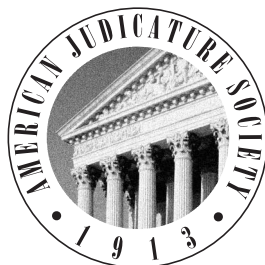


# **Judicial Selection in the States**

## ***Appellate and General Jurisdiction Courts***



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American Judicature Society  
at Drake University  
2700 University Avenue  
Des Moines, Iowa 50311  
(515) 271-2281  
[www.ajs.org](http://www.ajs.org)

Founded in 1913, the American Judicature Society is an independent, nonprofit organization supported by a national membership of judges, lawyers, and other members of the public. Through research, educational programs, and publications, AJS addresses concerns related to ethics in the courts, judicial selection, the jury, court administration, judicial independence, and public understanding of the justice system.



# Judicial Selection in the States

## *Appellate and General Jurisdiction Courts*

### “Summary of Initial Selection Methods”

<b>Merit Selection<sup>1</sup></b>	<b>Gubernatorial (G) or Legislative (L) Appointment</b>	<b>Partisan Election</b>	<b>Non-Partisan Election</b>	<b>Combined Merit Selection and Other Methods<sup>2</sup></b>
Alaska	California (G)	Alabama	Arkansas	Arizona
Colorado	Maine (G)	Illinois	Georgia	Florida
Connecticut	New Jersey (G) <sup>2</sup>	Louisiana	Idaho	Indiana
Delaware	Virginia (L)	Ohio <sup>2</sup>	Kentucky	Kansas
District of Columbia	South Carolina (L) <sup>2</sup>	Pennsylvania	Michigan <sup>2</sup>	Missouri
Hawaii		Texas	Minnesota	New York
Iowa		West Virginia	Mississippi	Oklahoma
Maryland			Montana	South Dakota
Massachusetts			Nevada	Tennessee
Nebraska			North Carolina	
New Hampshire			North Dakota	
New Mexico <sup>2</sup>			Oregon	
Rhode Island			Washington	
Utah			Wisconsin	
Vermont				
Wyoming				

1. The following nine states use merit plans only to fill midterm vacancies on some or all levels of court: Alabama, Georgia, Idaho, Kentucky, Minnesota, Montana, Nevada, North Dakota, and West Virginia.

2. See attached chart for details.



# Judicial Selection in the States

## *Appellate and General Jurisdiction Courts*

### “Initial Selection, Retention, and Term Length”

State and Court	APPOINTIVE SYSTEMS		ELECTIVE SYSTEMS		INITIAL TERM OF OFFICE (YEARS)	METHOD OF RETENTION
	Merit Selection	Gubernatorial (G) or Legislative (L) Appointment	Non-Partisan Election	Partisan Election		
<b>ALABAMA</b>						
Supreme Court				X	6	Re-election (6 year term)
Court of Civil App.				X	6	Re-election (6 year term)
Court of Criminal App.				X	6	Re-election (6 year term)
Circuit Court				X	6	Re-election (6 year term)
<b>ALASKA</b>						
Supreme Court	X				3	Retention election (10 year term) <sup>1</sup>
Court of Appeals	X				3	Retention election (8 year term)
Superior Court	X				3	Retention election (6 year term)
<b>ARIZONA</b>						
Supreme Court	X				2	Retention election (6 year term)
Court of Appeals	X				2	Retention election (6 year term)
Superior Court (county pop. greater than 250,000)	X				2	Retention election (4 year term)
Superior Court (county pop. less than 250,000)			X		4 <sup>2</sup>	Re-election (4 year term)
<b>ARKANSAS</b>						
Supreme Court			X		8	Re-election for additional terms
Court of Appeals			X		8	Re-election for additional terms
Circuit Court			X		6	Re-election for additional terms
<b>CALIFORNIA</b>						
Supreme Court		X(G)			12	Retention election (12 year term)
Courts of Appeal		X(G)			12	Retention election (12 year term)
Superior Court			X		6	Nonpartisan election (6 year term) <sup>3</sup>

1. In a retention election judges run unopposed on the basis of their record.

2. Although party affiliations for judicial candidates are not listed on the general election ballot, candidates are nominated in partisan primary elections.

