

League of Women Voters of Wyoming Judicial Voters Guide 2008

Judges in Wyoming are appointed by the governor, from a list of three candidates selected by the Judicial Nominating Commission. After a period of service, judges may “stand for retention,” meaning they ask citizens to vote to retain them on the bench. This system is sometimes called “merit selection” or the Missouri Plan. Supreme Court justices stand for retention every 8 years, district court judges every 6 years and circuit court judges every 4 years.

If a judge is not retained, which is very rare, the judgeship is filled by the appointment process. This guide provides voters with information to help them decide whether to vote “yes” or “no” for the judges on their ballot:

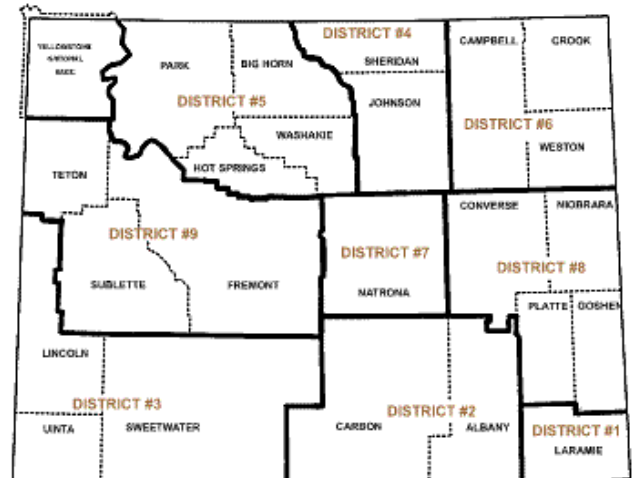
The information includes answers to a questionnaire LWV sent to judges standing for retention. The nine district judges standing for retention answered as a group, instead of responding individually. The questions are:

1. How have your training, professional experience and interests prepared you to serve on this court?
2. What do you consider the three most important attributes of a judge?
3. How do you define “judicial independence,” and how important is it to our system?
4. What are your views on specialty courts, including drug courts and family courts?
5. What do you feel is the most critical issue facing Wyoming’s court system? What actions would best address this issue?

LWV also is reprinting a poll of attorneys who were asked by the Wyoming State Bar Association to rate judges and say if they recommended retention. Or find this information in the *Wyoming Lawyer*, October 2008, which can be found online at www.wyomingbar.org.

Wyoming has nine judicial districts. (See map.) The Supreme Court justice standing for retention, William Hill, is on ballots statewide. Otherwise, ballots list judges only in the districts and counties where they sit.

WYOMING JUDICIAL DISTRICTS



Judges standing for retention in 2008:

Supreme Court

William Hill

District Court

Dennis Sanderson, 3rd District
Jere Ryckman 3rd District
Nena James, 3rd District
John Fenn, 4th District
Steven Cranfill, 5th District
John Perry, 6th District
Tom Sullins, 7th District
John C. Brooks, 8th District
Nancy Guthrie, 9th District

Circuit Court

Daniel Forgey, 3rd District, Sweetwater County
Michael Greer, 3rd District, Uinta County
J. John Sampson, 4th District, Johnson County
Fred R. Dollison, 6th District, Crook County
William Edwards, 6th District, Campbell County
Terrill Tharp, 6th District, Campbell County
H. Steven Brown, 7th District, Natrona County
Michael Huber, 7th District, Natrona County
I. Vincent Case Jr., 8th District, Converse, Niobrara & Platte counties
Timothy C. Day, 9th District, Teton County
Robert Denhardt, 9th District, Fremont County
Curt A. Haws, 9th District, Sublette County

Judges in Wyoming must conform to a Code of Judicial Conduct. Canon 5 of that code prohibits “inappropriate political activity.” It prohibits a judge from actively campaigning for retention, unless there is an active campaign being waged against that judge. Public education is allowed.

In responding to the LWV questionnaire, some judges were concerned that communication intended to inform voters might be considered improper campaigning. They were careful to avoid appearances of soliciting votes, campaigning or improper advocacy for policies. Some judges did not respond to certain questions on the LWV survey. Some did not respond at all. The district judges and two circuit judges wrote joint responses. Responses are printed verbatim, with minor style editing.

