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Guide to Judicial Selection in State High Courts



***The Federalist Society
for Law & Public Policy Studies***



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Judicial Elections

Judicial Elections



State	General Election: Partisan or Nonpartisan	Statewide vs. District Election	Interim Vacancy Selection Method	Retention Method
Alabama	Partisan	Statewide	Gubernatorial appointment	Reelection
Arkansas	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
Georgia*	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
Idaho*	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
Illinois	Partisan	District	State high court appointment	Retention election ⁺
Kentucky	Nonpartisan	District	Gubernatorial appointment	Reelection
Louisiana	Partisan	District	Special election	Reelection
Michigan*	Nonpartisan**	Statewide	Gubernatorial appointment	Reelection
Minnesota*	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
Mississippi	Nonpartisan	District	Gubernatorial appointment	Reelection
Montana	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
Nevada	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
New Mexico*	Partisan	Statewide	Gubernatorial appointment	Retention election [#]
North Carolina	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
North Dakota*	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
Ohio	Nonpartisan**	Statewide	Gubernatorial appointment	Reelection
Oregon*	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
Pennsylvania	Partisan	Statewide	Gubernatorial appointment	Retention election [^]
Texas*	Partisan	Statewide	Gubernatorial appointment	Reelection
Washington	Nonpartisan	Statewide	Gubernatorial appointment	Reelection
West Virginia	Partisan	Statewide	Gubernatorial appointment	Reelection
Wisconsin	Nonpartisan	Statewide	Gubernatorial appointment	Reelection

* Some may consider these states to be functionally equivalent to the gubernatorial appointment states because of the frequency with which judges are appointed to fill interim vacancies.

** Nominated in partisan primaries/caucuses

+ 60% required for retention

57% required for retention

^ simple majority required for retention

Democratic Appointment*

* Judges are appointed directly by a democratic body, or appointed by the governor with the advice and consent of some democratic body.

Democratic Appointment



State	Who Appoints	Judicial Selection Process	Confirming Body	Retention Method
California	Governor	<ul style="list-style-type: none"> Governor, with input from the Commission on Judicial Nominees Evaluation, nominates candidates who must be confirmed by Commission on Judicial Appointments. 	Commission on Judicial Appointments: Chief Justice, Attorney General, and Senior Presiding Justice of the Courts of Appeal.	Retention election at the next gubernatorial election after appointment.
Maine	Governor	<ul style="list-style-type: none"> Governor, with input from the Select Committee on Judicial Appointments, submits names to joint legislative committee. Joint legislative committee recommends or denies the nominee with a majority vote. The recommendation of the joint legislative committee is final unless the senate overrides the committee's position by a two-thirds vote. 	Joint legislative committee majority vote or an override two-thirds vote of the senate.	Reappointment by Governor and reappointment by the senate.
New Jersey	Governor	<ul style="list-style-type: none"> Governor submits nominations to Senate Judiciary Committee. The Senate Judiciary Committee makes a report with a recommendation to confirm or reject or a report without any recommendation that is presented before the senate. Majority of the senate (or 21 senators) is required to vote in the affirmative to confirm the nomination. 	Majority vote of the senate.	Reappointment by Governor after 7 years, for tenure until the mandatory retirement age of 70.
South Carolina	Legislature	<ul style="list-style-type: none"> The general assembly elects Justices from list of nominees from the Judicial Merit Selection Commission, which determines the qualification and fitness of all candidates. <ul style="list-style-type: none"> The general assembly can require the Commission to make further nominations. Justices are elected by a joint public vote by both legislative houses of the general assembly. 	Majority joint vote of the general assembly (both legislative houses).	Reelection by legislature. Justices submit papers to the Judicial Merit Selection Commission, which determines if Justices are "qualified," followed by a vote of the general assembly to reelect.
Virginia	Legislature	<ul style="list-style-type: none"> Candidates are evaluated by the Virginia State Bar Judicial Candidate Evaluation Committee. Candidates are then nominated by members of either legislative house. The nomination moves to the respective house's Courts of Justice Committee, which must deem the nominee "qualified." Justices are elected by a majority of the members elected to each house of the general assembly. 	Majority vote in each house of the general assembly (majority in each legislative house).	Reelection by legislature. The courts of justice committees of each house interview candidates who seek reelection. Justices can be reelected by general assembly.

