The State Judicial Selection Process

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Author Note

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Every state in the U.S. has its own particular judicial selection processes within the court system. In general, there are four main methods that are in use: partisan elections, appointment selection, merit selection, and nonpartisan elections. Even these methods can vary across courts in a particular state. The paper will examine the judicial selection processes in the state of Georgia and Alabama and compare their judge selection and removal procedures. These processes will be further analyzed to observe which system works best.

# Judicial Selection Process in Georgia (GA)

The judicial system in Georgia consists of a supreme court, a superior court, and an appellate court, alongside various trial courts. Judges are selected based on both gubernatorial appointment and nonpartisan elections. As vacancies are created, Georgia’s judicial nominating commissions are tasked to recommend candidates. Judges are subsequently appointed to the bench and then retain their position by contesting nonpartisan elections. Furthermore, these elections are limited to state court judges whereas any interim vacancies in the general jurisdiction and appellate courts are filled through assisted appointment. In case of the limited jurisdiction courts, they use a mix of selection processes which includes nonpartisan and partisan elections. Following the election, Judges begin their term on the 1st of January in the Supreme Court of Georgia and the Court of Appeals.

The state of Georgia appoints nine justices for the Supreme Court. Each judge is allowed to serve a six-year term after which they have to compete in a re-election to retain their position. Following elections, the chief justice serves for four years after being selected through a peer-vote. To serve the Georgia Supreme Court, the judge has to be a licensed practitioner of law for a minimum of seven years and has to be a resident of the state. A mid-term vacancy is filled through an assisted appointment in which a list of qualified candidates is narrowed down by the judicial nominating commission. The governor then chooses a judge on an interim basis who must contest nonpartisan elections within six months of appointment. Upon confirmation, the judge may complete the term of his/her predecessor. In case of the Court of Appeals, fifteen judges are chosen through nonpartisan elections to serve six-year terms. The selection process closely mirrors the Supreme Court; however, the Chief Judge serves a two-year term instead of four (Fleischmann & Pierannunz, 2007).

In Georgia’s Superior Courts, 202 judges are chosen in total to serve four-year terms. The selection process is similar to the Appellate Court and the Supreme Court, except the process of selecting the chief judge. Likewise, the appointed judge must be over 30 years of age and should have practiced law for a minimum of seven years. Moreover, the judge must be a resident of Georgia for at least three years besides being a resident of the circuit in which he is appointed. In each of these appointments, the judicial nominating commission plays a major role. It was established through an executive order passed by Governor Jimmy Carter in 1972. The assisted appointment method has, since then, remained a tradition in Georgia’s judicial selection process.

# Judicial Selection Process in Alabama

In the state of Alabama, the judicial system consists of the Supreme Court, the Court of Criminal and Civil Appeals, and four trial courts which include the district, circuit, municipal, and probate courts. The circuit court has general jurisdiction and serves as the primary trial court in the system. The main judicial selection process in the state is direct nonpartisan elections. In case a vacancy occurs in between the term, the appointment is made by the governor to fill the seats. However, a judicial nominating commission still operates in some counties to narrow down a list of candidates. The state court judges are primarily selected through partisan elections. The general jurisdiction and the appellate courts share the same appointment procedures and qualifications in terms of length, vacancy fulfillment, terms, and re-election processes. However, these courts may differ in their process to appoint the. chief justice. The limited jurisdiction courts closely mirror the same process but differ in the qualifications criteria for the judges (NCSC, 2019).

The state of Alabama appoints nine judges on the Supreme Court bench, in which each completes a six-year term. The judges are selected based on partisan election balloting across the state and require to be re-elected if they wish to serve the bench again. To be elected to the Supreme Court, a judge must be a licensed practitioner of the law for a minimum of 10 years and must be residing in the state of Alabama for at least a year. Moreover, the judge has to be under 70 years of age during the election phase but may continue to serve their term until the period expires. Elections are held according to a regular schedule; however, if a vacancy is open in-between the schedule, then an interim judge is directly appointed by the governor to fill the position. The Court of Civil Appeals and the Court of Criminal Appeals both require 5 judges to be instated (NCSC, 2019). Judges serve a six-year term and every aspect of the selection process is overseen by the Alabama Supreme Court, save for the chief judge selection. A key difference is that the Court of Criminal Appeals selects its chief by peer-vote whereas the Court of Civil Appeals chooses its chief on a seniority basis.

