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# HB-38 Judicial Redistricting



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# What is this bill?

- A Proposed Amendment to Pennsylvania's Constitution to change the way citizens of PA will vote for Appellate Court Judges
  - Currently, we vote for all appellate court judge positions when an opening arises or when they are up for retention
  - The State will be divided into different districts for each Appellate Court
  - Proposed Constitutional Amendment – we will vote for only one Supreme Court Judge, one Superior Court Judge and one Commonwealth Court Judge



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# Primer on Legislation

- This is a proposed amendment to the Pennsylvania Constitution
- CANNOT BE VETOED BY THE GOVERNOR
- Bill must be passed in exactly the same format and language by two consecutive sessions of the PA House and PA Senate
- Ballot question must be published in county newspapers



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# PRIMER ON PENNSYLVANIA'S COURT SYSTEM



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# THIS IS A JUDICIAL ELECTION YEAR

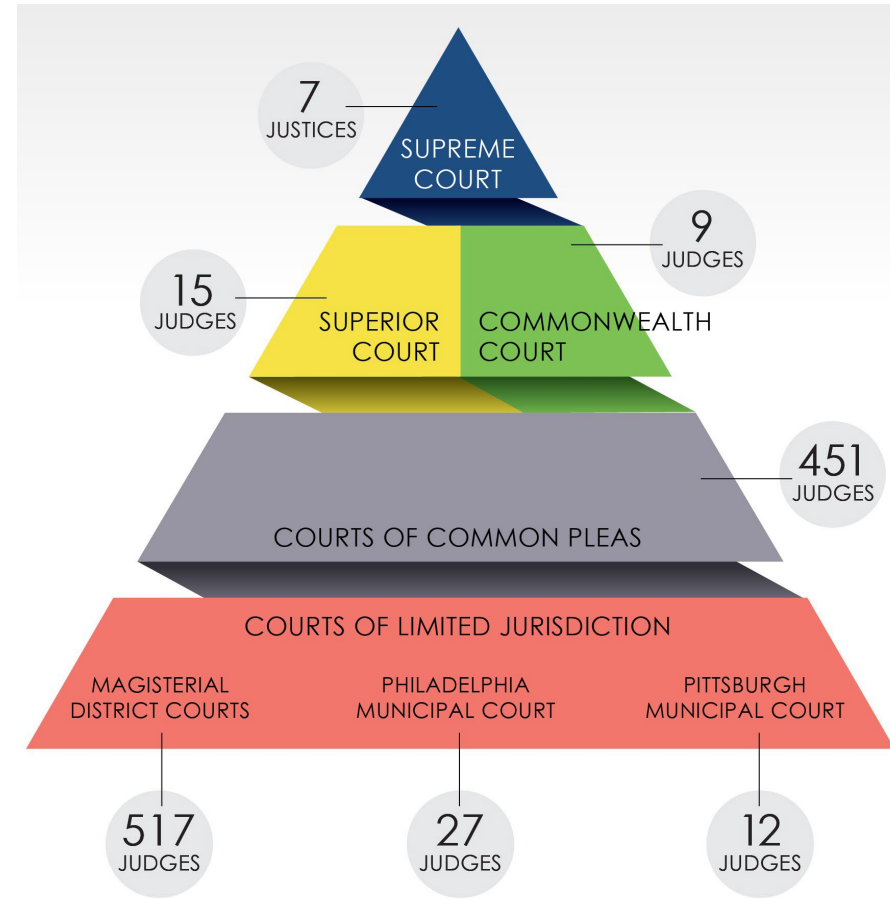
- It is important to learn about the candidates
  - Bar associations investigate and research the candidates and make recommendations
  - PMC will be holding virtual candidate forums, the first one is March 17 for the PA Supreme Court Candidates, with the Philadelphia Library
  - Can you name a judge you have voted for?
  - For what position was the judge a candidate?
- IT IS IMPORTANT TO VOTE



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# What are Pennsylvania's Courts?