Hybrid*

* Judges are appointed by Governor after nomination by a commission and confirmation by a democratic body.

Connecticut



Composition of Judicial Nominating Commission

12 members:

- 6 lawyers
 - 3 appointed by Governor*
 - 3 appointed by
 - President Pro Tempore of the Senate
 - Majority Leader of the House of Representatives
 - Minority Leader of the House of Representatives
- 6 non-lawyers
 - 3 appointed by Governor*
 - 3 appointed by
 - Speaker of the House of Representatives
 - Majority Leader of the Senate
 - Minority Leader of the Senate

* Of the 6 appointed by Governor, there must be 1 per congressional district and 1 member at-large.

Terms: 3 years (staggered)

Commission submits list of candidates from which Governor must choose one.

Candidate is subject to appointment by the general assembly.

Method of Retention: Renomination and reappointment by Governor and commission



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Delaware*

Composition of Judicial Nominating Commission

11 members:

- 10 appointed by Governor
 - At least 4 lawyers
 - At least 4 non-lawyers
- 1 additional lawyer nominated by President of the state bar, who is then appointed by Governor

* Judicial nominating commission established by Executive Order

Terms: 3 years (staggered)

Commission submits a list of at least three qualified persons from which Governor *may* choose one.

Governor's appointment is subject to consent of the senate.

Method of Retention: Reappointment and reconfirmation



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Hawaii

Composition of Judicial Nominating Commission

9 members*:

- 2 lawyers elected by the state bar
- 2 members appointed by Governor
 - Only 1 may be a lawyer
- 2 members appointed by Speaker of the House
- 2 members appointed by President of the Senate
- 1 members appointed by Chief Justice

* Only 4 total may be lawyers; at least one member of commission shall be a resident of a county other than Honolulu

Terms: 6 years (staggered)

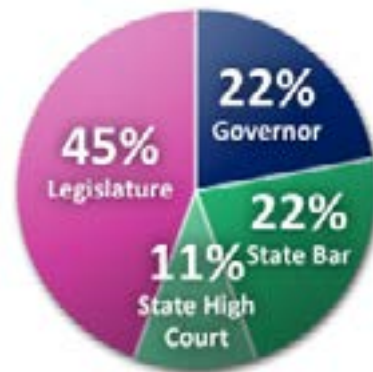
Commission submits a list of at least four but no more than six nominees from which Governor must choose one.

Governor's appointment is subject to consent of the senate.

Method of Retention: Reappointment by commission



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Maryland*

Composition of Judicial Nominating Commission

17 members:

- 5 lawyers submitted for appointment by President of the state bar
- 12 members appointed by Governor

* Judicial nominating commission established by Executive Order

Terms: 4 years (non-staggered)

Commission submits a list of at least three candidates from which Governor *may* choose one.

Governor's appointment is subject to advice and consent of the senate.

Method of Retention: Retention election by voters in appellate judicial circuit from which judge was appointed



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Massachusetts*



Composition of Judicial Nominating Commission

21 members:

- All appointed by Governor

* Judicial nominating commission established by Executive Order

Terms: 1 year (non-staggered)

Commission submits a list of at least three but no more than six applicants to Governor, from which Governor *may* choose one.

Governor's appointment is subject to advice and consent of the Governor's Council.

Method of Retention: No retention; mandatory retirement at age 70



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

New Hampshire*

Composition of Judicial Nominating Commission

11 members**:

- All appointed by Governor
 - 6 lawyers
 - 5 members appointed from public at-large

* Judicial nominating commission established by Executive Order

** Each Executive Council Districts must be represented on Commission

Terms: 3 years maximum (non-staggered)

Commission submits a list of names of qualified persons to Governor from which Governor *may* choose one

Governor's nominee is subject to approval by the Executive Council.

