

We the People

**“Judges rule on the basis of law, not public opinion, and they should be totally indifferent to pressures of the times.”**

**— Warren E. Burger, chief justice, U.S. Supreme Court, 1969-1986**

# Guide for Florida Voters

## Answers to Your Questions about Florida Judges, Judicial Elections and Merit Retention



# Frequently asked questions about merit retention elections

## 1. Why am I being asked to vote on judges?

Florida law requires Florida Supreme Court justices and appeals court judges to be placed on the ballot in nonpartisan elections every six years so voters can determine whether the judges or justices should remain on their courts for another six-year term. These are called “merit retention” elections. About one-third of our 61 appeals court judges will be on the ballot; there are no Supreme Court justices on the ballot this year. The appearance of a judge or justice on the ballot does not indicate anything about his or her performance or actions as a judge.

## 2. What do “Yes” and “No” votes mean?

A “Yes” vote means you want the judge or justice to remain on the court for another six-year term. A “No” vote means you want the judge or justice to be removed from the court. The majority of voters decides whether the judge or justice remains on the court.

## 3. Do appeals court judges and Supreme Court justices have opponents in merit retention elections?

No. Your vote determines whether each judge or justice should remain on the court. They are not running against opponents or each other. Merit retention elections are nonpartisan. In nonpartisan elections, candidates appear on the ballot without reference to any political party, (e.g. Democrat or Republican). Florida law requires judicial elections to be nonpartisan in order to preserve impartiality.

## 4. How do appeals court judges and Supreme Court justices get on the court?

The governor appoints judges or justices from lists submitted by Judicial Nominating Commissions, which screen candidates and make recommendations based on the merits of applicants. Newly appointed judges go on the ballot for the first time within two years after appointment. If the voters retain them, they then go on the ballot again every six years.

## 5. Which courts are subject to merit retention elections?

The Florida Supreme Court and the five District Courts of Appeal are subject to merit retention elections.

## 6. Can judges who commit unethical acts be removed from office?

Yes. This can result after an investigation by the Judicial Qualifications Commission, which is an independent agency created by the Florida Constitution solely to investigate alleged misconduct by Florida state judges. Through this

system, judges have been removed from office for ethical violations. For more information, visit [www.floridajqc.com](http://www.floridajqc.com).

## 7. Can appeals court judges and Supreme Court justices state their views on issues that may come before them?

Canon 7 of the Florida Code of Judicial Conduct forbids judges and justices from saying how they will decide future cases. Judges and justices must remain impartial and decide cases without regard to their personal views or beliefs. However, their decisions in prior cases are available on the opinion pages of the websites for each District Court of Appeal and the Florida Supreme Court.

## 8. Can I read the opinions of the appeals court judges and justices in cases they decided?

Yes. Complete records of judges’ decisions can be found on the opinion pages of the websites for the District Courts of Appeal and the Florida Supreme Court. Those websites can be reached through [www.FloridaBar.org/TheVotesInYourCourt](http://www.FloridaBar.org/TheVotesInYourCourt).

## 9. Can I watch videos of the justices and appeals court judges at work?

Yes. Court arguments are webcast live and archived on court websites, which are accessible through [www.FloridaBar.org/TheVotesInYourCourt](http://www.FloridaBar.org/TheVotesInYourCourt). For the Second District Court of Appeal, videos of arguments can be mailed upon request.

## 10. How can I learn more about the judges’ and justices’ backgrounds?

Biographies of the judges and justices are available on their courts’ websites, which are accessible through [www.FloridaBar.org/TheVotesInYourCourt](http://www.FloridaBar.org/TheVotesInYourCourt).

## 11. How did Florida decide to use the merit retention election system?

In the mid-1970s, Florida’s voters overwhelmingly approved a constitutional amendment requiring that the merit retention system be used for all appellate judges. This change came about in response to the public’s concern over abuses that occurred under the former system of contested elections.

## 12. Where can I find results from prior merit retention elections?

The Florida Division of Elections (accessible through [www.FloridaBar.org/TheVotesInYourCourt](http://www.FloridaBar.org/TheVotesInYourCourt)) maintains a searchable database of election results since 1978. Merit retention elections occur only during general elections in even-numbered years if any appeals court judges or justices are nearing the end of their terms.

# A guide for Florida voters:

## *Questions and answers about Florida judges and judicial elections*

### **1. What are the differences between a county judge, a circuit judge and an appellate judge?**

In Florida, both county and circuit judges are trial judges. County judges hear criminal misdemeanors, which consist of crimes that have a possible sentence of less than one year in jail, and civil cases in which the amount in dispute is \$15,000 or less. Circuit judges deal with criminal felonies, domestic relations, juvenile matters, probate issues and civil cases in which the amount in dispute is greater than \$15,000. Judges on the five District Courts of Appeal and the Florida Supreme Court review the decisions of the county and circuit trial courts.

### **2. What is a “nonpartisan” election?**

In nonpartisan elections, candidates appear on the ballot without reference to any political party (e.g. Democrat or Republican). Florida law requires judicial elections to be nonpartisan in order to preserve the impartiality of the judge’s position.

### **3. Why are county and circuit judges elected in Florida?**

Florida Statute §105.031 requires an individual seeking a position as a county or circuit judge to qualify as a candidate for a judicial election. Once all qualifications are met, candidates may run in the nonpartisan elections. The voters in the areas of the state where individuals would serve as judges elect the candidates who will serve in various judicial positions.

### **4. Are all judges elected in Florida?**

No. Currently, most circuit court judges and county court judges are elected. If a circumstance arises in which there is a mid-term vacancy – for example, if a judge retires, resigns or dies before the end of the judge’s term – the governor fills the position by appointment. Additionally, Florida Supreme Court justices and District Court of Appeal judges are appointed by the governor and then run in merit retention elections to stay in office.

