

RESEARCH GUIDE

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This research guide indicates the process of how judges are selected. This guide covers information from 1989 to 1998 on methods of judicial selections and the many changes this process has endured. This research aid is composed of periodical articles and related Alabama and Eleventh Circuit cases. Consult the Digest, WestLaw or other legal databases for current case law.

Periodical Articles

Alfini, James J. and Brooks, Terrence J. "Ethical constraints on judicial election campaigns: a review and critique of Canon 7." Vol. 77 n3 The Kentucky Law Journal. Spring 1989. 671 - 722.

Investigates the campaigns and political procedures of the Judiciary election process.

Alozie, Nicholas O. " Distribution of women and minority judges: the effects of judicial selection methods." Vol. 71 n2 Social Science Quarterly. June 1990. 315 (11)

Explores effects of judicial selection methods, electoral power, and intergroup competition on the achievement of judicial office by women, blacks, and Hispanics.

Araujo, Robert J. "Moral issues and the virtuous judge; reflections on the nomination and confirmation of Supreme Court justices." Vol. 35 n4 Catholic Lawyer. Fall 1992. 311 - 338.

Reviews the nomination and confirmation process of Supreme Court justices.

Berkman, Harvey "ABA's 'unqualified' judges doing well; the ABA rating system may

come under fire, given the jurists' records. Vol. 19 n20 The National Law Journal. Jan 13, 1997. A1

Describes the purpose of performance of the ABA standing committee on the Federal Judiciary. Covers the issue during President Clinton's first term in office of the ABA rating three lawyers picked by Clinton for federal judgeships and later approved by the Senate's Judiciary Committee to be unqualified.

Coyle, Marcia "Clinton's judicial choices change the bench's face." Vol. 17 n8 The National Law Journal. Oct 24, 1994. A16

Explains how President Clinton's judicial appointments are changing the judiciary. Clinton's administration is the first to fill more than half of judicial appointments with women and minorities.

Gerhardt, Michael J. "Toward a comprehensive understanding of the federal appointments process." Vol. 21 n2 Harvard Journal of Law and Public Policy. Spring 1998. 467 - 539.

Analysis explaining the confirmation process as a struggle between the executive and legislative branches over selecting those people who will help of hinder the presidential agenda. Brings historical information and factors into the federal judiciary appointment process.

Melone, Albert P. "The Senate's confirmation role in Supreme Court nominations and the politics of ideology versus impartiality." Vol. 75 n2 Judicature. August - Sept. 1991. 68 - 79.

Discusses the constitutionality of the Senate's role in determining different qualifications of judicial nominees.

McGuire, Matthew Patrick "The constitutionality of partisan qualifications for

appointment to district court." Vol. 70 n6 North Carolina Law Review.
Sept. 1992. 1916 – 1928.

Reviews the Baker v. Martin case and discusses the downside to partisan qualifications.

Mitzner, Adam "The evolving role of the Senate in judicial nominations." Vol. 5 n2
The Journal of Law and Politics. Winter 1989. 387 – 428.

Describes constitutional standards and a brief history of the power the Senate possesses over judicial appointments.

Nelson, Caleb "A re-evaluation of scholarly explanations for the rise of the elective judiciary in antebellum America." Vol. 37 n2 American Journal of Legal History. April 1993. 190 – 224.

Discusses past debates and disputes concerning judicial agents and explains how out of this, as well as a large democratic reform movement, an elective judiciary was created.

Renzin, Lee "Advice, consent, and senate inaction – is judicial resolution possible?"
Vol. 73 n15 New York University Law Review. Nov 1998. 1739 – 1787

Argues that the judicial branch of the US government should be able to intervene in the process of appointing federal judges to vacant seats when the Senate refuses to consider nominees proposed by the President.

Reske, Henry J. "ABA judicial ratings draw fire; liberal critics charge process is racist, favors silk-stocking nominees." Vol. 80 ABA Journal. Nov 1994. 38

Discusses the controversy surrounding the charges that the ABA Standing Committee on the Federal Judiciary is racist and favors nominees from prestigious firms.

Sethi, Neil K. "The elusive middle ground: a proposed constitutional speech restriction

for judicial selection." Vol. 145 n3 University of Pennsylvania Law Review.
Jan 1997. 711 – 758

Explains and justifies the reasons for restrictions on the freedom of speech of judicial candidates by the state due to interest in maintaining the impartiality of the judiciary.

Smith, George Bundy "Choosing judges for a state's highest court." Vol. 48 n4
Syracuse Law Review. Fall 1998. 1493 – 1498

Present and past methods of selecting judges for the state of New York's highest court, the Court of Appeals.

Stecher, Martin B. "The origins of popular election of Supreme Court justices." Vol. 63

n3 New York State Bar Journal. May – June 1991. 24 – 28.

Describes the history of the judicial election process and the overall changes the 1846 Constitutional Convention created in the judicial system.

Stephens, Robert F. "Commentary on state selection of judges." Vol. 77 n3 The Kentucky Law Journal. Spring 1989. 741 – 746.

A Kentucky judge comments on the judicial selection process.

Wald, Patricia M. "Random thoughts on a random process: selecting appellate judges."
Vol. 1 n6 The Journal of Law and Politics. Fall 1989. 15 – 23.

Discusses the selection process of appellate judges and how to improve the politics of appointing and confirming.

Wermiel, Stephen J. "Appointment controversies and the Supreme Court." Vol. 84 n3-4
Northwestern University Law Review. Spring – Summer 1990. 1033 – 1036.

Reviews the Bork hearings and the vote and function of the Supreme Court in respect to how it is publicized.

Related Alabama Cases

Drinkard v. State, 1998 WL 881165 (Ala., 1998)

Ellis v. Pope, 709 So.2d 1161 (Ala., 1997)

Ex parte Myers, 699 So.2d 676 (Ala., 1991)

Ex parte Myers, 699 So.2d 1285 (Ala., 1997)

General Motors Corp. v. Sutherland, 700 So.2d 1373 (Ala., 1996)

Harrell v. State, 571 So.2d 1270 (Ala., 1990)

Huntley v. State, 627 So.2d 1013, 61 USLW 2219 (Ala., 1992)

Opinion of Clerk, 606 So.2d (Ala., 1992)

Pace v. State, 714 So.2d 332 (Ala., 1997)

Professional Ins. Corp. v. Sutherland, 700 So.2d 347 (Ala., 1997)

Rogers v. State, 555 So.2d 856 (Ala., 1989)

11th Circuit Cases

Southern Christian Leadership Conference of Alabama v. Sessions, 56 F.3d 1281 (11th Cir., 1995)

White v. State of Ala., 74 F.3d 1058, 34 Fed.R.Serv.3d 281 (11th Cir., 1996)