Method of Retention: No retention; mandatory retirement at age 70



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

New York

Composition of Judicial Nominating Commission

12 members:

- 4 lawyers
 - 2 appointed by Governor
 - 2 appointed by Chief Judge
- 4 non-lawyers
 - 2 appointed by Governor
 - 2 appointed by Chief Judge
- 4 members, 1 appointed by each of the following
 - Speaker of the Assembly
 - Temporary President of the Senate
 - Minority Leader of the Senate
 - Minority Leader of the Assembly

Terms: 4 years (staggered)

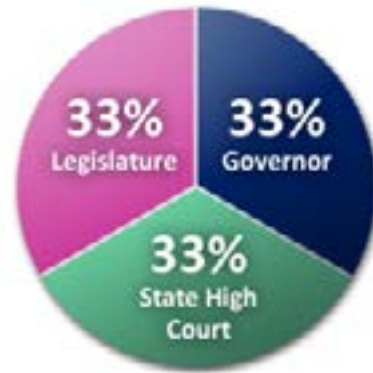
Commission submits a list of at least three but no more than seven persons well-qualified from which Governor must choose one.

Governor's appointment is subject to advice and consent of the senate.

Method of Retention: Commission recommendation, gubernatorial appointment, senate confirmation



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Rhode Island

Composition of Judicial Nominating Commission

9 members:

- 4 appointed by Governor
 - 3 lawyers
 - 1 non-lawyer
- 5 members, 1 appointed from each of the following, subject to appointment by the Governor
 - At least 3 lawyers submitted by Speaker of the House of Representatives
 - At least 3 lawyers or non-lawyers submitted by President of the Senate
 - 4 non-lawyers submitted jointly by Speaker of the House of Representatives and President of the Senate
 - At least 3 non-lawyers submitted by Minority Leader of the House of Representatives
 - At least 3 non-lawyers submitted by Minority Leader of the Senate

Terms: 4 years (staggered)

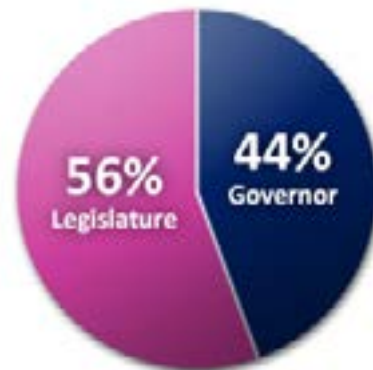
Commission submits a list of at least three but no more than five persons from which Governor must choose one.

Governor's nominee is subject to advice and consent of the senate and advice and consent of the house of representatives.

Method of Retention: No retention; life appointment



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Utah



Composition of Judicial Nominating Commission

8 members:

- 7 appointed by Governor
 - 2 lawyers from a list of 6 lawyers submitted by the state bar
 - No more than 4 lawyers
- 1 member appointed by Chief Justice from the Utah Judicial Council to serve as nonvoting member

Terms: 4 years (non-staggered)

Commission submits a list of three nominees from which Governor must choose one.

Governor's appointment is subject to senate approval.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Vermont

Composition of Judicial Nominating Commission

11 members:

- 3 lawyers appointed by the state bar
- 2 non-lawyers appointed by Governor
- 3 members of the senate elected by the senate
 - Only 1 may be a lawyer
- 3 members of the house of representatives elected by the house of representatives
 - Only 1 may be a lawyer

Terms: 2 years (non-staggered)

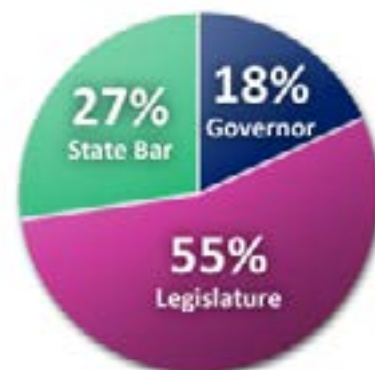
Commission submits a list of nominees from which Governor must choose one.

