

Judicial Selection

Issue

Should candidates seeking to become Justices on the West Virginia Supreme Court of Appeals run for office as partisan politicians or do our expectations for an impartial judiciary require us to choose our Justices through selection processes or elections that would be freed from partisan politics?

Background

Unfortunately West Virginia trails most of the nation in reforming its judiciary, as 43 other states have taken politics out of the process used to select Justices for their states' highest courts. Many of those states also have taken it one step further and removed partisan labels from the selection or election of judges in lower courts as well.

Instead, West Virginia stands with only seven other states that still rely on partisan politics for judicial elections. While the West Virginia Constitution mandates that the five Justices on the Supreme Court stand for popular election, it gives the Legislature the authority to determine the nature of those elections. As a result, overdue reform that would move West Virginia beyond the partisan politics of the 20th century would only require an act of the Legislature, if legislators are courageous enough to let candidates for our highest court stand on their reputations, instead of their party affiliation.

Governor Joe Manchin has named a special Independent Commission on Judicial Reform. The nine-member panel will study the need for judicial reforms, such as, but not limited to: adopting a merit-based system of judicial selection, enacting judicial campaign finance reforms or reporting requirements, creating an intermediate court of appeals, proposing constitutional amendments or establishing a court of chancery. A report is to be prepared and provided to the Governor by mid-November 2009.

The Chamber's Position

The Chamber strongly supports needed reforms that will move West Virginia's judiciary into the mainstream of the 21st century. Partisan elections for what is supposed to be an independent judiciary stand as ugly reminders of "the politics of the past" and our collective inability to join the mainstream of America in judicial reforms.

West Virginia is one of only a few states still electing all of its justices and judges in partisan elections. The Chamber supports proposals that other states have adopted to select justices for its highest courts, such as either through 1) a merit selection process, which would require an amendment of the West Virginia Constitution or 2) non-partisan elections, which the West Virginia Constitution already permits.