3. If the election is uncontested, the incumbent's name does not appear on the ballot.

State and Court	APPOINTIVE SYSTEMS		ELECTIVE SYSTEMS		INITIAL TERM OF OFFICE (YEARS)	METHOD OF RETENTION
	Merit Selection	Gubernatorial (G) or Legislative (L) Appointment	Non-Partisan Election	Partisan Election		
<b>COLORADO</b>						
Supreme Court	X				2	Retention election (10 year term)
Court of Appeals	X				2	Retention election (8 year term)
District Court	X				2	Retention election (6 year term)
<b>CONNECTICUT</b>						
Supreme Court	X				8	Commission reviews incumbent's performance on noncompetitive basis; governor renominates and legislature confirms
Appellate Court	X				8	Same
Superior Court	X				8	Same
<b>DELAWARE<sup>4</sup></b>						
Supreme Court	X				12	See Footnote 5
Court of Chancery	X				12	See Footnote 5
Superior Court	X				12	See Footnote 5
<b>DISTRICT OF COLUMBIA</b>						
Court of Appeals	X				15	Reappointment by judicial tenure commission <sup>6</sup>
Superior Court	X				15	Reappointment by judicial tenure commission <sup>6</sup>
<b>FLORIDA</b>						
Supreme Court	X				1	Retention election (6 year term)
District Court of Appeal	X				1	Retention election (6 year term)
Circuit Court			X		6	Re-election for additional terms
<b>GEORGIA</b>						
Supreme Court			X		6	Re-election for additional terms
Court of Appeals			X		6	Re-election for additional terms
Superior Court			X		4	Re-election for additional terms
<b>HAWAII</b>						
Supreme Court	X				10	Reappointed to subsequent term by the Judicial Selection Commission (10 year term)
Intermediate Court of Appeals	X				10	Reappointed to subsequent term by the Judicial Selection Commission (10 year term)
Circuit Court and Family Court	X				10	Reappointed to subsequent term by the Judicial Selection Commission (10 year term)

4. Merit selection established by executive order in Delaware, Maryland, Massachusetts, and New Hampshire. In all other jurisdictions merit selection established by constitutional or statutory provision.

5. Incumbent reapplies to nominating commission and competes with other applicants for nomination by the governor. The governor may reappoint the incumbent or another nominee. The senate confirms the appointment.

6. Initial appointment is made by the President of the United States and confirmed by the Senate. Six months prior to the expiration of the term of office, the judge's performance is reviewed by the tenure commission. Those found "Well Qualified" are automatically reappointed. If a judge is found to be "Qualified" the President may nominate the judge for an additional term (subject to Senate confirmation). If the President does not wish to reappoint the judge, the District of Columbia Nomination Commission compiles a new list of candidates.