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# Municipal Courts – Found in Philadelphia



- All criminal offenses carrying a potential term of five years or less; landlord-tenant cases involving an unlimited amount of money
- Composed of three divisions:
  - Civil Court Administration
  - Criminal Court Administration
  - Traffic Court Administration
- Do not hold jury trials



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# Court of Common Pleas

- Hears appeals from the minor courts and appeals not exclusively assigned to another court
- Adjudicates matters involving children and families
- Holds civil and criminal trials
- Holds jury trials





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# Intermediate Appellate Courts

- **Superior Court** hears civil and criminal appeals from Court of Common Pleas, including matters involving families
- **Commonwealth Court** hears original actions brought by and against the Commonwealth, appeals from decisions made by state agencies and some appeals from the Courts of Common Pleas
- Panels of three judges preside over intermediate appellate court hearings



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## Pennsylvania Commonwealth Court



### Quick facts:

- Founded 1968
- One of two intermediate appellate courts
- Unique to Pennsylvania
- Only hears state government and government agency cases
- Term: 10 years
- 9 judges
  - Method: Partisan election
    - 7 Republicans
    - 2 Democrats



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## Commonwealth Court – 6 women, 3 men, no minorities

<b>P.J. Mary Hannah Leavitt</b>	<b>Republican</b>	<b>Dauphin</b>
<b>Renee Cohn Jubelier</b>	Republican	Centre
<b>P. Kevin Brobson</b>	Republican	Dauphin
<b>Patricia McCullough</b>	Republican	Allegheny
<b>Anne Covey</b>	Republican	Bucks
<b>Michael Wojcik</b>	Democrat	Allegheny
<b>Ellen Ceisler</b>	Democrat	Philadelphia
<b>Christine Fizzano Cannon</b>	Republican	Delaware
<b>Andrew Crompton</b>	Republican	Montgomery





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## Pennsylvania Superior Court



### Quick facts:

- Founded 1895
- One of two intermediate appellate courts
- Hears criminal and civil cases
- 15 judges - 1 vacancy
- Term: 10 years
- Method: Partisan election
  - 7 Democrats
  - 7 Republicans
- Only PA appellate court that has a person of color on the bench



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## Superior Court- 10 women, 4 men, 1 minority



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P.J. Jack Panella	Democrat	Northampton
John T. Bender	Republican	Allegheny
Mary Jane Bowes	Republican	Allegheny
Jacqueline Shogan	Republican	Allegheny
Anne Lazarus	Democrat	Philadelphia
Judith Ference Olson	Republican	Allegheny
Victor Stabile	Republican	Dauphin
Alice Beck Dubow	Democrat	Philadelphia
Deborah Kunselman	Democrat	Beaver
Mary Murray	Republican	Beaver
Maria McLaughlin	Democrat	Philadelphia
Megan McCarthy King	Republican	Chester
Daniel McCaffery	Democrat	Philadelphia
Carolyn Nichols	Democrat	Philadelphia



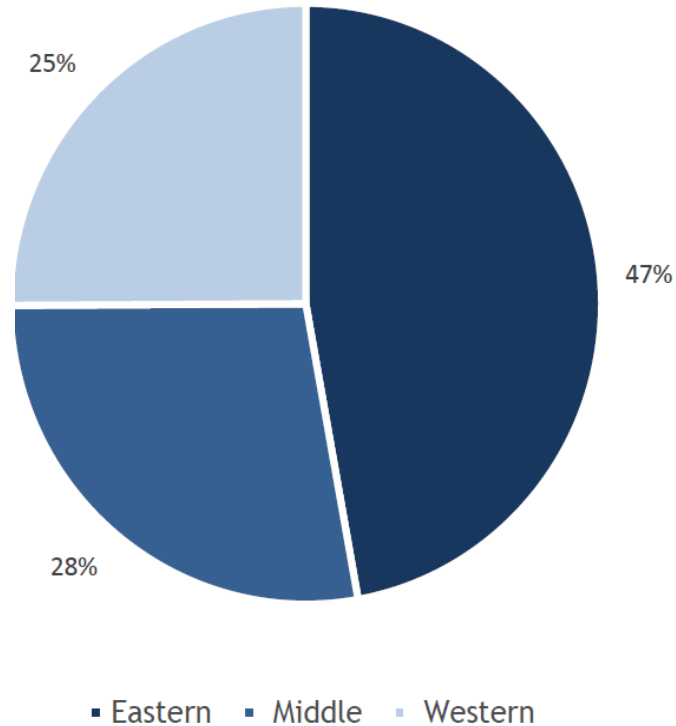


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# 2019 Superior Court Statistics

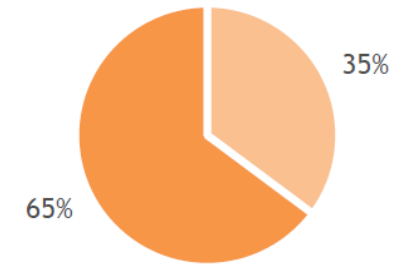
Appeals by District in 2019



Western District



Middle District



Eastern District



● Civil ● Criminal



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# 2019 Superior Court Statistics

