Different Selection Methods

- **Nonpartisan Elections:** Judges selected in nonpartisan elections.
- **Partisan Elections:** Judges selected in partisan elections.
- **Gubernatorial Appointment:** Judicial candidates are selected by the governor for appointment.
- **Legislative Appointment:** Judges are selected by a vote of the state Legislature.
- **Missouri Plan/Merit Selection:** Combines certain elements of appointment- and election-based selection methods. Under the Missouri Plan, first adopted by its namesake state, judicial vacancies are filled by the governor, who appoints a judge from a slate of candidates selected by a nominating commission. Sitting judges approaching the end of their terms may seek additional terms through standing in an unopposed yes/no retention election.
- **Hybrid Selection:** Some states use a version of the Missouri Plan without a binding nominating commission and Hawaii uses a judicial selection commission instead of retention elections to decide whether sitting judges are retained for additional terms.
Judicial Nominating Commissions

- Independent bodies assembled to help with the judicial appointment process by vetting candidates for judicial vacancies and sending a list of qualified candidates to the appointing authority, typically the governor.

- Commission membership varies by state, but usually the governor appoints at least some members, and in some states the legislature and state bar also play a part in appointing commissioners.

- Nominating commissions are widely used and, in most states, the appointing authority, typically the governor, must choose from the list provided by the commission.
  - In 36 states and D.C., nominating commissions are used to help fill vacancies that open up on the high court.
  - The overwhelming majority of those state commissions — 29 of them and D.C. — issue binding recommendations.
  - In the 7 states where nominating commissions are nonbinding, the appointing authority receives a list of vetted candidates from the commission but is not required to appoint from it.
Supreme Court Selection

Source: http://judicialselectionmap.brennancenter.org/?court=Supreme
Intermediate Appellate Court Selection

Source: http://judicialselectionmap.brennancenter.org/?court=Appellate
Trial Court Selection

Source: http://judicialselectionmap.brennancenter.org/?court=Trial
Recent State Changes to Judicial Selection

- **2001** - Arkansas eliminated partisan elections for judicial candidates.
- **2007** - Rhode Island allowed the Governor to select candidates that were listed as finalists by the judicial nomination committee within the last five years.
- **2011** - Montana tried to switch their nonpartisan elections to partisan.
- **2012** - Georgia attempted to convert nonpartisan elections to partisan, unless local constituencies voted to remain nonpartisan.
- **2013** - Minnesota attempted to switch to merit selection.
- **2015** - Pennsylvania passed in committee an attempt to change to merit selection.
- **2015** - North Carolina’s nonpartisan elections for the Court of Appeals became partisan.
- **2016** - West Virginia’s partisan elections became nonpartisan.

Source: [www.NCSC.org](http://www.NCSC.org)
Judicial Selection Reform in Texas

1946 - Texas Judicial Council Proposes Constitutional Amendment for merit selection of judges.

1953 - State Bar members support proposal for merit selection for appellate judges.

1966 - Texas Committee on Judicial Efficiency recommends 8 year terms for appellate and 6 year terms for district judges.

1971 - Chief Justice Calvert formed task force for court improvement that made recommendations for merit selection.

1975 - SJR 26 and SB 313 passed the Senate. Governor appointment and Senate confirmation with retention elections for appellate judges and nonpartisan elections/retention for district judges.

1986 - Chief Justice Hill formed “Committee of 100” to study judicial selection and campaign finance laws.

1987 - Texas Legislature creates Joint Select Committee to Study Judicial Selection.

1989 - SJR 2 and SB 20 passed the Senate. Would have required appointment/retention system for appellate judges.

1995 - HJR 69 and HB 1175 passed the house. Would have required nonpartisan elections for appellate judges.

1999 - SJR 9 and SB 59 passed the Senate. Would have required appointment/retention system for appellate judges.

2001 - SJR 3 and SB 129 passed the Senate. Would have required Governor appointment of Supreme Court and Court of Criminal Appeals Judges.

2017 - HB 25 signed by the Governor to eliminate straight-party voting.

2019 - HB 3040 signed by the Governor to create the Texas Commission on Judicial Selection.

