

Minnesota's Judiciary

Keeping it Fair and Impartial

Judicial Election Reform

Minnesota's Courts

The role of Minnesota's courts is to decide cases that come before them fairly and impartially; protect individual rights and liberties by striking down laws that violate the state or federal Constitution; act as checks on the other branches of government to ensure that they stay within the bounds of their authority; and protect and uphold the state and federal Constitutions.

Minnesota's Courts are Nationally Recognized for Quality and Fairness

A 2008 US Chamber of Commerce Survey of Corporate Counsel ranks Minnesota's courts:

- No. 2 nationally for competence
- No. 5 nationally for impartiality

A 2006 survey of Minnesota residents found that 81% of respondents give Minnesota judges a positive rating. But in a 2008 survey, 77% said they are worried about judicial candidates having to raise campaign funds, run TV ads and seek political party and special interest support.

Threats to the Quality and Fairness of Minnesota's Courts

Over the past decade, judicial elections throughout the country have become more politicized. In other states, special interest groups make large donations to judicial candidates with hope of influencing the outcome of judicial elections and judicial decisions. Even the most well-qualified judges must raise larger and larger contributions to maintain their seats. Until recently, Minnesota was insulated from this trend by campaign conduct rules adopted by the Minnesota Supreme Court. These rules were struck down by federal appellate courts. Now judicial candidates may:

- Announce their views on social and political issues
- Solicit campaign contributions by mail
- Seek political party endorsements
- Seek endorsements from special interest groups

- Identify themselves as political party members
- Attend political party gatherings
- Commit themselves to party platforms

These changes in rules of conduct for judicial campaigns threaten the quality and impartiality of Minnesota's courts by potentially transforming judicial campaigns into partisan political events.

Judges will be pressured to raise enormous amounts of money from the very parties that may appear before them in court, including money from special interest groups and political parties.

In return for that money, judges will be pressured to take positions on legal issues that might come before them.

Instead of basing their decisions on the law and the facts of each case, judges may feel pressure to make decisions based on public opinion or the views of campaign contributors, special interest groups, and political parties.

What's Been Happening in Other States

In other states with partisan political races, judicial candidates often have to raise millions of dollars to win judicial seats.

In Minnesota, Supreme Court candidates' campaign committees, on average, raise less than \$100,000 per election.

In 2004, one Supreme Court race in Illinois (where judicial elections have traditionally been political) raised a record \$9,300,000.

In 2007, one Supreme Court race in Wisconsin raised \$6,200,000.

In 2008, Supreme Court candidates in 13 states raised 29.4 million dollars.

In Texas (where judicial elections have traditionally been political), campaign checks are handed to judges during court proceedings. Half of Texas judges surveyed admit that campaign contributions influence their decisions.

The same US Chamber of Commerce survey that ranked Minnesota courts high on fairness, competence, and impartiality, ranked Texas courts in the bottom ten, and Illinois courts in the bottom five in the nation.

Justice Alan Page (Associate Justice, Minnesota Supreme Court)

“The judiciary simply cannot be impartial or trusted when party politics encourages judges to behave as traditional politicians...[O]ur role is distinctly different. Whereas executive and legislative officials commit themselves to enacting their political agendas, a judge’s role is to interpret the law fairly and ensure due process to every litigant.”

Why Should I Care?

Threats to the quality and impartiality of Minnesota’s courts affect us all. Everyone wants their own personal legal disputes to be resolved by an impartial, neutral umpire, based on the law and the facts of their case. They don’t want a judge to make a decision based on public opinion or the preferences of campaign contributors, political parties, or interest groups. Judges should be free to render unpopular decisions, serving their role in our system of checks and balances to protect fundamental individual rights under the Constitution.

Current Method of Selecting Judges

Minnesota’s judges are appointed by the Governor when there is a vacancy in the office of judge.

The Governor appoints trial court judges based on nominations by a Merit Selection Commission that evaluates candidates’ qualifications based on nonpartisan factors such as integrity, ability, judicial temperament, experience, maturity, community service, diligence, and legal knowledge.

Once appointed, a judge must run for election to a six-year term in the next general election occurring more than 1 year after the appointment.

Judges run for re-election every 6 years.

Elements that Comprise a Better System

- **Mandatory appointment by the governor of all judges – including appellate judges – from a slate of candidates nominated by a merit selection commission.**
- **Comprehensive performance evaluation of all sitting judges so that the public has information about the performance of its judges.**
- **Renewal of judicial terms through retention elections (Quiet Commission majority position), where citizens have the right to vote to retain all judges, and the performance evaluation results (qualified/not qualified) are printed on the ballot so that the public can cast informed votes.**

What Can You Do?

- Ask your legislators to support retention elections for judges – SF 70/HF 224
- Tell them you want to see judicial election reform on the ballot in November 2010

Do you want your case to be decided based on the views of campaign contributors, or on the facts and the law? Get involved! Talk to others about your views!

For more information, visit:

- www2.mnbar.org/committees/judiciary/index.htm
- www.impartialcourts.org (Minnesotans for Impartial Courts)
- www.justiceatstake.org (Justice at Stake)
- www.lwvnmn.org (MN League of Women Voters)

A Public Education Project of the Coalition for Impartial Justice and the Minnesota State Bar Association’s Judiciary Committee

For more information, contact Nancy Mischel at nmischel@mnbar.org

Or see <http://www.mnbar.org/impartialjustice>