	Civil	Criminal	Total
Eastern	1,448	2,132	3,580
Middle	742	1,366	2,108
Western	765	1,144	1,909
<b>Total</b>	<b>2,956</b>	<b>4,653</b>	<b>7,597</b>

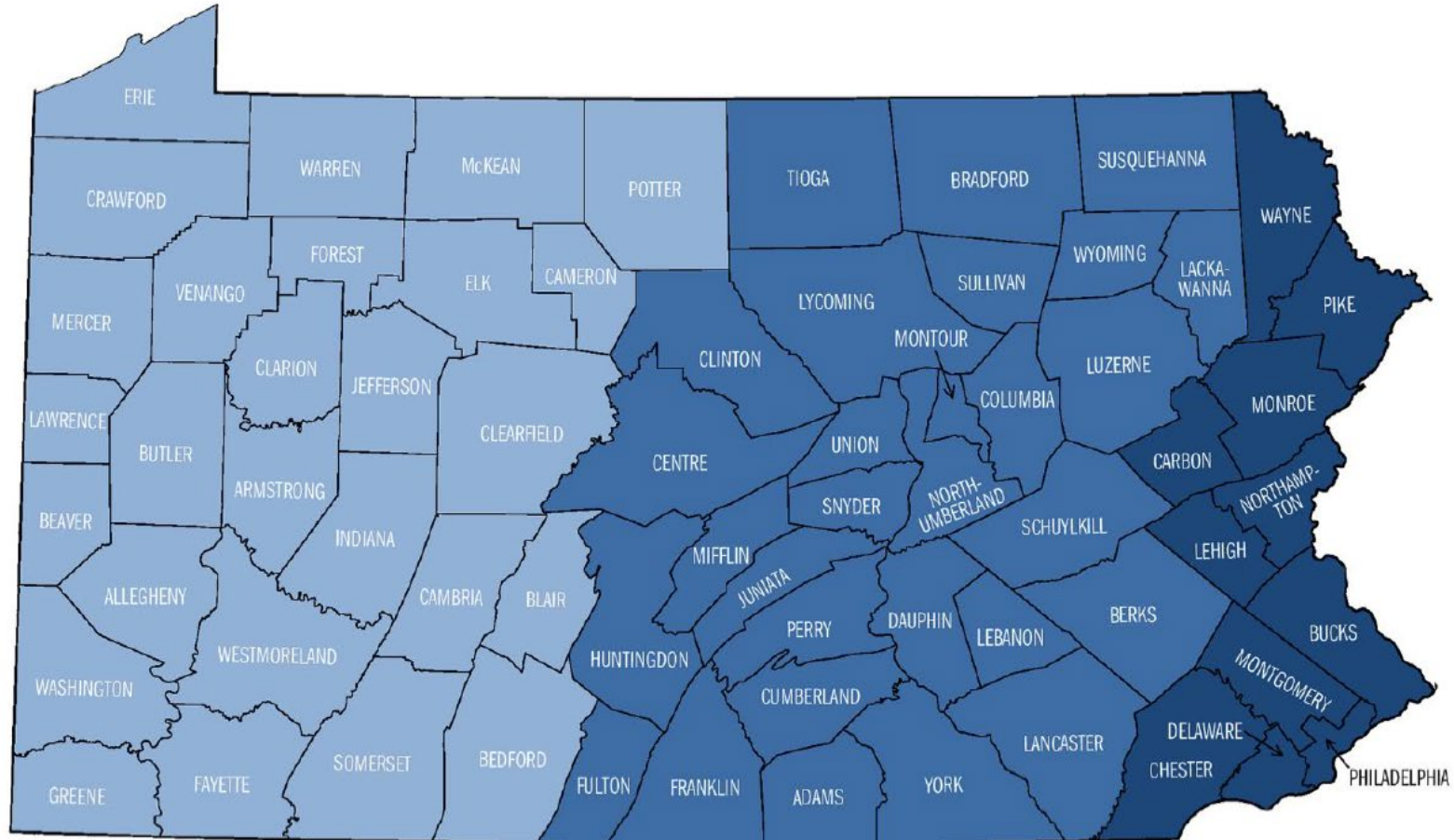


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# 2019 Superior Court Statistics





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# Pennsylvania Supreme Court

- Ultimate authority on matters brought before the lower courts
- **Review is discretionary in many cases**
- Review is mandatory for limited categories of cases: interpretation of state constitution, cases involving the death penalty, etc.