State and Court	APPOINTIVE SYSTEMS		ELECTIVE SYSTEMS		INITIAL TERM OF OFFICE (YEARS)	METHOD OF RETENTION
	Merit Selection	Gubernatorial (G) or Legislative (L) Appointment	Non-Partisan Election	Partisan Election		
<b>IDAHO</b>						
Supreme Court			X		6	Re-election for additional terms
Court of Appeals			X		6	Re-election for additional terms
District Court			X		4	Re-election for additional terms
<b>ILLINOIS</b>						
Supreme Court				X	10	Retention election (10 year term)
Appellate Court				X	10	Retention election (10 year term)
Circuit Court				X	6	Retention election (6 year term)
<b>INDIANA</b>						
Supreme Court	X				2	Retention election (10 year term)
Court of Appeals	X				2	Retention election (10 year term)
Circuit Court				X	6	Re-election for additional terms
Circuit Court (Vanderburgh County)			X		6	Re-election for additional terms
Superior Court				X	6	Re-election for additional terms
Superior Court (Allen County)			X		6	Re-election for additional terms
Superior Court (Lake County)	X <sup>7</sup>				2	Retention election (6 year term)
Superior Court (St. Joseph County)	X				2	Retention election (6 year term)
Superior Court (Vanderburgh County)			X		6	Re-election for additional terms
<b>IOWA</b>						
Supreme Court	X				1	Retention election (8 year term)
Court of Appeals	X				1	Retention election (6 year term)
District Court	X				1	Retention election (6 year term)
<b>KANSAS</b>						
Supreme Court	X				1	Retention election (6 year term)
Court of Appeals	X				1	Retention election (4 year term)
District Court (seventeen districts)	X				1	Retention election (4 year term)
District Court (fourteen districts)				X	4	Re-election for additional terms
<b>KENTUCKY</b>						
Supreme Court			X		8	Re-election for additional terms
Court of Appeals			X		8	Re-election for additional terms
Circuit Court			X		8	Re-election for additional terms
<b>LOUISIANA</b>						
Supreme Court				X	10	Re-election for additional terms
Court of Appeals				X	10	Re-election for additional terms
District Court				X	6	Re-election for additional terms

7. Judges of the county division run in partisan elections for 6 year terms then have to be re-elected for additional terms..

State and Court	APPOINTIVE SYSTEMS		ELECTIVE SYSTEMS		INITIAL TERM OF OFFICE (YEARS)	METHOD OF RETENTION
	Merit Selection	Gubernatorial (G) or Legislative (L) Appointment	Non-Partisan Election	Partisan Election		
<b>MAINE</b>						
Supreme Judicial Court		X(G)			7	Reappointment by governor, subject to legislative confirmation
Superior Court		X(G)			7	Reappointment by governor, subject to legislative confirmation
<b>MARYLAND<sup>8</sup></b>						
Court of Appeals	X				See fn 9	Retention election (10 year term)
Court of Special Appeals	X				See fn 9	Retention election (10 year term)
Circuit Court	X				See fn 9	Nonpartisan election (15 year term) <sup>10</sup>
<b>MASSACHUSETTS<sup>11</sup></b>						
Supreme Judicial Court	X <sup>12</sup>				to age 70	
Appeals Court	X <sup>12</sup>				to age 70	
Trial Court of Mass.	X <sup>12</sup>				to age 70	
<b>MICHIGAN</b>						
Supreme Court				X <sup>13</sup>	8	Re-election for additional terms
Court of Appeals			X		6	Re-election for additional terms
Circuit Court			X		6	Re-election for additional terms
<b>MINNESOTA</b>						
Supreme Court			X		6	Re-election for additional terms
Court of Appeals			X		6	Re-election for additional terms
District Court			X		6	Re-election for additional terms
<b>MISSISSIPPI</b>						
Supreme Court			X		8	Re-election for additional terms
Court of Appeals			X		8	Re-election for additional terms
Chancery Court			X		4	Re-election for additional terms
Circuit Court			X		4	Re-election for additional terms
<b>MISSOURI</b>						
Supreme Court	X				1	Retention election (12 year term)
Court of Appeals	X				1	Retention election (12 year term)
Circuit Court				X	6	Re-election for additional terms
Circuit Court (Jackson, Clay, Platte, Saint Louis, Greene Counties)	X				1	Retention election (6 year term)
<b>MONTANA</b>						
Supreme Court			X		8	Re-election; unopposed judges run for retention
District Court			X		6	Re-election; unopposed judges run for retention
<b>NEBRASKA</b>						
Supreme Court	X				3	Retention election (6 year term)
Court of Appeals	X				3	Retention election (6 year term)
District Court	X				3	Retention election (6 year term)

8. Merit selection established by executive order in Delaware, Maryland, Massachusetts, and New Hampshire. In all other jurisdictions merit selection established by constitutional or statutory provision.

