	Final Status	Summary
2006	HB 384	Election of Circuit Court Judges – Nonpartisan Elections	Chairman, Judiciary Committee (By Request – Maryland Judicial Conference)	SB 145		Withdrawn Judiciary	Would have required judges of the circuit court to be elected on a nonpartisan basis, allowed any registered voter, regardless of party affiliation or lack thereof, to vote in a primary election to nominate circuit court judge candidates, and prohibited nomination by petition.
2006	HB 385	Circuit Court Judges – Election and Tenure	Chairman, Judiciary Committee (By Request – Maryland Judicial Conference)	SB 206		Withdrawn Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges. First elected term would be 15 years, subsequent terms would be 10 years. Would not have required Senate confirmation of appointees.
2006	HB 390	Election of Circuit Court Judges – Nonpartisan General Elections	Delegate Zirkin, <i>et al.</i>			First Reading Judiciary	Would have required a candidate for election as a circuit court judge to be elected at a general election on a nonpartisan basis, and prohibited nomination at a primary election.
2006	HB 393	Election of Circuit Court Judges – Nonpartisan Elections	Delegate Zirkin			Unfavorable Judiciary	Would have required candidates for election to a circuit court to be elected on a nonpartisan basis, without regard to any political party affiliation, and allowed any registered voter to vote in a primary election for circuit court judge regardless of party affiliation.
2006	SB 145	Election of Circuit Court Judges – Nonpartisan Elections	Chair, Education, Health, and Environmental Affairs Committee (By Request – Maryland Judicial Conference)	HB 384		Unfavorable Education, Health, and Environmental Affairs	Would have required judges of the circuit court to be elected on a nonpartisan basis, allowed any registered voter, regardless of party affiliation or lack thereof, to vote in a primary election to nominate circuit court judge candidates, and prohibited nomination by petition.
2006	SB 206	Circuit Court Judges – Election and Tenure	Chairman, Judicial Proceedings Committee (By Request – Maryland Judicial Conference)	HB 385		Unfavorable Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges. First elected term would be 15 years, subsequent terms would be 10 years. Would not have required Senate confirmation of appointees.

Year	Bill #	Title	Sponsor(s)	Crossfile	Prior Introduction	Final Status	Summary
2006	SB 324	Election of Circuit Court Judges – Nonpartisan Elections	Senators Dyson and Kittleman		HB 466/2003	First Reading Judiciary	Would have required candidates for election to a circuit court to be elected on a nonpartisan basis, without regard to any political party affiliation, and allowed any registered voter to vote in a primary election for circuit court judge regardless of party affiliation.
2007	HB 290	Election Law – Circuit Court Judges – Retention Elections	Delegate Cardin, <i>et al.</i>			Withdrawn Judiciary	Proposed constitutional amendment to establish a Judicial Recommendation Committee, and require the Governor to appoint a qualified individual recommended by the committee and the Maryland State Bar Association to fill a circuit court vacancy. An appointee would run in a contested election for a 15-year term, then in a retention election for a 10-year term thereafter.
2007	HB 1363	Circuit Court Judges – Election and Term of Office	Delegate Frush		HB 271/2005	Withdrawn Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2007	SB 46	Election of Circuit Court Judges – Nonpartisan Elections	Senator Dyson, <i>et al.</i>		SB 324/2006	Withdrawn Judiciary	Would have required candidates for election to a circuit court to be elected on a nonpartisan basis, without regard to any political party affiliation, and allowed any registered voter to vote in a primary election for circuit court judge regardless of party affiliation.
2008	HB 1275	Circuit Court Judges – Election and Term of Office	Delegate Frush, <i>et al.</i>		HB 1363/2007	Unfavorable Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2009	SB 872	Election Law – Candidate for Judge of the Circuit Court – Filing Requirements	Senator Zirkin			First Reading Education, Health, and Environmental Affairs	Would have required a candidate for judge of the circuit court, who seeks nomination by petition or by a political party not required to nominate candidates by party primary, to file a declaration of intent by the date and time specified for a candidate to file a certificate of candidacy.