Supreme Court

Justice William Hill

1. How have your training, professional experience and interests prepared you to serve on this court?

I have worked 34 years in the law in a variety of situations. Ten years ago the Judicial Nominating Commission, which is the constitutionally created gateway of Wyoming’s merit selection process for all state judges, considered the breadth and depth of my experience and endorsed my personal and professional credentials by nominating me as a candidate for the Wyoming Supreme court. I was appointed by Gov. Geringer in 1998 and have served on the Court since then, including four years as Chief Justice. I continually endeavor to improve my performance as a Justice in all aspects of the position.

2. What do you consider the three most important attributes of a judge?

It is difficult to list just three. Three of the most important are these: solid grounding in the vast body of law that justices may be required to study, consult and interpret when deciding cases; diligence, thoroughness and industry in deciding cases and writing opinions; and a courteous, measured, approachable manner, on the bench and off. Also important are an open, fair and inquiring mind, a sense of humor and the ability to extensively read, write and conduct research in a mostly isolated fashion.

3. How do you define “judicial independence,” and how important is it to our system?

Judicial independence is the ability of judges to act free from control by other branches of government, from control by other judges, from political influences and from the fashionable opinions of the day. It does not mean the

judges are free from judicial accountability. Rather, it is a tool that ensures the meaningful dispensation of justice, effectively and efficiently administered. Its importance, in that sense, cannot be overestimated. Alexander Hamilton said, “Judges need independence, not for their own sake, but because an essential protection of public liberty was having judges decide cases on the basis of legal principles alone.”

4. & 5. What are your views on specialty courts, including drug courts and family courts?

What do you feel is the most critical issue facing Wyoming’s court system? What actions would best address this issue?

Most Wyoming judges believe that answering the questions of juvenile justice and how to adequately serve our children and families in the justice system constitute the greatest challenge facing the Wyoming judiciary.

The use of the terms “drug court” and “family court” is unfortunate in that what actually is contemplated is a scheme of court-based treatment within the system of existing courts, not a wholly new system. There are many people in all branches of government working overtime to correct oversights and find answers to critical questions that can be offered to the Legislature in the upcoming session for legislative action.

The District Courts and the Circuit Courts are on the front lines of this effort. The Supreme Court serves a supportive role, facilitating the discussion as best it can. A critical point, acknowledged by all parties, is that we must recognize and preserve the separation of powers and clearly define the appropriate roles for both the judicial and Executive branches of government in solving these critical problems.



The League of Women Voters is a nonpartisan political organization that encourages active and informed participation in government. We work to increase understanding of major public policy issues and influence public policy through education and advocacy. Membership is open to men and women of all ages. Contact us at lwwyoming@gmail.com or visit our Web site www.lariat.org/LWV.

League of Women Voters of Wyoming

Judicial Survey 2008

District Court

Note: The following was submitted by District Judge John Brooks on behalf of the Wyoming District Judges' Conference, which includes all district judges, including the nine standing for retention.

1. How have your training, professional experience and interests prepared you to serve on this court?

Wyoming has what is referred to as the modified Missouri Plan in appointing and retaining judges. The appointment process begins with an extensive written expression of interest. Each expression of interest is reviewed by Wyoming's Judicial Nominating Commission and qualified candidates are then invited to be interviewed by that commission. After all invited candidates have been interviewed, the commission selects the three most qualified finalists, and their names are submitted to the governor. The governor conducts a separate review process and ultimately the governor selects the person who will serve. Insofar as the trial courts are concerned, the application process was changed in the late 1990s to focus on each applicant's trial and practical experience in the courtroom.

2. What do you consider the three most important attributes of a judge?

There are differing important attributes for appellate judges and trial judges. Wyoming District Courts handle both trials and appeals. A district judge must have patience and courtesy for all who come before the court; must perpetuate and see to the furtherance of respect for the courts as an institution of justice by upholding the integrity and independence of the judiciary; and must exercise a level of scholarship that adheres to the constitutions of the United States and Wyoming, existing statutes and rules of law and procedure that have been established throughout the history of the American and Wyoming courts.

