

Testimony before the Legislative Committee of the Maryland Judicial Council/Workgroup to Study Judicial Selection – Monday November 28, 2022

Good afternoon. My name is Scott Schneider. I am the chair of the Progressive Neighbors Steering Committee. Progressive Neighbors is a community group which endorses progressive candidates for local office and has been doing so for the past 16 years.

The question we want to raise about judicial selection is which method not only serves the interests of justice but also democracy. Currently judges are vetted behind closed doors by members of the profession and subsequently elected to 15 year terms. The public has a chance to weigh in at the voting booth but most voters know almost nothing about the candidates and generally they have been recently appointed and so have little in the way of a record. And what record they have is opaque. There is almost no information for voters about their decisions or temperament. And the large law firms end up making substantial contributions to candidates that they will eventually be bringing cases before, which offers at least the appearance of a conflict of interest. And clearly the system isn't perfect. Judges do make it through the vetting process and elections only to end up with questionable decisions. And the data has shown that the justice system discriminates against people of color and the poor. How could the system be improved?

Eliminating judicial elections will not solve this problem. It amounts to the lawyers saying "trust us." Well they have not solved the problem of mass incarceration of minorities and the poor so far. So why should we trust them to solve it with no scrutiny by voters. Some improvements are needed. Here are a few to consider:

- A database of decisions and judicial misconduct must be public so all voters can see how they are ruling in practice and can make better choices at the ballot box.
- Questions have been raised about the minimal qualifications required of the challengers. We should consider raising the bar and increasing the requirements for filing for office.
- The criteria used for vetting by the bar associations needs to be public to increase transparency and trust in the system. Merely saying a candidate is "qualified" or not is not sufficient information for the public. There needs to be a summary of why they were selected or not.
- Candidates for judge should be publicly financed to eliminate the potential conflicts arising from law firms funding of candidates.

- There should be a series of public forums around the county before each election with ample time for questions from the floor.
- Terms of office should be shorter with judges elected to 8 year terms instead of 15 year. Impeachment is too high a bar for getting rid of bad judges.
- Nominations should also be vetted by the Legislature requiring a vote of both Judicial committees in the Senate and House.
- Every effort must be made to create a judiciary that reflects the make-up of the population to ensure justice for minorities and the poor.

The problems of mass incarceration and discriminatory justice in Maryland will not be solved by getting rid of judicial elections. We need to make the system fairer, more transparent and more equitable.

Thank you for your attention. We hope these comments are useful to your deliberations.