Year	Bill #	Title	Sponsor(s)	Crossfile	Prior Introduction	Final Status	Summary
2010	HB 1385	Circuit Court Judges – Election, Qualifications, and Term of Office	Delegate Cardin	SB 833		First Reading Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2010	SB 833	Circuit Court Judges – Election, Qualifications, and Term of Office	The President (By Request – Departmental – Office of the Attorney General), et al.	HB 1385		Re-assigned Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2011	HB 309	Circuit Court Judges – Election and Term of Office	Delegate Frush		HB 1275/2008	Withdrawn Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2011	HB 375	Circuit Court Judges – Election, Qualifications, and Term of Office	Delegate Cardin, <i>et al.</i>		HB 1385/2010	Withdrawn Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2013	HB 1234	Election of Circuit Court Judges – Random Ordering of Names	Delegate Frank			Withdrawn Way and Means	Would have required a local board of elections to conduct a random drawing to determine the order of the names of candidates for circuit court judge on the ballot in both primary and general elections.
2013	SB 294	Election of Circuit Court Judges – Nonpartisan General Elections	Senator Zirkin			First Reading Judicial Proceedings	Would have required a candidate for election as a circuit court judge to be elected at a general election on a nonpartisan basis, and prohibited nomination at a primary election or by a party that is not required to nominate candidates by a primary election.

Year	Bill #	Title	Sponsor(s)	Crossfile	Prior Introduction	Final Status	Summary
2013	SB 295	Circuit Court Judges – Election, Qualifications, and Term of Office	Senator Zirkin			First Reading Judicial Proceedings	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2015	HB 548	Circuit Court Judges – Election	Delegate Kramer, <i>et al.</i>			Withdrawn Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, and require Senate confirmation for appointees. Would not have affected 15-year term.
2015	HB 582	Circuit Court Judges – Selection, Qualifications, and Term of Office	Delegate Sydnor, <i>et al.</i>	SB 367		Withdrawn Judiciary	Would have eliminated elections for circuit court judges, required Senate confirmation for appointees, reduced the term of office from 15 years to 10 years, and required reappointment at expiration of 10-year term (like District Court judges).
2015	HB 1071	Circuit Court Judges – Election, Qualifications, and Term of Office	Delegate Hill, <i>et al.</i>		SB 295/2013	Withdrawn Judiciary	Proposed constitutional amendment to provide for retention elections instead of contested elections for circuit court judges, require Senate confirmation for appointees, and reduce the term of office from 15 years to 10 years.
2015	SB 367	Circuit Court Judges – Selection, Qualifications, and Term of Office	Senator Kelley, <i>et al.</i>	HB 582		First Reading Judicial Proceedings	Would have eliminated elections for circuit court judges, required Senate confirmation for appointees, reduced the term of office from 15 years to 10 years, and required reappointment at expiration of 10-year term (like District Court judges).
2015	SB 679	Election of Circuit Court Judges – Nonpartisan General Election	Senator Raskin, <i>et al.</i>			Withdrawn Judicial Proceedings	Would have required a candidate for election as a circuit court judge to be elected at a general election on a nonpartisan basis, and prohibited nomination at a primary election.

Source: Department of Legislative Services



## **Appendix 2. Judicial Selection and Retention in Other States**

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## **Alabama**

The Alabama judiciary is composed of three appellate courts – the Supreme Court, the Court of Civil Appeals, and the Court of Criminal Appeals – and four trial courts – the circuit, district, probate, and municipal courts. The Circuit Court is the trial court of general jurisdiction. Judges in Alabama are chosen in partisan elections. When judicial vacancies occur between elections, the governor appoints judges to fill those seats. In some counties, appointments are made from a list of names provided by a judicial nominating commission.

## **Alaska**

The Alaska judiciary is composed of two appellate courts – the Supreme Court and the Court of Appeals, and two trial courts – the Superior Court and the District Court. Alaska is one of only two states that has used a merit selection system since gaining statehood to choose its judges. Alaska was also the first state to establish an official judicial performance evaluation program to provide information to voters in retention elections.