In the case of Alabama’s Circuit Courts, each judge is likewise elected to serve a six-year term. A total of 144 judges are appointed across the state in which the selection process is the same as the Supreme Court, except for judicial qualifications and chief judge appointment. The chief judge of the circuit court serves for a three-year term and is selected by peer vote, however, the only eligible voters to elect the judges are those that reside within the jurisdiction of the same circuit. The qualifications needed for the circuit court include: an experience of five years as a practitioner of law, residency in the circuit’s area for a minimum of one year, and age under 70 years. However, a judge elected before the age of 70 may continue to serve his/her term until the time expires. In the case of limited jurisdiction courts, such as the municipal, probate, and the district courts, judges are selected through nonpartisan elections but require that a judge be a registered voter of the same district in which he/she will operate. The city courts, however, do not have the same regulations in place.

# Comparing Selection and Removal Processes

The judicial selection processes in Alabama and Georgia share a number of similarities. For instance, both states require that the judges in the top and lower jurisdiction courts are experienced practitioners of law and adhere to a higher standard of ethical conduct. The Supreme Court in both states appoint seven judges to their respective bench and each requires judges serving in the appellate courts to be above 30 years of age (Fleischmann & Pierannunz, 2007).

Some of the differences in the judicial selection process occur in the qualification requirements. The Supreme Court of Georgia requires that each judge has at least 10 years of experience whereas in Alabama, a minimum of 8 years can suffice. The appointment of the chief justice of the Appellate Court in Georgia is subject to the judicial commission and the governor's approval. Similarly, the Superior Courts in Georgia also require a 10-year experience in law (Fleischmann & Pierannunz, 2007). Georgia does not have functional courts at the City and District level whereas in Alabama, the Circuit, District, and City Courts require that a judge should be a registered voter of the area and that they should be above the age of 28.

In case a judge needs to be removed, both Alabama and Georgia have nearly identical processes. Any disciplinary proceedings against a judge, for violating the judicial code of conduct, involves the Supreme Court and the General Assembly who decide through a majority vote. In the case of Alabama, judges may be removed if a judicial inquiry commission is able to substantiate complaints against a judge and files a complaint on its behalf to the court. The court, thereafter, decides to suspend, censure, or remove a judge. In case of removal, a judge is able to appeal to the Supreme Court. Secondly, a judge may be impeached in case of a breach of code. Similarly in Georgia, a judge may be removed if a judicial qualifications commission decides to retire, discipline, or impeach a judge. However, these retirement and removal decisions are overseen and reviewed by the Supreme Court. Furthermore, a two-thirds vote in the House of Representatives and Senate by also lead to an impeachment (NCSC, 2019).

# Best Selection Process

The quality and transparency of the judicial selection process directly impact the quality of the judges who are appointed into a state's judiciary. The state of Georgia prefers a gubernatorial method of selection whereas Alabama relies on partisan election methods to select its judges. In my view, the gubernatorial method of appointment is prone to political interference because it encompasses a direct involvement of the judicial committee and the governor. It is possible for a governor to appoint a judge based on personal ties or interests, or under the influence of another judicial stakeholder. In turn, the judicial selection process may potentially lose legitimacy if the general public views the judge to have gone rogue and abusing his/her power (Geyh, 2018). On the other hand, states like Alabama that use the partisan methods of electing judges directly involve the public instead of political leaders, which provides the process with additional legitimacy. The partisan election system puts power back into the hands of the public and prevents influential people from exercising their own judgment in the selection process. Although, some suggest that a judge should not be selected on basis of political superiority, however, the name of the political parties do not appear in the election and nomination process (Keck, 2014). Therefore political controversies are avoided and judges are selected through popular vote. It is, therefore, that Alabama’s judicial selection process can be deemed more fair and transparent over Georgia even though both systems carry merit.

# References

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