### **5. Why are judicial elections not held in November during general elections?**

Most judicial races appear on the primary ballot and then on a subsequent ballot in the general election only if no candidate receives a majority of votes during the primary election. While this format means that many judicial races never appear on the general election ballot, it allows for the second round of voting to be completed during the general election, if necessary.

### **6. Why don’t judges campaign on platforms?**

Judicial candidates are prohibited by law from making predictions and promises about issues that could arise once they are on the court because their job is to make impartial decisions that relate to the law on the cases before them. Judges must consider the facts of each case and apply the appropriate law at that time without regard to their personal views or beliefs.

### **7. What are the qualifications for running for a judicial seat?**

A person is qualified to run for judicial election after earning a law degree from a law school accredited by the American Bar Association. All candidates for trial judge also must be members of The Florida Bar for at least five years. Appellate judges also must be active members of The



Florida Bar for at least 10 years. Furthermore, judicial candidates must live in the geographic areas they will serve when they take their oaths of office.

## **8. How long is the term of a judge?**

Circuit judges and county court judges are elected for six-year terms, which begin on the first Tuesday after the first Monday in January following the general election. To retain their seats at the end of their terms, they must be re-elected. Judges who were appointed to county or circuit court through a vacancy must sit for election at the end of the remainder of those terms, which are over at the end of the year in which the next primary and general election occur, more than one year after their appointments. Appellate judges, appointed by the governor, are subject to run in merit retention elections.

## **9. Do judges have term limits?**

No, judges do not have limits on the number of times they may be elected. However, judges may not serve in Florida past the age of 70 except upon temporary assignment or to complete a term, one-half of which has been served before their 70th birthday.

## **10. Why is it important to vote in judicial elections and merit retention elections?**

Florida requires that judges be elected or retained by the voters, so the power over who holds these important positions rests with the voters. All Floridians are affected by the laws of the state and county in which they live. Judges make decisions on a wide range of issues large and small including traffic, small claims, landlord-tenant, personal injury, criminal, death penalty, probate, guardianship and others. In most cases, judges are bound to the previously decided law that applies to a particular case, but judges may interpret a law when the law is ambiguous.

## **11. What exactly does a judge do?**

Trial judges preside over trials and hearings. In court, judges make decisions on the acceptability of testimony and evidence. Judges also ensure that jurors have a clear understanding of the law. When a jury is not required, the judge decides the case based on applicable law and the judge's knowledge of the law. District Court of Appeal judges decide appeals of trial court decisions. Supreme Court justices decide death penalty appeals, appeals from decisions of the appellate courts, resolve conflicts among appellate courts and are responsible for overseeing the administration of Florida's court system.

## **12. What makes someone a "good" judge?**

Judges must be impartial, fair and have an understanding of the law. All judges may deal with cases that are either civil or criminal in nature. Knowledge in one particular area is not more important than the other. Judges should be selected based on their legal abilities, temperament and commitment to follow the law and decide cases consistent with a judge's duty to uphold the law regardless of his or her personal view.

## **13. Other than campaign materials distributed by the candidates, where is more information available on judicial candidates?**

- The Florida Bar's Judicial Administration and Evaluation Committee established the "Voluntary Self-Disclosure Statement," which allows judicial candidates to publish statements on The Florida Bar website – [www.FloridaBar.org/JudicialCandidates](http://www.FloridaBar.org/JudicialCandidates) – about their backgrounds and qualifications to be judges.

- The Florida Bar's webpage – [www.floridabar.org/TheVotesInYourCourt](http://www.floridabar.org/TheVotesInYourCourt) – provides information regarding judicial merit retention and the appellate judges and Supreme Court justices participating in retention elections.
- The nonpartisan **League of Women Voters Florida** provides information on candidates and election dates. Go to [www.thefloridavoter.org](http://www.thefloridavoter.org) for more information and the link to your local league.
- News organizations provide information about candidates and occasionally endorse candidates.
- **Local bar associations** may conduct and publish judicial polls to assist voters in making better-informed decisions on judicial candidates.

This guide has been prepared as a public service by  
The Florida Bar's Constitutional Judiciary Committee,  
the Judicial Administration and Evaluation Committee and  
with input from The Florida Bar Citizens Advisory Committee.  
For copies, please contact The Florida Bar Public Information Department  
at (850) 561-5834 or by email: [votersguide@flabar.org](mailto:votersguide@flabar.org).



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# THE VOTE'S IN YOUR COURT

**Merit retention elections give Floridians the opportunity to vote on Supreme Court justices and appeals court judges to determine whether they should keep their jobs for another six years.**

These important non-partisan merit retention elections matter to ensure fair and impartial courts which are vital to our democracy.

This fall, **about one-third of District Court of Appeals court judges** will be on the ballot in Florida. No Supreme Court justices are on the ballot this year. There are many ways you can find out information about them before going to vote. To learn more about the judges and merit retention, please go to [www.floridabar.org/TheVotesInYourCourt](http://www.floridabar.org/TheVotesInYourCourt).

**ENSURE THAT YOUR VOICE IS HEARD AND FEEL CONFIDENT ABOUT THE DECISIONS YOU MAKE ON ELECTION DAY.**

**The ote's in  
YOUR COURT**

Judicial merit retention. Know the facts



Visit [www.FloridaBar.org/TheVotesInYourCourt](http://www.FloridaBar.org/TheVotesInYourCourt) to learn more and view biographical information on the judges and justices up for merit retention.