9. Until the first general election following the expiration of one year from the date of the occurrence of the vacancy.

10. May be challenged by other candidates.

11. Merit selection established by executive order in Delaware, Maryland, Massachusetts, and New Hampshire. In all other jurisdictions merit selection established by constitutional or statutory provision.

12. The appointment is subject to approval by an eight-member governor's council.

13. Although party affiliations for Supreme Court candidates are not listed on the general election ballot, candidates are nominated at party conventions.

State and Court	APPOINTIVE SYSTEMS		ELECTIVE SYSTEMS		INITIAL TERM OF OFFICE (YEARS)	METHOD OF RETENTION
	Merit Selection	Gubernatorial (G) or Legislative (L) Appointment	Non-Partisan Election	Partisan Election		
<b>NEVADA</b>						
Supreme Court			X		6	Re-election for additional terms
District Court			X		6	Re-election for additional terms
<b>NEW HAMPSHIRE<sup>14</sup></b>						
Supreme Court	X <sup>15</sup>					to age 70
Superior Court	X <sup>15</sup>					to age 70
<b>NEW JERSEY</b>						
Supreme Court		X(G)			7	Reappointment by governor (to age 70) with advice and consent of the Senate
Appellate Division of Superior Court <sup>16</sup>		X(G)			7	Reappointment by governor (to age 70) with advice and consent of the Senate
Superior Court		X(G)			7	Reappointment by governor (to age 70) with advice and consent of the Senate
<b>NEW MEXICO</b>						
Supreme Court	X					until next general election See Footnote 17
Court of Appeals	X					until next general election See Footnote 17
District Court	X					until next general election See Footnote 17
<b>NEW YORK</b>						
Court of Appeals	X				14	See Footnote 18
Appellate Division of the Supreme Court	X				5	Commission reviews and recommends for or against reappointment by governor
Supreme Court				X	14	Re-election for additional terms
County Court				X	10	Re-election for additional terms
<b>NORTH CAROLINA</b>						
Supreme Court			X		8	Re-election for additional terms
Court of Appeals			X		8	Re-election for additional terms
Superior Court			X		8	Re-election for additional terms
<b>NORTH DAKOTA</b>						
Supreme Court			X		10	Re-election for additional terms
District Court			X		6	Re-election for additional terms

14. Merit selection established by executive order in Delaware, Maryland, Massachusetts, and New Hampshire. In all other jurisdictions merit selection established by constitutional or statutory provision.

15. The governor's nomination is subject to the approval of a five-member executive council.

16. The chief justice of the supreme court assigns superior court judges to serve on the appellate division of the superior court.

17. Partisan election at next general election after appointment for eight-year term for appellate judges, six-year term for district. The winner thereafter runs in a retention election for subsequent terms.

18. Incumbent reapplies to nominating commission and competes with other applicants for nomination to the governor. The governor may reappoint the incumbent or another nominee. The senate confirms the appointment.

State and Court	APPOINTIVE SYSTEMS		ELECTIVE SYSTEMS		INITIAL TERM OF OFFICE (YEARS)	METHOD OF RETENTION
	Merit Selection	Gubernatorial (G) or Legislative (L) Appointment	Non-Partisan Election	Partisan Election		
<b>OHIO</b>						
Supreme Court				X <sup>19</sup>	6	Re-election for additional terms
Court of Appeals				X <sup>19</sup>	6	Re-election for additional terms
Court of Common Pleas				X <sup>19</sup>	6	Re-election for additional terms
<b>OKLAHOMA</b>						
Supreme Court	X				1	Retention election (6 year term)
Court of Criminal Appeals	X				1	Retention election (6 year term)
Court of Appeals	X				1	Retention election (6 year term)
District Court			X		4	Re-election for additional terms
<b>OREGON</b>						
Supreme Court			X		6	Re-election for additional terms
Court of Appeals			X		6	Re-election for additional terms
Circuit Court			X		6	Re-election for additional terms
Tax Court			X		6	Re-election for additional terms
<b>PENNSYLVANIA</b>						
Supreme Court				X	10	Retention election (10 year term)
Superior Court				X	10	Retention election (10 year term)
Commonwealth Court				X	10	Retention election (10 year term)
Court of Common Pleas				X	10	Retention election (10 year term)
<b>RHODE ISLAND</b>						
Supreme Court	X				Life	
Superior Court	X				Life	
Worker's Compensation Court	X				Life	
<b>SOUTH CAROLINA</b>						
Supreme Court		X (L) <sup>20</sup>			10	Reappointment by legislature
Court of Appeals		X (L) <sup>20</sup>			6	Reappointment by legislature
Circuit Court		X (L) <sup>20</sup>			6	Reappointment by legislature
<b>SOUTH DAKOTA</b>						
Supreme Court	X				3	Retention election (8 year term)
Circuit Court			X		8	Re-election for additional terms