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## Pennsylvania Supreme Court



### Quick facts:

- Founded 1722 - oldest court in the United States
- Highest Appellate Court in PA
- 7 Justices
- Term: 10 years
  - Method: Partisan election
    - 5 Democrats
    - 2 Republicans





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## Supreme Court - 3 women, 4 men, no minorities

C.J. Thomas Saylor	Republican	Cumberland
Debra Todd	Democrat	Butler
Max Baer	Democrat	Allegheny
Kevin Dougherty	Democrat	Philadelphia
Christine Donohue	Democrat	Butler
David Wecht	Democrat	Allegheny
Sallie Mundy	Republican	Tioga



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# Amendment - Districting

- 7 Supreme Court districts
- 15 Superior Court districts
- 9 Commonwealth Court districts
  
- One year residency requirement in geographic district prior to running



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## Alleged Justification for Change

- “Organizes the Judiciary into representative districts and further providing for residency requirements”
- Every resident shall be provided with approximately equal representation on the court
- Each judicial district shall be composed of compact and contiguous territory as nearly equal in population as possible
- Unless absolutely necessary, no town, borough, township or ward may be divided



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# What does this bill REALLY do?

Makes Appellate Court Judges responsible to their direct constituencies

- Appellate court judges render decisions statewide based on analysis, interpretation of laws, constitution, rules and cases
- They would now be concerned with local issues and local impact, as opposed to statewide impact, in order to be elected and to be retained
- Judges' loyalties are not to a person, business, political party but to the law, the Constitution and precedent



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# Problems this bill creates

- Threatens the Judiciary's independence
- Disenfranchises voters
- Creates potential for greater influence of money
- Makes Judges Politicians
- Harmful to diversity of Court
- Judicial "trades" - when I spoke with one former appellate court judge, their concern with this responsibility to constituency could result in the "trading" of cases and rulings in the time period leading up to voting on their retention. Brennan Center has documented that judges up for elections render harsher or more severe criminal decisions in the year prior to their retention elections.
- Harms public's confidence in the Courts



## Women on the Bench in Pennsylvania



As of February 2020 . . .

**31%** of Pennsylvania's  
active judges  
are women

There are three women serving on the  
seven-member Pennsylvania Supreme Court:



Justice  
**Debra Todd**

Justice  
**Christine Donohue**

Justice  
**Sallie Updyke Mundy**

The majority of Superior and  
Commonwealth Court judges are women:

Superior  
Court

11 women



4 men

Commonwealth  
Court

6 women



3 men

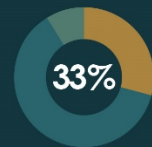
The president judges of Commonwealth Court  
and the Court of Judicial Discipline are women:

Hon. Mary Hannah Leavitt  
Hon. Doris Carson Williams

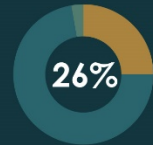
**13** women serve as president judges  
in Courts of Common Pleas.

Hon. Maureen Beirne, Bradford  
Hon. Nancy Butts, Lycoming  
Hon. Kim Berkeley Clark, Allegheny  
Hon. Elizabeth Doyle, Blair  
Hon. Janine Edwards, Wayne  
Hon. Katherine Emery, Washington  
Hon. Idee Fox, Philadelphia  
Hon. Rita Donovan Hathaway, Westmoreland  
Hon. Kathy Morrow, Juniata/Perry  
Hon. Pamela Ruest, Centre  
Hon. Sara Seidle-Patton, Clarion  
Hon. Maureen Skerda, Forest/Warren  
Hon. Margherita Patti Worthington, Monroe

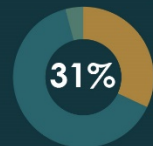
Women on the bench in other PA courts:



**Common Pleas Judges**  
147 women / 301 men / 10 vacancies



**Magisterial District Judges**  
128 women / 370 men /  
14 vacancies



**Philadelphia Municipal Court**  
8 women / 18 men / 1 vacancy

**Hon. Sara M. Soffel**  
was the first woman  
appointed as a judge  
in Pennsylvania  
(Allegheny County).

**Hon. Juanita Kidd Stout**  
was the first elected African  
American female judge in the  
nation – and the first African  
American woman to serve  
on any state Supreme Court  
(Philadelphia County).