3. How do you define "judicial independence," and how important is it to our system?

Judicial independence is that level of independence where neither of the other branches of government nor political nor private influences may dictate or influence the

outcome of matters pending before the courts. Much as Wyoming juries are instructed, matters before the courts must be decided exclusive of "sympathy, passion, prejudice or public opinion." The law demands that the courts "must consider the evidence, apply the law and reach a just verdict regardless of the consequences" ignoring the influence of any outside source (quotations from Wyoming Pattern Jury Instructions). This principle is of critical importance to our system.

4. What are your views on specialty courts, including drug courts and family courts?

The Resolution of the District Judges' Conference on this topic supports the concept of judicial intervention in probation and other rehabilitative efforts provided that legislation authorizing specialty courts:

- a. Maintains the addresses separation of the three branches of government and facilitates the primary role of the executive branch in accomplishing effective rehabilitation.
- b. Outlines the jurisdiction of any such court and addresses the procedure of any judicial intervention.
- c. Provides adequate judicial resources for judicial involvement in rehabilitation.

5. What do you feel is the most critical issue facing Wyoming's court system? What actions would best address this issue?

Juvenile justice and Wyoming's current approach to providing services for children and families is the most critical issue confronting the courts. The District Judges' Conference endorses the proposition that critical services must be available to address juvenile issues and that the judiciary must perform its duties keeping in mind the emotional, financial and practical impact of our decisions.

League of Women Voters of Wyoming

Judicial Survey 2008

Circuit Court

Daniel Forgey, 3rd District, Sweetwater County & Michael Greer, 3rd District, Uinta County

1. How have your training, professional experience, and interests prepared you to serve on this court?

Judges in Wyoming are selected and retained by a merit system known as the "Missouri Plan." When a judicial vacancy occurs, a committee composed of lawyers and non-lawyers known as the Judicial Nominating Commission solicits interest from eligible candidates. Each interested candidate then submits to a rather exhaustive application, interview and background process. The Commission ultimately selects the three most qualified candidates and submits their names to the Governor, who typically also interviews each finalist before appointing one of those three to fill the judicial vacancy. A judge must then stand for retention at a designated time.

2. What do you consider the three most important attributes of a judge?

A knowledge of, and fidelity to, the law are essential attributes for any judge. Because circuit courts encounter a high volume of litigants without attorneys or formal legal training, a circuit judge must be patient and a good listener in order for litigants to adequately and fairly present and defend their cases. Circuit courts also process a high number of cases, requiring a circuit judge to be well-organized and have a strong work ethic.

3. How do you define "judicial independence," and how important is it to our judicial system?

"Judicial independence" does not mean that a judge has the power to act without regard to the evidence presented in, or the law applicable to, a particular case. Rather, judicial independence flows in part from the constitutional separation of powers between the legislative branch, the executive branch, and the judiciary. One key

role of the judicial branch is to ensure that a fair and just result is reached in a case based on the evidence presented and according to the applicable law, independently of, and unaffected by, political or other improper influences. "Judicial independence" is a cornerstone of the judicial system and without it, the public would undoubtedly lose its confidence in the judicial system's ability to achieve such a result in any given case.

4. What are your views on specialty courts, including drug courts and family courts?

Drug courts and other specialty courts focus judicial resources on a select group of offenders and can be effective tools in facilitating rehabilitation, protecting the public, reducing repeat offenders, and thus saving taxpayer dollars. Care must be exercised in establishing and operating specialty courts to observe the separation of powers between the branches of government, constitutional due process requirements, and any applicable ethical rules.

5. What do you feel is the most critical issue facing Wyoming's court system? What actions would best address this issue?

The economic boom in the Third Judicial District and the increasing traffic on Interstate 80 have resulted in higher caseloads that often strain our courts and stretch resources thin. The resulting challenge for judges is to maintain the high level of professionalism and service to the public that our citizens have come to expect from the judiciary. Even in high volume courts, each litigant deserves to have proper access to the courts and to be treated with respect. Only then will the respect for and the integrity of the justice system be maintained.

League of Women Voters of Wyoming

Judicial Survey 2008

Circuit Court

William S. Edwards, 6th District, Campbell County

1. How have your training, professional experience, and interests prepared you to serve on this Court?

All judges Wyoming are appointed by the Governor after a vigorous screening and selection process. All who are eligible to serve as a judge in any court are graduates of a law school, eligible to practice law in the state and have extensive professional experience in most areas of the legal profession. Often experience in areas outside the practice of law is useful and valuable to the judge's judicial skills.

