

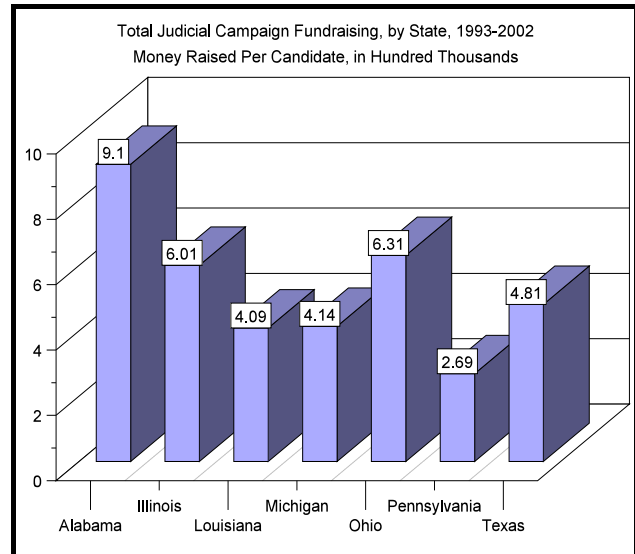
JUDICIAL SELECTION IN ALABAMA

Alabama is one of a handful of states that continues to select its judges through partisan elections, which have become increasingly politicized and controversial over the last 15 years.

While the state continues to rely on partisan elections for the selection of judges, nearly 85% of respondents in a statewide poll could not name more than one candidate for statewide judicial office.

From 1993 to 2002, the thirty-seven judicial candidates in statewide Alabama races raised a total of over 33 million dollars, by far the highest in the nation. The money raised by judicial candidates in Alabama is more than double the amount raised by candidates in every other state besides Texas. The infusion of big money into Alabama judiciary elections has transformed judicial races. These historically “low-profile” contests in which little campaigning occurred and small amounts of money were expended have become heated partisan contests that undermine public confidence in an independent judiciary and raise questions about the influence of special interests.

In Alabama donors are free to give as much as they wish because the state imposes no limits on judicial campaign contributions by individuals or political action committees (PACs). All other southern states which hold judicial elections, except Texas, cap individual and PAC contributions at between \$500 and \$5000.



THE IMPACT ON CRIMINAL JUSTICE

Tough on crime rhetoric permeates Alabama judicial campaigns. A candidate can show no respect for protecting the rights of people accused of crime without fear of attack. In addition to accusing each other of being soft on crime, judicial candidates routinely tout their own commitment to punishing criminals.

The persistent emphasis on crime in judicial campaigns sometimes threatens to make judicial elections indistinguishable from races for prosecutors or attorney general. The nature of Alabama’s judicial selection system pressures judges to submit to popular opinion rather than the law. Endorsements by prosecutors and police officials are not uncommon. In 1998, a Supreme Court candidate listed his endorsements from 30 police chiefs and 4 police groups as a basis for getting voter support.

Alabama is one of only 4 states that has a system of “judicial override,” in which a judge can override a jury’s sentence in a death penalty case. Alabama is *only* state with both judicial override and partisan elections of all reviewing judges. Nearly 21% of Alabama’s death row received their sentences after elected judges overrode the jury’s verdict. In Delaware, where judges are appointed, override is almost always used to spare life rather than to forfeit it, as opposed to in Alabama where 90% of overrides impose death sentences.

Only two African-Americans have won statewide contested elections in Alabama since the end of Reconstruction in 1877.

While there exists broad support for judicial selection reform amongst experts and commentators, similar support has not been forthcoming in the Legislature. Legislation to provide for nonpartisan election of appellate, circuit and district judges has been introduced at least once each year since 2000, but has in every case been either postponed or referred to committee, where it has died.

“A campaign promise to ‘be tough on crime,’ or to ‘enforce the death penalty,’ is evidence of bias that should disqualify a candidate from sitting in criminal cases.”
 - John Paul Stevens, U.S. Supreme Court

The power of the Judiciary Inquiry Commission (JIC) to regulate and deter egregious attacks or other misconduct during campaign has been repeatedly undercut by the courts, mostly on First Amendment grounds. Members of the Judicial Campaign Oversight Committee, which was prematurely discontinued in 2002, noted that the very existence of the Committee, and the implicit threat of sanction or censure, curtailed bad behavior.

The intensity and partisanship of judicial races and the inevitability of judges ruling in controversial cases has greatly increased pressure on judges not to rule in favor of politically unpopular minorities. Alabama’s judicial selection system has led to the virtual exclusion of people of color from the state judiciary.

Reform is greatly needed in Alabama. Switching to nonpartisan elections, campaign finance reform, voter education and the reinstatement of the Campaign Oversight Committee are critically important first steps. Switching to non-political, non-partisan selection of judges is ultimately needed to restore the independence and credibility of the judiciary.

DIVERSITY OF THE ALABAMA BENCH (by Court)				
	Supreme Court	Criminal Appeals	Civil Appeals	Circuit Court
Total # Judges	9	5	5	140
Women Judges	2	3	1	14
Black Judges	0	0	0	6

People with money who are affected by judicial decisions “have reached the conclusion that it’s a lot cheaper to buy a judge than a governor or an entire legislature and he can probably do a lot more for you.”
 - President, Ohio State Bar

