



# The Latest Research

State courts, like state constitutions, are one of the aspects of government that remain relatively understudied by political scientists. Although there is a long record of court studies, especially by law scholars, truly systematic research using the comparative method dates back only a few decades and is considerably less common than research examining state legislatures and executives. This is unfortunate because, as this chapter has explained in detail, state courts shoulder enormous responsibility for the administration of criminal and civil justice, and their decisions have far-reaching policy implications.

As this chapter makes clear, one of the perennial controversies in this branch revolves around how states can best select judges. Above we have given a flavor of the increasing politicization of the bench. Some champion this development as increasing democratic accountability, whereas others lament it as the courts losing their independence. Ultimately, which of these values is best to emphasize in selecting judges? Below we summarize some of the latest research on state courts. All these studies focus on the running theme of the impact of judicial elections, which are at the center of controversies regarding judicial selection.

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• **Bonneau, Chris, and Melinda Gann Hall.** *In Defense of Judicial Elections.* New York: Routledge, 2009.

An extended comparative examination of state supreme court elections, this book makes an empirical case that judicial elections have a number of benefits. The authors argue that judicial reforms aimed at depoliticizing the courts have had a number of potentially negative impacts. When states started moving toward Missouri Plan-type systems, judges' names were still showing up on ballots but without opponents or partisan labels. The net result was that voters knew virtually nothing about judicial candidates; the courts became so low profile, accountability was lost. This, however, did not make the judicial branch any

less political. The authors point to the justices of the U.S. Supreme Court as examples of judges who are appointed for life but clearly take on big political issues and decide them along roughly partisan lines. But at least the U.S. Supreme Court is high profile, and candidates for the Court are scrutinized closely in a relatively open process. There is little of this in a typical Missouri Plan setup. The authors find that competitive, partisan state supreme court elections do not just serve as accountability mechanisms; they confer more democratic legitimacy on the courts—voters trust the judges more because they know them and are more directly linked to them through the normal process of representative democracy.

• **Streb, Matthew, and Brian Frederick.** "When Money Cannot Encourage Participation: Campaign Spending and Rolloff in Low Visibility Judicial Elections." *Political Behavior* 33 (2011): 665–684.

One known way to increase voter turnout in legislative elections is to make those races partisan. Party labels give voters important information and a stake in the outcome of elections. Another known way to increase turnout in legislative races is to have competitive elections; competing candidates tend to spend more money and mobilize more voters. Do these same factors also increase turnout in judicial elections? This study takes a look at 172 appellate court elections between 2000 and 2008 and arrives at two key findings. First is a confirmation of the impact of partisan labels—if candidates for judicial office run on a party label, people are more likely to vote in that election. Second, and somewhat surprisingly, the authors find that campaign spending does not boost turnout significantly. In these low-visibility elections, even well-resourced candidates seem to struggle to get enough information to voters to make them confident in casting their ballots. The simplest and most basic piece of political information, partisanship, seems to be the important factor for increasing participation in judicial elections.