## **Arizona**

The Arizona judiciary is composed of three courts of general jurisdiction – the Supreme Court, the Court of Appeals, and the Superior Court. Appellate judges and Superior Court judges in Maricopa and Pima counties are chosen through merit selection. After an initial two-year term, judges must stand for retention. Superior Court judges in smaller counties are chosen in nonpartisan elections.

In 1992, Arizona voters approved Proposition 109, which called for the adoption of a process for evaluating judicial performance. Arizona is the only state with a constitutionally mandated judicial performance evaluation program.

## **Arkansas**

The Arkansas judiciary has four levels: the Supreme Court, the Court of Appeals, the circuit courts, and the district courts. The circuit courts are general jurisdiction trial courts, and the district courts are trial courts of limited jurisdiction. A constitutional amendment adopted by the voters in 2000 provided for nonpartisan election of judges.

## **California**

The California judiciary consists of the Supreme Court, the courts of appeal, and the Superior Court. According to California's constitution, judges of the Supreme Court and courts of appeal are nominated by the governor and must be confirmed by the Commission on Judicial Appointments, which consists of the chief justice, the attorney general, and a presiding justice of the courts of appeal. Since 1979, the legislature has required that the State Bar of California's Commission on Judicial Nominees Evaluation conduct a thorough investigation of the background and qualifications of prospective nominees, but the governor is

not bound by the commission's recommendations. Appellate judges must stand for retention in the next gubernatorial election after their appointment. Appellate judges serve 12-year terms.

Superior Court judges are chosen in nonpartisan elections for six-year terms. The governor fills vacancies on the Superior Court by appointment. As with appellate court appointments, prospective nominees must first be investigated by the Commission on Judicial Nominees Evaluation. The vast majority of Superior Court judges initially reach the bench via gubernatorial appointment, and once on the bench, incumbents are rarely challenged for reelection.

## **Colorado**

The Colorado judiciary is composed of the Supreme Court, the Court of Appeals, the District Court, and various trial courts of limited jurisdiction. Under Colorado's original constitution, judges were elected by the people, but in 1966, voters approved a constitutional initiative calling for merit selection of judges. Under Colorado's merit selection system, judges are appointed by the governor from a list of nominees submitted by a judicial nominating commission, and judges stand for retention at least two years after their appointment. In 1988, the Colorado General Assembly created judicial performance commissions throughout the state to provide voters with information about the performance of judicial retention candidates.

## **Connecticut**

The Connecticut judiciary is composed of the Supreme Court, the Appellate Court, the Superior Court, and the Probate Court. Connecticut adopted a merit plan for selecting judges in 1986. According to the plan, the judicial selection commission recommends qualified candidates to the governor for nomination. The governor's nominee must then be appointed by the general assembly. Judges serve eight-year terms and must be renominated and reappointed. The judicial selection commission also evaluates incumbent judges who seek reappointment.

## **Delaware**

The Delaware judiciary is composed of the Supreme Court, the Superior Court, the Court of Chancery, and various courts of limited jurisdiction. The Supreme Court is the state's appellate court, the Superior Court is the court of general law jurisdiction, and the Court of Chancery is the trial court of general equity jurisdiction. Courts of limited jurisdiction include the Family Court, the Court of Common Pleas, the Justice of the Peace Court, and the alderman's courts.

Currently, Delaware judges are chosen through a merit selection process. Under the Delaware Constitution, judges are appointed by the governor with the consent of the senate. Since 1977, Delaware governors have adopted executive orders creating a judicial nominating commission to identify highly qualified candidates for judicial appointments. With the exception of justices of the peace, judges serve 12 years – one of the longest terms for state court judges in the United States. Unlike judges in other merit selection states, judges in Delaware do not run for retention; instead, they must be reappointed through the same process by which they were appointed. An interesting feature of the Delaware Constitution is the requirement that there be partisan balance within the Delaware judiciary.