2. What do you consider the three most important attributes of a judge?

In our court, as in any court, knowledge of and fidelity to the law are required. In circuit court, a judge has the additional challenges presented by the high volume of pro se litigants, or individuals who appear without attorneys. This tends to mean that patience is also a very important attribute. The often extremely high volume of cases in circuit court results in an environment where a solid work ethic and organizational skills are critical to avoid delay or undue incarceration.

3. How do you define "judicial independence", and how important is it to our judicial system?

Our democracy relies heavily on the principle of separation of the three branches of government, and our courts are where that principle applies directly in insuring justice for all litigants. In deciding a case we must do so not only without regard to the other branches of government but also without regard to whether ours may be an unpopular decision to the attorneys, the individual parties, or to the community in general. It is critical that any judge be seen as completely independent of any other concern except to decide the case on the facts and the law of that case.

4. What are your views on specialty courts, including drug courts and family courts?

The Conference believes that well run, well organized and well funded drug court programs are important tools in rehabilitation of offenders, protection of the public, and saving taxpayer dollars. Though we do not, as judges, take positions on policy as regards drug courts, our longtime involvement has convinced us of their value.

5. What do you feel is the most critical issue facing Wyoming's court system? What actions would best address this issue?

Funding of local resources for treatment and incarceration whether through drug courts or in the everyday work of the court is the most critical problem faced by circuit court judges generally. The remedies are entirely a matter for the other branches of government and we feel it would be inappropriate to comment on such policy matters.

League of Women Voters of Wyoming

Judicial Survey 2008

Circuit Court

Steven Brown, 7th District, Natrona County

1. How have your training, professional experience, and interests prepared you to serve on this Court?

My legal education was the University of Wyoming Law School. My experience as a lawyer included being in private practice, a public defender and a prosecutor.

The education I received allowed me to do those various jobs and they, in turn, did prepare me to be a circuit court judge.

2. What do you consider the three most important attributes of a judge?

Judges Perspective: Education, integrity, independence.

Lawyers Perspective: Patience, communication skills, fairness

3. How do you define "judicial independence", and how important is it to our judicial system?

Independence is the core value of our judicial system. If the judge is not independent of pre-conceived results or ends, then he is not impartial and cannot claim to be a neutral, detached decision maker, a precondition for any system of justice.

The Declaration of Independence refers to this in the complaint about King George: "He has made judges dependent on his will alone for the tenure of their offices and the amount and payment of their salaries."

4. What are your views on specialty courts, including drug courts and family courts?

Specialty courts can be very effective if they are adequately funded and there are established rules or procedures to guide the judges and staff and to allow for objective analysis of effective treatment. Many of these things don't exist in all the specialty courts running in Wyoming. Grants don't properly fund courts.

5. What do you feel is the most critical issue facing Wyoming's court system? What actions would best address this issue?

Case volumes have increased during our economic boom but government funding for courts, prosecutors and public defenders in the area of staff and employees has not matched the caseload increase. Government funding needs to take into account the sizes of the populations served and their resulting caseloads. It is not irresponsible to hire more people in government if more people are being served.

League of Women Voters of Wyoming Judicial Survey 2008 Circuit Court

Michael Huber, 7th District, Natrona County

1. How have your training, professional experience and interests prepared you to serve on this court?

Responding to question one would constitute “campaigning.”

2. What do you consider the three most important attributes of a judge?

The most important attributes of a “good” judge are fairness, impartiality, knowledge of the law and the ability to handle cases in a manner that assures everyone that cases are decided based on a fair and impartial application of the law.

3. How do you define “judicial independence,” and how important is it to our system?

The best way to define “judicial independence” is to say what it does not mean. “Judicial Independence” does not mean that judges get to decide cases whatever way they want to. More properly what it should mean is that judges should feel free of improper pressure to decide matters one way or the other instead of rendering a fair and impartial decision based upon their best understanding of the applicable law.