Sources: www.NCSC.org and www.txcourts.gov
Data on Turnover and Selection of Texas Judges
**Turnover in Appellate and District Judges by Biennium**

**Percentage of Appellate and District Judges Defeated for Reelection**

- 2004: 2%
- 2006: 6%
- 2008: 6%
- 2010: 3%
- 2012: 4%
- 2014: 3%
- 2016: 5%
- 2018: 12%

**Percentage of Appellate and District Judges Not Running for Reelection**

- 2004: 2%
- 2006: 4%
- 2008: 4%
- 2010: 5%
- 2012: 5%
- 2014: 6%
- 2016: 4%
- 2018: 7%

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<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of judges</td>
<td>523</td>
<td>535</td>
<td>547</td>
<td>554</td>
<td>555</td>
<td>557</td>
<td>565</td>
<td>567</td>
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<tr>
<td>Defeated for reelection</td>
<td>10</td>
<td>34</td>
<td>35</td>
<td>18</td>
<td>23</td>
<td>17</td>
<td>27</td>
<td>66</td>
</tr>
<tr>
<td>% defeated</td>
<td>2%</td>
<td>6%</td>
<td>6%</td>
<td>3%</td>
<td>4%</td>
<td>3%</td>
<td>5%</td>
<td>12%</td>
</tr>
<tr>
<td>Did not run for reelection</td>
<td>9</td>
<td>22</td>
<td>22</td>
<td>29</td>
<td>28</td>
<td>34</td>
<td>25</td>
<td>40</td>
</tr>
<tr>
<td>% did not run for reelection</td>
<td>2%</td>
<td>4%</td>
<td>4%</td>
<td>5%</td>
<td>5%</td>
<td>6%</td>
<td>4%</td>
<td>7%</td>
</tr>
</tbody>
</table>
### Election Year in the Biennium

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Total Leaving State Judiciary</td>
<td>39</td>
<td>76</td>
<td>76</td>
<td>73</td>
<td>69</td>
<td>84</td>
<td>68</td>
<td>137</td>
</tr>
<tr>
<td>Defeated in election</td>
<td>26%</td>
<td>45%</td>
<td>46%</td>
<td>26%</td>
<td>33%</td>
<td>20%</td>
<td>40%</td>
<td>48%</td>
</tr>
<tr>
<td>Did not seek reelection</td>
<td>23%</td>
<td>29%</td>
<td>29%</td>
<td>40%</td>
<td>41%</td>
<td>40%</td>
<td>37%</td>
<td>29%</td>
</tr>
<tr>
<td>Resigned (including retired)</td>
<td>31%</td>
<td>22%</td>
<td>18%</td>
<td>25%</td>
<td>22%</td>
<td>26%</td>
<td>16%</td>
<td>12%</td>
</tr>
<tr>
<td>Mandatory retirement</td>
<td>8%</td>
<td>3%</td>
<td>4%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>5%</td>
<td>3%</td>
</tr>
<tr>
<td>Removed from office or resigned under allegations of misconduct</td>
<td>3%</td>
<td>0%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>5%</td>
<td>3%</td>
<td>1%</td>
</tr>
<tr>
<td>Deceased</td>
<td>10%</td>
<td>1%</td>
<td>1%</td>
<td>7%</td>
<td>1%</td>
<td>4%</td>
<td>1%</td>
<td>0%</td>
</tr>
</tbody>
</table>
137 judges left office from September 2017 to August 2019, almost half of whom were defeated in the last election.

- **Deceased**: 0%
- **Removed from office**: 1%
- **Reached mandatory retirement age**: 9%
- **Resigned (including Retired)**: 12%
- **Did not seek reelection**: 29%
- **Defeated in election**: 48%
## 2018 Election

### % of Incumbents Defeated in 2018 Election Cycle

- **Appellate**: 49%
- **District**: 22%
- **Probate**: 29%
- **County Court at Law**: 14%