## **District of Columbia**

Until Congress passed the District of Columbia Court Reform and Criminal Procedure Act of 1970, the federal courts in DC exercised both federal and local jurisdiction. The 1970 legislation established the Court of Appeals and the Superior Court to assume responsibility for local jurisdiction. Judges of these courts are appointed to 15-year terms by the President of the United States with Senate confirmation. The President appoints judges from lists submitted by the judicial nomination commission. Judges who seek reappointment to office upon the completion of their terms are evaluated by the Judicial Disabilities and Tenure Commission. Judges who are rated “well qualified” by the commission are automatically reappointed. Judges found to be “qualified” may be appointed by the President for an additional term, subject to Senate confirmation. If the President chooses not to reappoint a “qualified” judge, or if the commission finds a judge “unqualified,” the judicial nomination commission compiles a new list of candidates.

## **Florida**

The Florida judiciary is composed of the Supreme Court, the district courts of appeal, the circuit courts, and the county courts. Appellate judges are chosen through a merit selection and retention process, and trial judges are chosen in nonpartisan elections. However, vacancies on the trial courts are filled by the governor from candidates recommended by a judicial nominating commission.

## **Georgia**

The Georgia judiciary consists of the Supreme Court, the Court of Appeals, the Superior Court, and various trial courts of limited jurisdiction. Judges are chosen in nonpartisan elections, but mid-term vacancies are filled through gubernatorial appointment. Since 1972, Georgia governors have established by executive order judicial nominating commissions to recommend candidates to fill the vacancies. The vast majority of Georgia judges are initially appointed to the bench and compete in contested elections to retain their seats.

## **Hawaii**

The Hawaii judiciary consists of the Supreme Court, the Intermediate Court of Appeals, and various trial courts, including the Circuit Court, the District Court, and the Family Court. The Circuit Court is the trial court of general jurisdiction. Hawaii judges are chosen through a variation of the merit selection process. The governor appoints judges of the appellate courts and the Circuit Court from a list of names submitted by the judicial selection commission, while the chief justice appoints district and family court judges from a commission list. Appointees must be confirmed by the senate. Upon the completion of their terms, judges may be retained by a majority vote of the members of the judicial selection commission.

Under Hawaii's original constitution, judges were appointed by the governor with the advice and consent of the senate. The constitutional convention of 1978 approved an amendment calling for the establishment of the judicial selection commission to select judges based "solely on their qualifications and not on political patronage," and the amendment was ratified by voters later that year. The judicial selection commission began nominating candidates for judicial vacancies in 1979.

## **Idaho**

The Idaho judiciary is composed of three levels of courts – the Supreme Court, the Court of Appeals, and the District Court. Judges of these courts are chosen in nonpartisan elections, in which judicial candidates may not be nominated or endorsed by a political party, appear on a party ticket, or list a party affiliation on the ballot. When a judge leaves office in the middle of a term, the governor is authorized to fill the vacancy from a list of names submitted by the Idaho Judicial Council.

## **Illinois**

The Illinois judiciary is composed of the Supreme Court, the Appellate Court, and the Circuit Court. Illinois judges are initially chosen in partisan elections. Judges run in uncontested, nonpartisan retention elections to serve additional terms. Judges of the Supreme Court and Appellate Court serve 10-year terms; Circuit Court judges serve 6-year terms.

## **Indiana**

The Indiana judiciary consists of three constitutional courts – the Supreme Court, the Court of Appeals, and the Circuit Court. Judges of the appellate courts are appointed by the governor from a list of three names submitted by the state judicial nominating commission, and judges of the Circuit Court are elected in partisan contests, with the governor filling mid-term vacancies through appointment. Appellate Court judges serve 10-year terms, and Circuit Court judges serve 6-year terms.

Other trial courts have been created by statute, including the superior courts, county courts, probate courts, town and city courts, and small claims courts. With the exception of some judges in four counties, the majority of these judges are chosen in partisan elections. In Vanderburgh County, elections for judges of the Circuit and Superior courts are nonpartisan. In Lake and St. Joseph counties, Superior Court judges are chosen through a merit selection process; and in Allen County, elections for Superior Court judges are nonpartisan, and interim vacancies on the Superior Court are filled by the governor from a list of candidates recommended by a local judicial nominating commission.