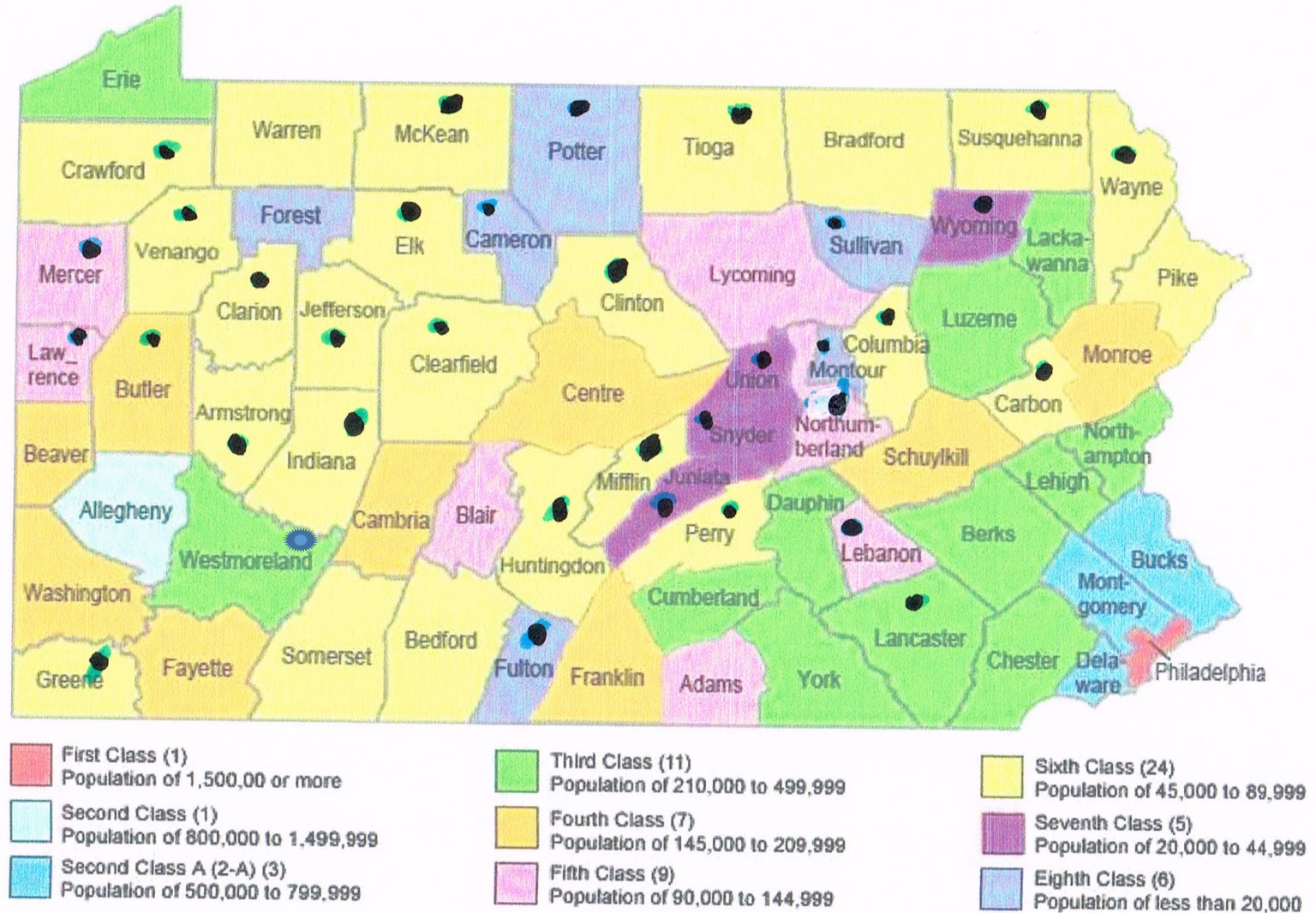


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Less than 20% female  
C.P. Court judges



