

Our Judges: Who are They and How Did They Get There?

Note to the presenting attorney: You will need to do some limited research before presenting this speech. Please note which judicial district you are in and be ready to tell your audience which counties comprise the district. In addition, if you are in a district where the district judge travels, call him or her to see how many miles the judge has to drive each year and when the judge is in each county. You may ask the audience later to identify what district they are in and to name at least one district judge. Portions that require special input are highlighted.

I. Foundation

- A. Brief overview of our state's court structure.
- B. How a lawyer is selected to be a judge, and the general duties of each type of judge.
- C. Should judges be elected or appointed?
- D. Only discussing district court and higher today and not city or municipal courts.

II. Judicial Structure

- A. Oklahoma has adopted a very simple judicial structure.
 - 1. District courts have the authority to hear virtually any type of case
 - 2. Have three categories of judges
 - a. district judge, associate district judge and special judge.
 - b. Each judge has a unique role to play in dispensing justice.
- B. When the State Legislature adopted the judicial reform act a number of years ago, all the old positions and designations of judges were abolished.
 - 1. Before then we had such things as the Superior Courts, County Courts, Courts of Common Pleas, etc.
 - 2. They were all consolidated into the District Court, which now hear everything from criminal cases to divorce; from probate to civil suits.

III. District Judges - Elected

- A. Oklahoma has been divided into twenty-six (26) judicial districts.
 - 1. Each district has been assigned a specific number of district judges, which has changed from time to time.
 - 2. District Seven, which includes Oklahoma County, and District Fourteen, which includes Tulsa County, have the greatest number of district judges.

B. Where a district has more than one district judge, they meet and select the Presiding Judge.

1. Each district has at least two counties in it, and several have three or more
2. Not every county in a district gets a district judge.
3. When there is more than one county in the district but only one district judge, he or she is required to travel and sit in each county.

Time for a pop quiz. Can anyone tell me what judicial district we are in? How about the name of the district judge(s)? Actually we are in the ____ district and have ____ district judge(s).

NAME YOUR DISTRICT JUDGE HERE AND THE NUMBER OF MILES HE/SHE TRAVELS. IF THE DISTRICT HAS MORE THAN ONE DISTRICT JUDGE, NAME THE PRESIDING JUDGE.

C. Counties may share a district judge with another, each county has its own associate district judge.

IV. Special Judges- Appointed

A. Almost all counties also have a special judge.

1. Special judges are appointed by district judges
2. Need is determined by population.
3. More can be added, are appointed by Chief Justice of the Oklahoma Supreme Court.
4. Must have funding

B. Whether the county needs its own district judge is determined by the legislature

1. considers the population
2. Considers the number of lawsuits filed.

Just in case I have totally confused you, let's look at this judicial district, Number _____ as an example of what I have been talking about. The district covers the counties of -----.

It has _____ district judge(s). All the counties in the district have an associate district judge and (all)(name the counties) have a special judge. (If appropriate, the district judge travels back and forth between ---- and -----). The district judge (or if more than one, the presiding judge) directs the actions of associate district judges and special judges.

C. Normally district and associate judges are each elected to a four year term.

D. The state statutes set out in detail which judges must live where.

1. All judges elected must have been both a registered voter and resident of the appropriate county for least six months before the first day of the filing period.

2. Candidate must also have an active law license and be admitted to practice in Oklahoma.

E. If a vacancy between elections, a new district or associate district judge is appointed by the Governor.

V. Appellate Judges- Application & Selection

A. When a vacancy occurs, lawyers submit applications to a committee made up of lawyers and non-lawyers.

1. The names of the top three candidates are then forwarded to the Governor, who makes the selection.

2. That same procedure is used to fill district or associate district judge positions when a vacancy occurs between elections.

B. Appellate judges, every six years, their names are placed on a retention ballot.

C. If removed, the selection procedure is the same.

Can anyone name two judges on the Court of Criminal Appeals? Can anyone name two Supreme Court Justices? How about one Judge sitting on the Court of Civil Appeals?

VI. What the District Judges Do

A. He or she can hear or rule on any type of case.

B. The associate district judge also has the authority, subject to case assignment, to hear all types of cases.

C. Special judge has "limited jurisdiction," means he/she hears matters of lesser value or uncontested cases.

1. Oklahoma statutes prohibit special judges from hearing any action for recovering more than \$10,000, unless all parties agree to waive that rule.

2. Most special judges hear small claims cases, conduct preliminary hearings in criminal matters, family law cases and uncontested matters.

3. There are exceptions and special judges may be called upon to hear other matters.

VII. What Appellate Judges Can Do

- A. The Court of Criminal Appeals hears all criminal appeals.
- B. The Court of Civil Appeals is assigned cases from the Oklahoma Supreme Court and renders opinions, some of which are published and some not.
- C. The Supreme Court has the final say on all civil cases which are appealed. It can and does overrule decisions of the Court of Civil Appeals.

VIII. Election v. Appointment

A. History of election

1. the popular election of state judges started with Andrew Jackson and the populist trend towards accountability.
2. That lasted until the 1920's when the trend went back to appointments.
3. The 1940's saw the pendulum swing back towards elections.
4. Nationwide approximately 87 percent of all state court judges are selected or retained on the basis of popular elections.

B. Pros and cons

1. In theory, partisan or nonpartisan elections give the voters an opportunity to voice approval or concern about the judge's performance.
2. In theory, that's a good thing.
3. Campaigns cost money, and to stand for reelection against an opponent, an incumbent would have to seek contributions.
4. Lawyers contribute the most to judicial campaigns
5. If an incumbent receives a large campaign contribution from a lawyer who regularly appears in front of the judge, eyebrows will be raised and whispers of favoritism will be heard. That's a bad thing.

C. Contested Judicial Races

1. Campaigning proceeds like most other political races
2. Ex: a judge makes a ruling such as releasing a suspect on bond, a ruling supported by law but happens to be unpopular and receives unfavorable press coverage. An opponent can and sometimes does campaign on that single issue, even though the candidate knows the judge acted properly. Constrained by the Code of Judicial Conduct, the sitting judge may not be in a position to respond.

3. In judicial races which have no burning issues, voter interest and turnout is historically very low. Does that election serve the public?
4. If a judge is overbearing, rude and arrogant, a public election would be a good thing.
5. But if a lawyer runs against the judge and loses, the possibility of retaliation from that type of judge could be a concern.
6. Accountability versus independence.

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