## **Iowa**

The Iowa judiciary is composed of two appellate courts – the Supreme Court and the Court of Appeals – and the unified District Court. Iowa judges are chosen through merit selection, where a nominating commission identifies a list of highly qualified candidates and the governor appoints a judge from that list. After one year in office, and then at regular intervals, judges stand in retention elections.

## **Kansas**

The Kansas judiciary is composed of three levels of general jurisdiction courts – the Supreme Court, the Court of Appeals, and the District Court. Kansas has a bifurcated system of judicial selection, in which Appellate Court judges are chosen through merit selection and District Court judges are chosen through merit selection or partisan election, at the option of each district. The majority of judicial districts in Kansas have chosen merit selection.

Legislation enacted in 2013 replaces merit selection for the Court of Appeals with a system of gubernatorial appointment and senate confirmation.

## **Kentucky**

The Kentucky judiciary consists of the Supreme Court, the Court of Appeals, the Circuit Court, and the District Court. A constitutional amendment effective January 1, 1976, created a unified court system known as the Court of Justice and established nonpartisan elections for judges. Judges of the Supreme Court, Court of Appeals, and Circuit Court are elected to eight-year terms, and District Court judges are elected to four-year terms. When a mid-term judicial vacancy occurs, the governor appoints a replacement from a list submitted by a judicial nominating commission.

## **Louisiana**

The Louisiana judiciary consists of three levels of general jurisdiction courts – the Supreme Court, the Court of Appeals, and the District Court – and a number of limited jurisdiction trial courts. Louisiana judges are chosen in partisan elections. Judicial candidates initially run in a “blanket primary,” in which candidates of both parties appear with party labels on the same ballot. The top two vote getters in the primary election run in the general election.

## **Maine**

The Maine judiciary consists of the Supreme Judicial Court, the Superior Court, the District Court, and the Probate Court. The district and probate courts are courts of limited jurisdiction. Maine’s judicial selection process is similar to the process for selecting federal judges – judges are nominated by the governor and confirmed by the senate, but they serve seven-year terms rather than serving for life.

## **Massachusetts**

The Massachusetts judiciary is composed of the Supreme Judicial Court, the Appeals Court, and the Trial Court. Seven departments make up the Trial Court: the Superior Court, the District Court, the Boston Municipal Court, the Juvenile Court, the Housing Court, the Land Court, and the Probate and Family Court. Since 1780, Massachusetts judges have been appointed for life by the governor with the consent of the governor's council. Since 1975, Massachusetts governors have created nominating commissions by executive order to advise them in making judicial appointments.

## **Michigan**

The Michigan judiciary consists of the Supreme Court, the Court of Appeals, the Circuit Court, and various trial courts of limited jurisdiction. Judges are chosen in nonpartisan elections, but Supreme Court candidates may be nominated at political party conventions or by nominating petition. Incumbents may simply file an affidavit of candidacy.

## **Minnesota**

The Minnesota judiciary consists of the Supreme Court, the Court of Appeals, and the District Court. According to the constitution, judges are chosen in nonpartisan elections, but many judges resign before their terms end, allowing the governor to appoint their replacements.

## **Mississippi**

The Mississippi judiciary is composed of the Supreme Court, the Court of Appeals, and the Circuit Court. Throughout its history, Mississippi has experimented with all methods of judicial selection. The state's original constitution of 1817 left the selection of judges to the legislature. In 1832, Mississippi became the first state in the nation to establish popular elections for all judges, and in 1868, it became one of the first elective states to move away from the election of judges when it adopted gubernatorial appointment with senate confirmation. Popular elections were reinstated in 1910 and 1914 and have been maintained ever since. In 1994, the legislature passed the Nonpartisan Judicial Election Act, which changed the elections for most judicial offices from partisan to nonpartisan contests.

## **Missouri**

The Missouri judiciary consists of the Supreme Court, the Court of Appeals, and the Circuit Court. In 1940, Missouri became the first state to adopt merit selection of judges. The Nonpartisan Selection of Judges Court Plan, which has come to be known as the Missouri Plan, has served as a model for the 34 other states that use merit selection to fill some or all judicial vacancies.