Governor's appointment is subject to advice and consent of the senate.

Method of Retention: Approval by the general assembly



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Missouri Plan*

* Judges are appointed by Governor after nomination by a commission

Alaska



Composition of Judicial Nominating Commission

7 members:

- 3 lawyers appointed by the state bar
- 3 non-lawyer members appointed by Governor and confirmed by state legislature
- Chief Justice of state high court is ex officio chair

Terms: 6 years (staggered)

Commission submits at least two persons from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Arizona

Composition of Judicial Nominating Commission

16 members:

- 5 lawyers nominated by Board of Governors of the state bar, appointed by Governor, and confirmed by senate
- 10 non-lawyers appointed by Governor and confirmed by senate
- Chief Justice or designated Associate Justice of state high court serves as chair

Terms: 4 years (staggered)

Commission submits at least three nominees from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Colorado

Composition of Judicial Nominating Commission

16 members:

- 7 lawyers, 1 per congressional district, appointed by majority action of Governor, Attorney General, and Chief Justice
- 7 non-lawyers, 1 per congressional district, appointed by Governor
- 1 additional non-lawyer appointed by Governor
- Chief Justice is ex officio nonvoting chair

Terms: 6 years (staggered)

Commission submits a list of three nominees from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Florida

Composition of Judicial Nominating Commission

9 members:

- 5 appointed by Governor
 - 2 additional lawyers
 - 3 may be non-lawyers
- 4 lawyers recommended by Board of Governors of the state bar

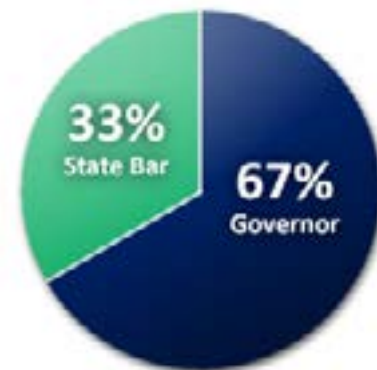
Terms: 4 years (staggered)

Commission submits a list of at least three but no more than six nominees from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Indiana



Composition of Judicial Nominating Commission

7 members:

- 3 lawyers, 1 per court of appeals district, elected by the state bar members in each district
- 3 non-lawyers, 1 per court of appeals district, appointed by Governor
- Chief Justice of state high court is ex officio chair

Terms: 3 years (staggered)

Commission submits three nominees from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Iowa

Composition of Judicial Nominating Commission

17 members:

- 8 lawyers, 1 per congressional district, elected by resident members of the state bar in each district
- 8 members, 1 per congressional district, appointed by Governor, subject to senate confirmation
- Senior Associate Justice of state high court is ex officio chair

Terms: 6 years (staggered)

Commission submits three nominees from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Kansas

Composition of Judicial Nominating Commission

9 members:

- 4 lawyers, 1 per congressional district, elected by members of the state bar in each district
- 1 lawyer elected by lawyers statewide as chair
- 4 non-lawyers, 1 per congressional district, appointed by Governor

Terms: 4 years (staggered)

Commission submits a list of three persons from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Missouri

Composition of Judicial Nominating Commission

7 members:

- 3 lawyers, 1 per appellate court district, appointed by the state bar
- 3 non-lawyers, 1 per appellate court district, appointed by Governor
- 1 Judge of the Supreme Court selected by the members of that court

Terms: 6 years (staggered)

Commission submits a list of three persons from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Nebraska



Composition of Judicial Nominating Commission

9 members:

- 4 lawyers elected by the state bar
- 4 non-lawyers appointed by Governor
- 1 Judge of the Supreme Court appointed by Governor, serves as chair and has no voting power

Terms: 4 years (staggered)

