

Politicizing the judiciary: a power grab that dishonors N.J. history | Opinion

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Advocates slam plan to 'politicize' appellate judge picks



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By [Star-Ledger Guest Columnist](#)

By **Julio Mendez**

A plan has been proposed to amend the New Jersey Constitution to shift the role of nominating judges from the Chief Justice to the governor and the state Senate.

Amending the state constitution in a way that would politicize the appointment process for appellate judges is unnecessary, unwise and interferes with judicial independence.

In 1947, the people of New Jersey adopted what is widely held to be one of the best state constitutions in the United States. It has provided the framework for one of the most respected and independent judiciaries in the country. New Jersey's Appellate Division and the outstanding quality of its appellate judges enhances that reputation.

At a time when public trust in the courts and government institutions is at an all-time low, the last thing we need is to bring more politics into the process.

Appellate Judges are carefully and objectively selected from sitting trial judges by the chief justice. The selection process includes recommendations from senior appellate judges and assignment judges. Importantly, the selection is based on each judge's body of work and experience in various court dockets at the trial court level.

The process even includes a temporary appointment to determine if the judge can adjust to the different demands of appellate work.

Changing a system that has worked well for 75 years and injecting politics makes no sense. There is no better pool of potential candidates for the appellate division than the trial bench, and to suggest otherwise is plainly wrong.

Assigning judges to the appellate division who are ready to hit the ground running is essential to effectively manage a very demanding appellate workload that includes appeals from all case types. Having a trial judge's experience is crucial to successfully manage a very heavy and complex workload of more than 5,000 cases per year.

Under the proposed system, appointing new appellate judges with no trial experience will lead to a much slower transition and significant delays in the disposition of cases.

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10



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To suggest that the change is needed to include the Senate in the review of appellate judges is misleading. The Senate already plays a role in the vetting and selection of all judges in New Jersey, and this includes every one of the appellate judges.

All superior court judges are nominated by the governor and confirmed by the Senate for their initial appointment and then again seven years later for their reappointment. So, while the Chief Justice of the Supreme Court may have assigned judges to the appellate division, all of these judges have already been vetted and reviewed by the Senate twice.

Navigating the appointment process for new appellate judges under the proposed plan will result in delays that could take years, putting immense pressure on the appellate court and substantially delaying the disposition of appeals.

Trying to justify the proposed change to emulate the federal system of appointing appellate judges is unwise. The last thing we want to do is to bring the nasty political environment that exists in the federal judicial appointment process to New Jersey.

The other benefit to New Jersey's system is political balance: Half of the judges are from each political party, which provides stability for the courts, does not permit runaway practices, cultivates moderation, and builds trust.

Of the 29 appellate judges set to begin the September 2024 term, 14 are Democrats, 14 Republicans and 1 independent. Half are women.

The other important difference is the New Jersey vetting process for their initial appointment and their seven-year tenure reappointment.

The seven-year tenure review of all judges permits assessment of performance and it provides for checks and balances for the Senate before a judge obtains tenure to age 70. This element does not exist in the federal appointment process.

The late Arthur T. Vanderbilt, New Jersey's first chief justice and chief architect of the 1947 New Jersey Constitution, envisioned an independent and efficient judiciary, and 75 years later he would be proud with what we have accomplished. But he would denounce this effort to erode the independence of the courts.

The proposed amendment is an effort to change something that needs no change, to inject politics at a time when we need less politics, and to create a process that will be less efficient, create more delays, and is not in the interest of the people of New Jersey.

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