### Total Number of Judges

<table>
<thead>
<tr>
<th>Total Number of Judges</th>
<th>Up for Reelection</th>
<th>Ran for Reelection</th>
<th>Lost Primary</th>
<th>Lost General</th>
<th>% Defeated</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appellate</strong></td>
<td>98</td>
<td>50</td>
<td>41</td>
<td>0</td>
<td>20</td>
</tr>
<tr>
<td><strong>District</strong></td>
<td>469</td>
<td>254</td>
<td>206</td>
<td>7</td>
<td>38</td>
</tr>
<tr>
<td><strong>Probate</strong></td>
<td>18</td>
<td>18</td>
<td>14</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td><strong>County Court at Law</strong></td>
<td>246</td>
<td>228</td>
<td>192</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Partisan Sweeps in Appellate Courts, and District and Statutory County Courts in the State’s 20 Most Populous Counties

Figure 4. Partisan Sweeps in Texas Judicial Elections (2008–2016)

Partisan Sweeps in Harris County

Table 3. County-Level Judicial Elections in Harris County (2008-2016)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Majority Party</td>
<td>Democratic</td>
<td>Republican</td>
<td>Democratic</td>
<td>Republican</td>
<td>Democratic</td>
</tr>
<tr>
<td>Share of Races Won By Majority Party</td>
<td>85%</td>
<td>100%</td>
<td>56%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Median Majority Judicial Vote Share</td>
<td>51.10%</td>
<td>55.95%</td>
<td>50.18%</td>
<td>54.73%</td>
<td>52.19%</td>
</tr>
<tr>
<td>25 Percent Quartile Majority Judicial Vote Share</td>
<td>50.16%</td>
<td>55.18%</td>
<td>49.79%</td>
<td>54.03%</td>
<td>51.40%</td>
</tr>
<tr>
<td>75 Percent Quartile Majority Judicial Vote Share</td>
<td>51.31%</td>
<td>56.87%</td>
<td>50.78%</td>
<td>55.34%</td>
<td>52.92%</td>
</tr>
<tr>
<td>Highest Majority Judicial Vote Share</td>
<td>52.48%</td>
<td>57.41%</td>
<td>51.38%</td>
<td>56.36%</td>
<td>54.11%</td>
</tr>
<tr>
<td>Lowest Majority Judicial Vote Share</td>
<td>48.58%</td>
<td>53.87%</td>
<td>49.09%</td>
<td>52.84%</td>
<td>50.93%</td>
</tr>
<tr>
<td>Majority Party Share of Two-Party Straight-Ticket Vote</td>
<td>53.23%</td>
<td>54.70%</td>
<td>50.17%</td>
<td>54.74%</td>
<td>54.10%</td>
</tr>
<tr>
<td>Percentage of Voters Using Straight-Ticket Option</td>
<td>62%</td>
<td>67%</td>
<td>68%</td>
<td>68%</td>
<td>66%</td>
</tr>
<tr>
<td>Number of Contested Two-Party Judicial Races</td>
<td>27</td>
<td>59</td>
<td>25</td>
<td>42</td>
<td>26</td>
</tr>
</tbody>
</table>

2018 Election

Median Years of Experience as an Attorney -
Defeated Judge vs. Opponent

- Appellate: 19 vs. 29
- District: 16 vs. 26
- Probate: 21 vs. 31
- County Court at Law: 16 vs. 25
2018 Election

Defeated Judges
Total Years of Experience in Position

- Appellate: 170
- District: 389
- Probate: 40
- County Court at Law: 245
Prior to the last election, the majority of **appellate judges** assumed office by appointment, as did more than a third of **district** judges and more than a fifth of **county** judges.
## Judges Assuming Office by Appointment - Retention Rates

<table>
<thead>
<tr>
<th>Court Level</th>
<th>Total Appointed Since Jan. 1, 2010</th>
<th>Did Not Run for Reelection</th>
<th>No. Retained at 1st Election</th>
<th>% Retained</th>
<th>Avg. Years Served of Judge Not Retained</th>
<th>Avg. Years Served of Retained Judge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appellate</td>
<td>34</td>
<td>0</td>
<td>26</td>
<td>76%</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td>District</td>
<td>98</td>
<td>5</td>
<td>70</td>
<td>75%</td>
<td>1</td>
<td>6</td>
</tr>
</tbody>
</table>