## **Montana**

The Montana judiciary consists of the Supreme Court, the District Court, and various courts of limited jurisdiction. Supreme Court and District Court judges are chosen in nonpartisan elections. When interim vacancies occur, the governor appoints a candidate from a list submitted by the judicial nomination commission. Appointees must be confirmed by the senate.

## **Nebraska**

The Nebraska judiciary consists of the Supreme Court, the Court of Appeals, the District Court, the County Court, and the Worker's Compensation Court. Some counties also have a Juvenile Court. The District Court is the trial court of general jurisdiction. All Nebraska judges are appointed by the governor from a list submitted by a judicial nominating commission. Judges stand for retention in the next general election more than three years after their appointment and then every six years thereafter.

## **Nevada**

The Nevada judiciary consists of the Supreme Court, the District Court, the justices' courts, and the municipal courts. The Supreme Court has mandatory appellate jurisdiction, and the District Court is the trial court of general jurisdiction. Judges are chosen in nonpartisan elections. An unusual feature of Nevada's judicial elections is that voters are given a "none of the above" option. In a 2002 Supreme Court race, nearly 78,000 voters marked "none of these candidates."

## **New Hampshire**

The New Hampshire judiciary consists of the Supreme Court, the Superior Court, the District Court, and the Probate Court. The district and probate courts are courts of limited jurisdiction. New Hampshire judges are nominated by the governor and confirmed by the executive council, a five-member body elected by the people to advise the governor. In 2000, Governor Shaheen became the first New Hampshire governor to create a judicial nominating commission by executive order. In 2005, Governor Lynch followed her example with an executive order creating a judicial selection commission.

## **New Jersey**

New Jersey's judiciary has two appellate courts – the Supreme Court and the Appellate Division of the Superior Court, and three trial courts – the Superior Court, the Tax Court, and the Municipal Court. The Superior Court is the court of general jurisdiction. The governor, with the approval of the senate, chooses all judges in New Jersey. Judges stand for reappointment after seven years in office, and once reappointed, they serve until they reach the age of 70.



## **New Mexico**

The New Mexico judiciary consists of the Supreme Court, the Court of Appeals, the District Court, and various trial courts of limited jurisdiction. New Mexico judges were originally chosen in partisan elections, but in 1988, voters approved a constitutional amendment creating a hybrid system of judicial selection that includes merit selection, partisan elections, and retention elections. When a judicial vacancy occurs, the appropriate nominating commission recommends qualified candidates to the governor, and the governor makes an appointment. At the next general election, a contested partisan election is held to fill the seat for the remainder of the term. The successful candidate runs in retention elections thereafter. The threshold for retention is higher in New Mexico than in most other states; judges must receive at least 57% in affirmative votes to be retained.

## **New York**

The structure of the New York judiciary is one of the most complex among the 50 states. There are courts that function throughout the state, including the Court of Appeals, the Appellate Division of the Supreme Court, the Supreme Court, the Court of Claims, the Surrogate's Court, and the Family Court. There are courts that operate only in New York City, such as the civil and criminal courts of the city of New York; there are courts that exist only outside of New York City, including county courts, city courts, and town and village justice courts; and there are district courts that reside in only two of the state's counties. Additional confusion is created by the fact that New York calls its major trial court the Supreme Court, a title given to the court of last resort in most other states.

Most of New York's trial court judges are chosen in partisan elections, with judicial candidates competing in primary elections to determine who will represent the party in the general election. According to statute, however, candidates for the Supreme Court are chosen through a party convention system, in which primary voters elect convention delegates who choose candidates for the judgeships.

## **North Carolina**

The North Carolina judiciary consists of the Supreme Court, the Court of Appeals, the Superior Court, and the District Court. Partisan elections for judges were established in 1868, but in recent years, the general assembly has moved to nonpartisan elections – for Superior Court judges in 1996, for District Court judges in 2001, and for Appellate Court judges in 2002.