Commission submits a list of at least two nominees from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Oklahoma

Composition of Judicial Nominating Commission

15 members:

- 6 lawyers, 1 per congressional district as it existed in 1967, elected by the state bar
- 9 non-lawyers
 - 6 non-lawyers, 1 per congressional district as it existed in 1967, appointed by Governor
 - 3 non-lawyers to serve as members at-large
 - 1 appointed by Senate President Pro Tempore
 - 1 appointed by Speaker of the House of Representatives
 - 1 selected by other members of the Commission

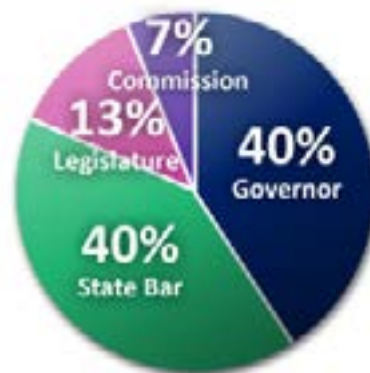
Terms: 6 years (staggered), 2 years for at-large members

Commission submits a list of three candidates from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

South Dakota

Composition of Judicial Nominating Commission

7 members:

- 3 lawyers elected by state bar
- 2 judges of the circuit court, elected by the judicial conference
- 2 non-lawyers appointed by Governor

Terms: 4 years (staggered)

Commission submits a list of at least two persons from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Tennessee

Composition of Judicial Nominating Commission

17 members:

- 8 appointed by Speaker of the Senate
 - 2 appointed from each of the state's 3 Grand Divisions
 - 2 appointed at-large
 - At least 5 lawyers
- 8 appointed by Speaker of the House of Representatives
 - 2 appointed from each of the state's 3 Grand Divisions
 - 2 appointed at-large
 - At least 5 lawyers
- 1 non-lawyer appointed at-large by joint action of Speaker of the Senate and Speaker of the House of Representatives

Terms: 6 years (staggered)

Commission submits a list of at least three nominees from which Governor *may* choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?



Composition of Judicial Nominating Commission

7 members:

- 3 lawyers elected by the state bar
- 3 non-lawyers appointed by Governor
- Chief Justice of state high court is ex officio chair

Terms: 4 years (staggered)

Commission submits a list of three nominees from which Governor must choose one.

Method of Retention: Retention election



Percentage of Lawyers on the Nominating Commission



Who Selects the Nominating Commissioners?

Appendix: The Fifty States in a Nutshell

State	Name of Highest Court	Judicial Selection Method	Number of Judges	Terms
Alabama	Supreme Court of Alabama	Election (Partisan)	9 Justices	6 years
Alaska	Alaska Supreme Court	Missouri Plan	5 Justices	3 year minimum initial term, 10 year full term
Arizona	Arizona Supreme Court	Missouri Plan	5 Justices	2 year minimum initial term, 6 year full term
Arkansas	Arkansas Supreme Court	Election (Nonpartisan)	7 Justices	8 years
California	Supreme Court of California	Democratic Appointment (Gubernatorial)	7 Justices	12 years
Colorado	Colorado Supreme Court	Missouri Plan (No Role for Bar)	7 Justices	2 year minimum initial term, 10 year full term
Connecticut	Connecticut Supreme Court	Hybrid	7 Justices	8 years
Delaware	Delaware Supreme Court	Hybrid	5 Justices	12 years
Florida	Florida Supreme Court	Missouri Plan	7 Justices	1 year minimum initial term, 6 year full term
Georgia	Supreme Court of Georgia	Election (Nonpartisan)	7 Justices	6 years
Hawaii	Supreme Court of Hawaii	Hybrid	5 Justices	10 years
Idaho	Idaho Supreme Court	Election (Nonpartisan)	5 Justices	6 years
Illinois	Illinois Supreme Court	Election (Partisan)	7 Justices	10 years
Indiana	Indiana Supreme Court	Missouri Plan	5 Justices	2 year minimum initial term, 10 year full term
Iowa	Iowa Supreme Court	Missouri Plan	7 Justices	1 year minimum initial term, 8 year full term
Kansas	Kansas Supreme Court	Missouri Plan	7 Justices	1 year minimum initial term, 6 year full term
Kentucky	Supreme Court of Kentucky	Election (Nonpartisan)	7 Justices	8 years
Louisiana	Louisiana Supreme Court	Election (Partisan)	7 Justices	10 years
Maine	Maine Supreme Judicial Court	Democratic Appointment (Gubernatorial)	7 Justices	7 years
Maryland	Court of Appeals of Maryland	Hybrid	7 Judges	10 years
Massachusetts	Massachusetts Supreme Judicial Court	Hybrid	7 Justices	Appointment until age 70
Michigan	Michigan Supreme Court	Election (Nonpartisan)	7 Justices	8 years
Minnesota	Minnesota Supreme Court	Election (Nonpartisan)	7 Justices	6 years
Mississippi	Mississippi Supreme Court	Election (Nonpartisan)	9 Justices	8 years