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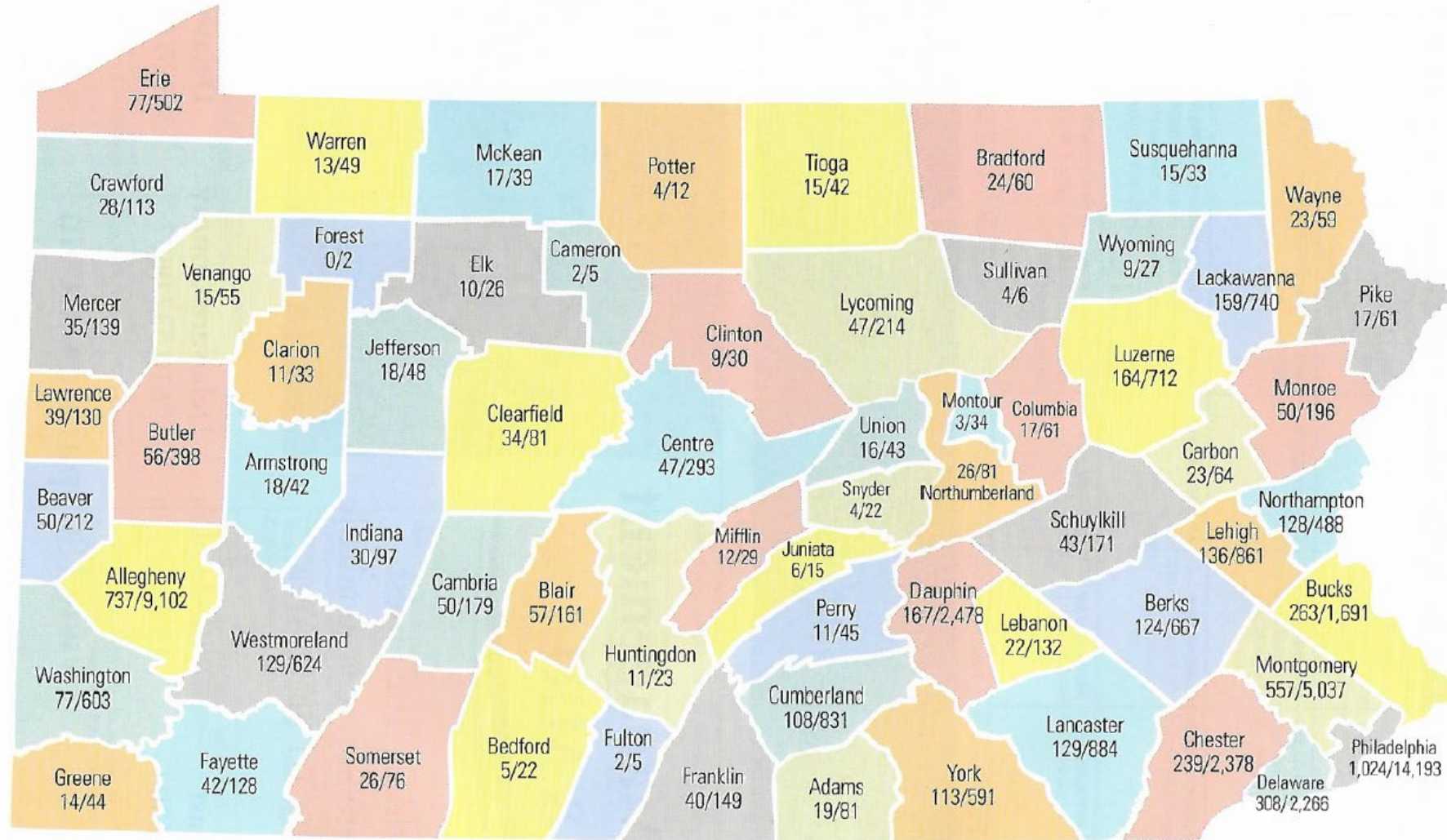


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# Where Lawyers Are

(Legal Establishments/  
Active Lawyer Licenses)