Nonpartisan elections for appellate court judges were one component of a major judicial selection reform package passed by the North Carolina General Assembly in 2002. Known as the Judicial Campaign Reform Act, the Act also gives appellate court candidates the option of public financing, provides for a voter's guide on appellate court candidates, and lowers the limit on contributions to appellate court candidates to \$1,000. North Carolina was the first state to adopt full public financing of judicial elections.

## **North Dakota**

The North Dakota judiciary consists of the Supreme Court, the Court of Appeals, the District Court, and the municipal courts. The Court of Appeals was created by the legislature on an experimental basis in 1987 to hear cases assigned by the Supreme Court. Its judges are chosen from among active and retired District Court judges, retired Supreme Court justices, and attorneys. The Supreme Court and the District Court are established in North Dakota's constitution, and since 1910, judges of these courts have been chosen in nonpartisan elections. Vacancies on these courts are filled by the governor from a list of candidates submitted by the judicial nominating commission, or by special election.

## **Ohio**

The Ohio judiciary is composed of two appellate courts – the Supreme Court and the Court of Appeals, and three trial courts – the Court of Common Pleas, the County Court, and the Municipal Court. The Court of Common Pleas is the court of general jurisdiction. Judges in Ohio are selected in nonpartisan elections, which means that party affiliations are not listed on the ballot. However, political parties have a prominent role in selecting judges since judicial candidates are nominated in partisan primary elections and are endorsed by political parties.

## **Oklahoma**

Oklahoma is one of only two states that has two courts of last resort – the Supreme Court has jurisdiction over appeals of all civil matters, and the Court of Criminal Appeals hears all criminal appeals. The Court of Civil Appeals is an intermediate appellate court, and the District Court is the trial court of general jurisdiction. Oklahoma has a bifurcated system of judicial selection. Appellate Court judges are chosen through merit selection, and trial court judges are chosen in nonpartisan elections.

## **Oregon**

The Oregon judiciary consists of the Supreme Court, the Court of Appeals, the Circuit Court, the Tax Court, and various trial courts of limited jurisdiction. Oregon judges have been chosen in nonpartisan elections since 1931. The governor appoints judges to fill mid-term vacancies on the courts, and the appointee stands for election at the next general election. In recent years, approximately 85% of Oregon judges have first been appointed rather than elected to office, and the vast majority were unopposed in elections to retain their seats.

## **Pennsylvania**

The Pennsylvania judiciary is composed of the Supreme Court, the Superior Court, the Commonwealth Court, the Court of Common Pleas, and various minor courts. The Supreme, Superior, and Commonwealth courts are appellate courts, and the Court of Common Pleas is the trial court of general jurisdiction. Pennsylvania judges are chosen in partisan elections. Pennsylvania is one of only two states that holds its judicial elections in off years in conjunction with municipal elections.

## **Rhode Island**

The Rhode Island judiciary is composed of the Supreme Court, the Superior Court, and various trial courts of limited jurisdiction. Rhode Island is the most recent state to adopt merit selection by constitutional amendment. It did so in 1994.

## **South Carolina**

The South Carolina judiciary is composed of the Supreme Court, the Court of Appeals, and the Circuit Court. There are also numerous trial courts of limited jurisdiction, organized into family, probate, equity, magistrate, and municipal courts. South Carolina is one of only two states whose legislature is responsible for selecting judges.

In 1996, South Carolina voters approved a constitutional amendment creating a judicial merit selection commission. The commission considers the qualifications and fitness of candidates for South Carolina courts and submits the names of up to three nominees to the general assembly. The general assembly must elect one of these nominees.

## **South Dakota**

South Dakota's unified judicial system consists of the Supreme Court, the Circuit Court, and magistrate courts. Supreme Court justices are appointed by the governor from a list of candidates submitted by the judicial qualifications commission, and Circuit Court judges are chosen in nonpartisan elections.

## **Tennessee**

The Tennessee judiciary is composed of three appellate courts – the Supreme Court, the Court of Appeals, and the Court of Criminal Appeals; four trial courts of general jurisdiction – the Chancery Court, the Circuit Court, the Probate Court, and the Criminal Court; and three courts of limited jurisdiction – the Juvenile Court, the General Sessions Court, and the Municipal Court. In terms of judicial selection method, Tennessee is considered a “hybrid” state; some judges are chosen through merit selection and others run in partisan elections.