State	Name of Highest Court	Judicial Selection Method	Number of Judges	Terms
Missouri	Supreme Court of Missouri	Missouri Plan	1 Chief Justice, 6 Judges	1 year minimum initial term, 12 year term
Montana	Montana Supreme Court	Election (Nonpartisan)	7 Justices	8 years
Nebraska	Nebraska Supreme Court	Missouri Plan	7 Justices	3 year minimum initial term, 6 year term
Nevada	Supreme Court of Nevada	Election (Nonpartisan)	7 Justices	6 years
New Hampshire	New Hampshire Supreme Court	Hybrid	5 Justices	Appointment until age 70
New Jersey	New Jersey Supreme Court	Democratic Appointment (Gubernatorial)	7 Justices	7 year initial term, then appointment until age 70
New Mexico	New Mexico Supreme Court	Election (Partisan)	5 Justices	8 years
New York	New York Court of Appeals	Hybrid	7 Judges	14 years
North Carolina	Supreme Court of North Carolina	Election (Nonpartisan)	7 Justices	8 years
North Dakota	North Dakota Supreme Court	Election (Nonpartisan)	5 Justices	10 years
Ohio	Supreme Court of Ohio	Election (Nonpartisan)	7 Justices	6 years
Oklahoma	Oklahoma Supreme Court	Missouri Plan	9 Justices	1 year minimum term, 6 year full term
Oregon	Oregon Supreme Court	Election (Nonpartisan)	7 Justices	6 years
Pennsylvania	Supreme Court of Pennsylvania	Election (Partisan)	7 Justices	10 years
Rhode Island	Rhode Island Supreme Court	Hybrid	5 Justices	Life appointment
South Carolina	South Carolina Supreme Court	Democratic Appointment (Legislative)	5 Justices	10 years
South Dakota	South Dakota Supreme Court	Missouri Plan	5 Justices	3 year minimum initial term, 8 year full term
Tennessee	Tennessee Supreme Court	Missouri Plan (No Role for Bar)	5 Justices	30 day minimum initial term, 8 year full term
Texas	Supreme Court of Texas	Election (Partisan)	9 Justices	6 years
Utah	Utah Supreme Court	Hybrid	5 Justices	3 year minimum initial term, 10 year term
Vermont	Vermont Supreme Court	Hybrid	5 Justices	6 years
Virginia	Supreme Court of Virginia	Democratic Appointment (Legislative)	7 Justices	12 years
Washington	Washington Supreme Court	Election (Nonpartisan)	9 Justices	6 years
West Virginia	Supreme Court of Appeals of West Virginia	Election (Partisan)	5 Justices	12 years
Wisconsin	Wisconsin Supreme Court	Election (Nonpartisan)	7 Justices	10 years
Wyoming	Wyoming Supreme Court	Missouri Plan	5 Justices	1 year minimum initial term, 8 year full term

