

STUDENT
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Handout

Judicial Selection Methods—An Overview

Background

When most states were created, they had a system of selecting judges that resembled that recommended in Federalist #78 by Alexander Hamilton. In his writing, Hamilton argued that judges should have independence from the approval of the executive, legislature, and the people so they can fulfill the judicial attributes outlined in the Constitution. To ensure the independence of the courts that Hamilton recommended, the U.S. Constitution provides that federal judges are appointed to life tenure “during good behavior.” The selection process involves appointment by the President and approval by Congress with no provision for reappointment. While Hamilton’s ideas about judicial selection still guide the selection process in the federal courts, the states developed a wide range of approaches.

In the 19th century, the influence of Jacksonian Democracy resulted in a move toward elections as a means of holding judges more accountable to the public will. A century later, legal scholars in the Progressive Reform Movement proposed a merit selection process for the purpose of removing judges from the pressures of running for political office. These changes were implemented first in Missouri and in several other states in the 1950s and 1960s.

The map and chart provides basic data about alternative methods of judicial selection. To find detailed information about state courts visit <vls.law.vill.edu/Locator/statecourt> .

Summary of Initial Judicial Selection Methods Appellate and General Jurisdiction Courts				
Merit Selection through Nominating Commission*	Gubernatorial (G) or Legislative (L) Appointment without Nominating Commission	Partisan Election	Nonpartisan Election	Combined Merit Selection and Other Methods
Alaska Colorado Connecticut Delaware District of Columbia Hawaii Iowa Maryland Massachusetts Nebraska New Hampshire New Mexico Rhode Island Utah Vermont Wyoming	California (G) Maine (G) New Jersey (G) Virginia (L) S. Carolina (L)	Alabama Illinois Louisiana Michigan N. Carolina Ohio Pennsylvania Texas W. Virginia	Arkansas Georgia Idaho Kentucky Minnesota Mississippi Montana Nevada N. Dakota Oregon Washington Wisconsin	Arizona Florida Indiana Kansas Missouri New York Oklahoma S. Dakota Tennessee

*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 Wisconsin.

Source: American Judicature Society

Look at the map and chart. What can you say about the methods states use to select judges? Look at the chart. Find your state in the list. What generalizations can you determine from the chart?