Under the Tennessee Plan adopted by the legislature in 1994, merit selection, with retention elections and performance evaluation, is utilized for all appellate court judges.

## **Texas**

Texas is one of only two states with two courts of last resort – the Supreme Court, which hears only civil matters, and the Court of Criminal Appeals. The Court of Appeals is the state's intermediate appellate court, and the District Court is the trial court of general jurisdiction. Courts of limited jurisdiction include county, probate, municipal, and justice of the peace courts. When Texas became a state in 1845, judges were appointed by the governor with senate consent, but since 1876, judges at all levels of courts have been elected by the people in partisan elections.

## **Utah**

The Utah judiciary consists of the Supreme Court, the Court of Appeals, the District Court, the Juvenile Court, and the justice courts. Except for Justice Court judges, Utah's judges are chosen through a merit selection process. The governor fills all judicial vacancies from a list of candidates submitted by a judicial nominating commission. The governor's appointee must then be confirmed by a majority vote of the senate. Utah is one of only eight states that requires senate confirmation of judicial appointees.

## **Vermont**

The Vermont judiciary is composed of the Supreme Court; the trial courts, including the Superior Court, which hears predominantly civil cases, the District Court, which hears primarily criminal cases, and the Family Court; and courts of special jurisdiction, including the Probate Court, the Environmental Court, and the Judicial Bureau. Vermont judges are appointed by the governor from a list of candidates submitted by the judicial nominating board. Judges serve six-year terms and must then be retained by a majority vote of the general assembly.

## **Virginia**

The Virginia judiciary is composed of the Supreme Court, the Court of Appeals, the Circuit Court, and the District Court. The District Court is a court of limited jurisdiction. Virginia is one of only two states whose legislature is responsible for selecting its judges. When the legislature is not in session, the governor fills vacancies by appointment. Appointees must then be elected at the next legislative session.

## **Washington**

There are four levels of courts in Washington – the Supreme Court, the Court of Appeals, the Superior Court, and the district and municipal courts. The district and municipal courts are courts of limited jurisdiction. Washington judges are selected in nonpartisan elections.

Prior to 2006, Washington was one of only four states without limits on campaign contributions to judicial candidates, but in the spring of that year the legislature applied the same contribution limits to judicial candidates that were in place for other candidates.

## **West Virginia**

The West Virginia judiciary consists of the Supreme Court of Appeals, the Circuit Court, the Family Court, the Magistrate's Court, and the municipal courts. The Supreme Court of Appeals is the state's appellate court, and the Circuit Court is the trial court of general jurisdiction. Except for municipal court judges, whose selection method varies by municipality, judges have been chosen in partisan elections since West Virginia achieved statehood in 1862.

## **Wisconsin**

The Wisconsin judiciary consists of the Supreme Court, the Court of Appeals, the Circuit Court, and municipal courts. Judges are chosen in nonpartisan elections in the spring of each year. Only one Supreme Court justice and one Court of Appeals judge in each district may be elected in a given year.

In November 2009, the Impartial Justice Act was signed into law, creating a public financing system for judicial elections. The program provides up to \$400,000 of initial public financing for Supreme Court candidates. The law also reduces contribution limits for candidates who opt out of public financing from \$10,000 to \$1,000.

## **Wyoming**

The Wyoming judiciary is composed of the Supreme Court, the District Court, the Circuit Court, and the Municipal Court. The Supreme Court is the state's appellate court, and the District Court is the trial court of general jurisdiction. Judges of the Supreme, District, and Circuit courts are chosen through a merit selection process, in which the governor appoints a judge from a list of three names submitted by the judicial nominating commission. After at least one year in office, the judge stands for retention. If retained, Supreme Court justices serve eight-year terms, District Court judges serve six-year terms, and Circuit Court judges serve four-year terms.

Source: National Center for State Courts (<http://www.judicialselection.us/>)