4. What are your views on specialty courts, including drug courts and family courts?

Drug Courts such as the Natrona County Adult Drug Court have proven to be very successful in dealing with offenders whose real problem is addiction and substance abuse rather than simply being “criminals.” The Natrona County Adult Drug Court is based upon the principles of the Ten key Components prescribed by the Department of Justice and the National Association of Drug Court Professionals. Drug Courts following this model should be fully encouraged and supported with adequate funding.

5. What is the most critical issue facing Wyoming’s court system? What actions would best address this issue?

The most critical issue facing Wyoming’s courts system is to maintain the level of judicial quality that has always been the hallmark of the Wyoming Judiciary. The best way to address these issues is to protect and cherish the strengths of our system. The strongest element of our current system is our process of judicial nomination, appointment by the governor with judges standing for retention before the voters. This avoids the very undesirable situation of judicial candidates campaigning, raising money and advertising which oftentimes means saying how they will decide cases before they hear all of the facts and the law of the case.

Also, it’s always about money. Judicial salaries need to be at a level that will attract the best qualified applicants and then will retain them on the bench.

In short, we need to foster an overall system that attracts the best and brightest applicants and then retain them in service.

League of Women Voters of Wyoming

Judicial Survey 2008

Circuit Court

I. Vincent Case Jr., 8th District, Converse, Niobrara, Platte Counties

1. How have your training, professional experience, and interests prepared you to serve on this Court?

I was in the general private practice of law for 18 years. In addition to handling a broad and diverse spectrum of legal work, I was the Municipal court judge for the City of Douglas for 17 years. I was also a court commissioner for the County Court (now Circuit Court) of Converse County.

I have extensive training in a wide variety of court related issues through participation in conferences, classes and seminars on subjects related to my court duties. In conjunction with educational programs through the National Judicial College and the Wyoming Conference of Judges, I have 15 years of combined experience on the County court and Circuit Court bench. I have also earned a Professional Certificate in Judicial Development from the National Judicial College.

2. What do you consider the three most important attributes of a judge?

I believe the three most important attributes are good, basic common sense and knowledge of the law; patience and an innate ability to relate to and communicate with people; and wisdom in balancing discipline and compassion.

3. How do you define "judicial independence," and how important is it to our judicial system?

Judicial independence is a composite of many factors but it is the core element of a successful judicial system. It is the foundation of the court's ability to apply the law to each case in a fair, unbiased environment, free from improper outside influences and special interests. Judicial independence affords every individual in every case the opportunity to have their case considered on the basis of the law and the facts of their particular circumstances and not on the basis of other extraneous interests or pressures which are not in accord with the facts, truth and right procedures.

4. What are your views on specialty courts, including drug courts and family courts?

Specialty courts, including drug courts and family courts, now becoming more commonly known as "problem solving courts," can be a beneficial asset to individuals in the court system. This focus can be especially beneficial to persons who have drug, alcohol or other addiction issues or who enter the system with special needs or problems. Problem solving courts can also serve as a valuable judicial tool in sentencing options and alternatives; provided that inappropriate and sufficient resources are made available to the court. It is also important that courts of this nature have proper rules and guidelines in place to ensure clear jurisdiction, procedures and the respective roles of the judicial and executive branches of government.

5. What is the most critical issue facing Wyoming's court system? What actions would best address this issue?

There are numerous critical issues facing the judicial system in the State of Wyoming. One of these major issues is the ever-increasing caseload of the courts and the ever-growing demand upon judicial services. It is imperative that sufficient personnel, facilities and technological resources are provided to the judiciary to handle this burgeoning demand on the Wyoming judicial system. The state, county and local governments must take appropriate actions and provide appropriate funding to ensure that the Wyoming judicial system has in place and access to all essential resources required to statutorily and reasonably provide all mandated and other necessary judicial services to the citizens of Wyoming.

League of Women Voters of Wyoming

Judicial Survey 2008

Circuit Court

Timothy Day, 9th District, Teton County

1. How have your training, professional experience, and interests prepared you to serve on this Court?

Judicial selection in Wyoming is by a merit and retention system often referred to as a "Missouri Plan". Lawyers express interest when there is a judicial opening, and a committee of lawyers and non-lawyers, the Judicial Nominating Commission, chose who to interview. While there are minimum requirements to apply, such as being a lawyer in good standing and a citizen, it is left to the Commission to weigh the qualities, education and other background factors they believe are valuable in a candidate. The Commission receives a lengthy compilation of information on the candidates regarding their background, education, experience and many other matters, including references. Following interviews with select candidates, the Commission sends three names to the Governor for his review. Typically, though not required, the Governor also interviews the three individuals and makes the appointment.