The Legal Intelligencer  
2020 Annual Report On the  
Legal Profession







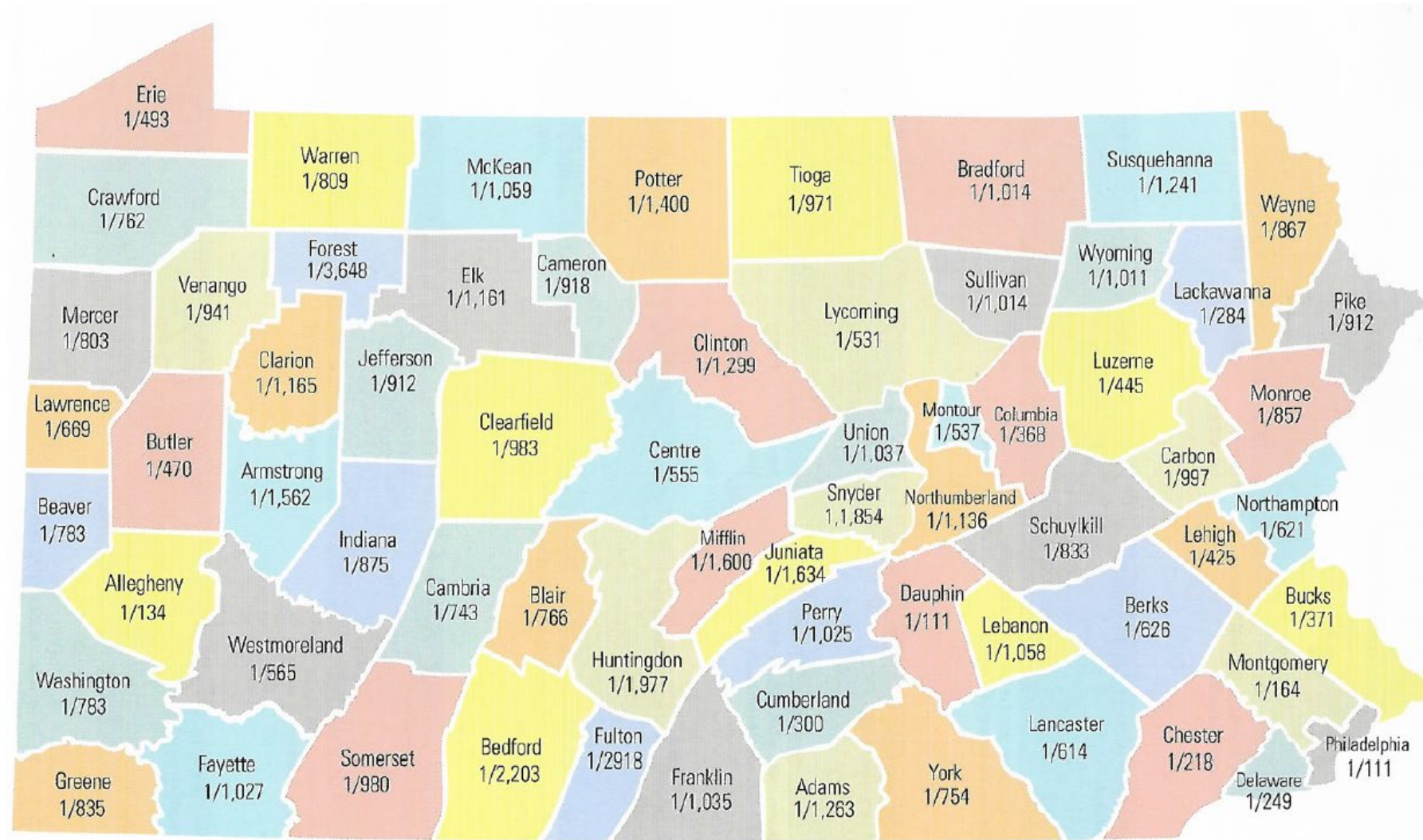
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# Pennsylvania Attorney-to- Population Ratio

The Legal Intelligencer  
2020 Annual Report On the  
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# What is the process of implementing these changes?

- The General Assembly shall
  - - establish the judicial districts
  - - determine transition to this system
  - - establish the order of election
  - - determine the eligibility to seek retention
- The number and boundaries shall be established by the GA with the advice and consent of the Supreme Court





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# How will this be implemented?

- Will all judges be removed at the same time, a clean slate?
- Will judges not be permitted to run for retention? Or a second retention?
- Is this redistricting going to take place first in the Supreme Court, and then after completed in the Superior Court, and then after that's completed in the Commonwealth Court?



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# Why are we in this position?