19. Although party affiliations for judicial candidates are not listed on the general election ballot, candidates are nominated in partisan primary elections.

20. South Carolina has a 10 member Judicial Merit Selection Commission that screens judicial candidates and reports the findings to the state's General Assembly. Since 1997, the Assembly is restricted to voting only on those candidates found qualified by the Judicial Merit Selection Commission. However, the nominating commission itself is not far removed from the ultimate appointing body, and cannot be considered to be nonpartisan as control over member nominations is vested in majority party leadership. Although most nominating commissions contain members appointed by the governor or legislature, no other commissions actually contain the governor or current legislators who have final approval over the candidate as voting members of the commission. In contrast, the Judicial Merit Selection Commission in South Carolina contains 6 current members of the General Assembly appointed by the Speaker of the House of Representatives, the Chairman of the Senate Judiciary Committee, and the President Pro Tempore of the Senate. State legislators also choose the remaining 4 members of the Commission who are selected from the general public.

State and Court	APPOINTIVE SYSTEMS		ELECTIVE SYSTEMS		INITIAL TERM OF OFFICE (YEARS)	METHOD OF RETENTION
	Merit Selection	Gubernatorial (G) or Legislative (L) Appointment	Non-Partisan Election	Partisan Election		
<b>TENNESSEE</b>						
Supreme Court	X				until next biennial general election	Retention election (8 year term)
Court of Appeals	X				until next biennial general election	Retention election (8 year term)
Court of Criminal Appeals	X				until next biennial general election	Retention election (8 year term)
Chancery Court				X	8	Re-election for additional terms
Criminal Court				X	8	Re-election for additional terms
Circuit Court				X	8	Re-election for additional terms
<b>TEXAS</b>						
Supreme Court				X	6	Re-election for additional terms
Court of Criminal Appeals				X	6	Re-election for additional terms
Court of Appeals				X	6	Re-election for additional terms
District Court				X	4	Re-election for additional terms
<b>UTAH</b>						
Supreme Court	X				First general election	Retention election (10 year term)
Court of Appeals	X					Retention election (6 year term)
District Court	X					Retention election (6 year term)
Juvenile Court	X				3 years after appointment	Retention election (6 year term)
<b>VERMONT</b>						
Supreme Court	X				6	Retained by vote of General Assembly (6 year term)
Superior Court	X				6	Retained by vote of General Assembly (6 year term)
District Court	X				6	Retained by vote of General Assembly (6 year term)
<b>VIRGINIA</b>						
Supreme Court		X(L)			12	Reappointment by legislature
Court of Appeals		X(L)			8	Reappointment by legislature
Circuit Court		X(L)			8	Reappointment by legislature
<b>WASHINGTON</b>						
Supreme Court			X		6	Re-election for additional terms
Court of Appeals			X		6	Re-election for additional terms
Superior Court			X		4	Re-election for additional terms
<b>WEST VIRGINIA</b>						
Supreme Court				X	12	Re-election for additional terms
Circuit Court				X	8	Re-election for additional terms