2. What do you consider the three most important attributes of a judge?

In our court, as in any court, knowledge of and fidelity to the law are required. In circuit court, a judge has the additional challenges presented by the high volume of pro se litigants, or individuals who appear without attorneys. Thus, more often than in any other court, a circuit court judge is, literally, the only law-trained person in the room. This tends to mean that patience is also a very important attribute. The high volume of cases in circuit court by way of criminal cases, and also civil and small claims cases, results in an environment where a solid work ethic and organizational skills are critical to avoid delay or undue incarceration.

3. How do you define "judicial independence", and how important is it to our judicial system?

Our democracy relies heavily on the principle of separation of powers among the three branches of government, and our courts are where that principle applies directly in insuring justice for all litigants. Courts do not decide what the law is; the legislature is charged with that. Neither do the courts decide who will be brought before it (those charged in a criminal case, or sued in a civil case); the law and the Executive branch of government is responsible for that decision. But it is critical that once a matter is before us, our only concern is applying the facts to the law. When called upon to exercise our discretion and do what is right and just, we must do so independently of public or private influence and without fear or favor or concern for public opinion.

4. What are your views on specialty courts, including drug courts and family courts?

Most of the drug court programs in Wyoming involve the use, in one configuration or another, of a Circuit court judge. Well run, well organized and well funded drug court programs are important tools to rehabilitate offenders, protect the public, and perhaps save taxpayer dollars. Though we do not, as judges, take positions on policy regarding drug courts, our longtime involvement has convinced many of us of their value.

5. What do you feel is the most critical issue facing Wyoming's court system? What actions would best address this issue?

Each court may face critical issues unique to their circumstance and locale. As a general matter, however, the circuit courts share the uniform challenge of funding critical resources necessary to carry out appropriate sentencing options of incarceration, treatment, and rehabilitation of offenders. The particular remedies that courts have to work with are matters controlled by the other branches of government.

League of Women Voters of Wyoming

Judicial Survey 2008

Circuit Court

Curt Haws, 9th District, Sublette County

1. *How have your training, professional experience, and interests prepared you to serve on this Court?*

I am uncomfortable “tooting” my own horn. Therefore, let me just say that I attempted to put my best foot forward when expressing an interest in being a judge nearly two years ago. Perhaps it would be helpful to explain that process. Wyoming’s judicial selection process (known as a “modified Missouri plan”) is something that we in Wyoming should be proud of and should protect. It is a merit-based appointment system coupled with a periodic retention vote. At the appointment stage, lawyers express interest when there is a judicial opening, and a committee of lawyers and non-lawyers review very detailed information about each candidate. Following interview with selected candidates, that group, the Judicial Nominating Commission, sends three names to the Governor. The Governor then typically, though not required, the Governor also interviews the three individuals and makes the appointment. Following appointment by the Governor, a judge’s name is then periodically placed on the ballot for a retention vote by the electors in the judicial district where he or she sits.

2. *What do you consider the three most important attributes of a judge?*

Competency in the law.

Personal and professional integrity.

Temperament — a willingness and ability to listen fairly to all parties.

3. *How do you define “judicial independence”, and how important is it to our judicial system?*

An independent judiciary is an indispensable component in any system that aspires to be governed by the rule of law. An independent judiciary is one that applies the law as enacted, free from influence from other branches of government, special interest groups, litigants, or even public opinion. Without this essential characteristic, the public’s confidence in the judiciary is undermined.

4. *What are your views on specialty courts, including drug courts and family courts?*

Following a well established national model, drug courts can reduce crime, save taxpayer dollars, and be an important tool in rehabilitating addicted offenders. As judges, we do not take positions on policy regarding drug courts, but our longtime involvement with such efforts has convinced many of us of their value.

5. *What do you feel is the most critical issue facing Wyoming’s court system? What actions would best address this issue?*

As with most other branches of government, funding is always a critical function. Having adequate resources will ensure that the judiciary is able to attract and retain best and brightest judges and staff to serve the people of Wyoming.