State and Court	APPOINTIVE SYSTEMS		ELECTIVE SYSTEMS		INITIAL TERM OF OFFICE (YEARS)	METHOD OF RETENTION
	Merit Selection	Gubernatorial (G) or Legislative (L) Appointment	Non-Partisan Election	Partisan Election		
WISCONSIN						
Supreme Court			X		10	Re-election for additional terms
Court of Appeals			X		6	Re-election for additional terms
Circuit Court			X		6	Re-election for additional terms
WYOMING						
Supreme Court	X				1	Retention election (8 year term)
District Court	X				1	Retention election (6 year term)

# THE AMERICAN JUDICATURE SOCIETY'S ELMO B. HUNTER CITIZENS CENTER FOR JUDICIAL SELECTION

The Hunter Center for Judicial Selection was founded in 1991 to further the American Judicature Society's historic interest in judicial selection issues. Today the Center is a nationally recognized research center that conducts, synthesizes, and disseminates empirical research on a wide range of judicial selection issues. Acting as a clearinghouse of information on judicial selection for state court administrators, lawmakers, the media, the legal and academic communities, and court reform organizations, the Center serves its core audiences in a number of ways:

- Undertaking groundbreaking research on such topics as demographic diversity in the merit selection process, the increasing influence of interest groups and political action committees in judicial elections, and the phenomenon of midterm appointments in states that utilize competitive elections for judicial office.
- Working with other court-related organizations to increase public awareness of, and involvement with, state justice issues through forums and public discussions. The Center sponsored the first national forum on judicial selection in Washington, D.C., in March 2000.
- Monitoring and providing assistance to grassroots judicial reform efforts in the states. Center staff worked closely with reform groups in Florida in the fall of 2000 to promote a ballot initiative for merit selection of trial court judges.
- Educating international visitors on methods of judicial selection in the United States and their respective implications for judicial independence and accountability. Recently, the Center has hosted judges and policy makers from China and Nigeria.
- Organizing meetings and conferences for AJS members on judicial selection topics of current interests, such as the 2001 annual meeting on AJS' role in reforming judicial campaigns.

**The publications and resources available through the Hunter Center include the following:**

- ***Judicial Selection in the States*** provides basic information on the initial selection and subsequent retention of judges on state appellate courts and trial courts of general jurisdiction.
- ***Judicial Merit Selection: Current Status*** is a detailed description of merit selection provisions in states that utilize "merit selection" of judges, or appointment through nominating commissions, at some level of court.
- ***Research on Judicial Selection*** is an annual, peer-reviewed journal that provides a forum for scholarly research and debate on a wide range of judicial selection issues.
- ***The Continuing Effort to Create Nonpartisan Judiciaries in the State Courts*** details efforts to promote merit selection in Illinois, describes obstacles that have impeded these efforts, and serves as a guide for judicial selection reform in other states.
- ***Judicial selection in the United States: a special report*** depicts the historical evolution of judicial selection in the United States.
- ***Judicial Selection in The United States: A Compendium of Provisions*** is a compilation of state statutory and constitutional provisions relating to judicial selection.
- ***Model Judicial Selection Provisions*** incorporates existing constitutional and statutory provisions, executive orders, earlier efforts to develop selection plans, and recent experiences of judicial nominating commissions across the country.
- ***Ensuring Judicial Excellence*** is a video that describes the benefits of judicial merit selection through interviews with voters, judges, attorneys, and judicial nominating commissioners.
- ***Merit Selection: Current Status, Procedures, and Issues*** reviews the history of merit selection, describes the structural and procedural characteristics of current plans, and examines empirical studies of the impact of merit selection. It also discusses current issues affecting merit selection, such as the Americans with Disabilities Act, Voting Rights Act, and judicial performance evaluations.
- ***Two monographs, The Law and Ethics of Judicial Election Campaigns and A Handbook of Judicial Election Reforms*** survey the problems with, and proposed solutions for, judicial elections.
- ***Handbook for Judicial Nominating Commissioners*** teaches procedures for various nominating commission tasks, from conducting an organizational meeting, to recruiting, investigating, and interviewing applicants for judgeships, to voting for the best qualified candidates and submitting their names to the appointing authority.