- The General Assembly's displeasure with rulings of the Pennsylvania Supreme Court
- Representatives who have supported and co-sponsored merit selection of Appellate Court Judges are supporting this knowing it is bad and dangerous
- Originally they said it would die on the vine in November, expecting the House to change hands – but it didn't
- Now they say it will die in the referendum
- IF THEY THINK IT IS BAD LAW, BAD PRECEDENT, WHY ARE THEY SUPPORTING IT? To prove a point, and threaten the current court



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# History of court composition

- The current 5-2 Democratic domination of the Supreme Court is a rarity in the Court's history.
- The Court in the past has swung from domination by one party to another.
- In 2015, the three vacant seats were won by Democrats. In 2017, the one seat was won by a Republican. There is a seat that will be up for election this year in 2021.
- The current Superior Court disposition is evenly split between parties with judges from all over the state
- The Commonwealth Court, comprised of judges from across the state, is 7-2 domination by Republicans with Governor Wolf most recently appointing a Republican to that Court. Interestingly, this Court has two judges from Dauphin County, which could never happen under this bill.



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# Numerous groups oppose the bill

- Pennsylvanians for Modern Courts
- Pennsylvania Bar Association
- Philadelphia Bar Association
- Allegheny County Bar Association
- Erie County Bar Association
- Fair Districts PA and League of Women Voters
- Pennsylvania Trial Lawyers
- Committee of 70
- Common Cause PA



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Montgomery County Bar Association  
Delaware County Bar Association  
Chester County Bar Association  
Dauphin County Bar Association  
Northhampton County Bar Association  
Monroe County Bar Association  
Asian Pacific American Bar Association of Pennsylvania  
Abolitionist Law Center  
Action Together NEPA  
AIDS Law Project  
All On The Line  
Allegheny-Fayette Labor Council  
Alliance for Police Accountability (APA)  
America Votes PA  
American Civil Liberties Union (ACLU) of Pennsylvania  
American Federation of State, County and Municipal Employees (AFSCME) Council 13



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American Federation of State, County and Municipal Employees (AFSCME) DC47

American Federation of Teachers Pennsylvania

Amistad Law Project

Asian Americans United

Asian Pacific Islander Political Alliance

[Behind the Arc: Jewish Action](#)

Berks Stands Up

Better Pennsylvania, Inc.

Black Voters Matter Fund

[Bucks County National Association for the Advancement of Colored People](#) (NAACP)

Bucks Voices

CeaseFirePA

Center for Coalfield Justice

Central PA Building & Construction Trades Council

Clean Water Action



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Community Hero Action Group  
Community Hero Impact Alliance  
Community Legal Services  
Conservation Voters of PA CASA  
Defender Association of Philadelphia  
Disability Rights Pennsylvania  
Eastern Atlantic States Regional Council of Carpenters  
Education Law Center  
Episcopal Legal Aid  
First United Methodist Church of Germantown  
Free the Ballot  
For Our Future Action Fund  
Hershey Indivisible Team  
HIAS (Hebrew Immigrant Aid Society) Pennsylvania  
Homeless Advocacy Project  
The HUB for Progress  
Human Rights Campaign



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The IMPACT Project, Inc.  
Indivisible: Narberth and Beyond  
Indivisible Northwest Philly  
Indivisible Philadelphia  
International Brotherhood of Electrical Workers (IBEW)  
International Union of Operating Engineers (IUOE) 66  
International Union of Painters & Allied Trades District Council #21  
Juntos  
Just Harvest  
Justice at Work Legal Aid  
Juvenile Law Center  
Laborers' District Council  
Laborers' International Union of North America (LIUNA) Mid-Atlantic  
Region  
League of Women Voters  
Legal Clinic for the Disabled



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Lycoming County Progressives

Make the Road Pennsylvania

MarchOnHarrisburg

Movement Alliance Project

[National Association for the Advancement of Colored People \(NAACP\)](#)

[Pennsylvania State Conference](#)

National Union of Hospital & Health Care Employees, District 1199C

Nationalities Service Center

New Hope Services

Northampton County Bar Association

One Fair Wage

1Hood Power

One Pennsylvania PA Alliance



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[PA American Federation of Labor and Congress of Industrial Organizations](#) (AFL-CIO)

PA Budget and Policy Center

PA Professional Firefighters

PA Spotlight

PA Stands Up

PennFuture

[Pennsylvania Association for Justice](#)

Pennsylvania Association for Staff Nurses and Allied Professionals

Pennsylvania Health Access Network

Pennsylvania Health Law Project

Pennsylvania Institutional Law Project

Pennsylvania Joint Board of Workers United Service Employees

International Union (SEIU)



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Pennsylvania State Education Association (PSEA)  
Philadelphia Council American Federation of Labor and Congress of Industrial  
Organizations (AFL-CIO)  
Philadelphia Federation of Teachers  
Philadelphia Metal Trades Council  
Philly Neighborhood Networks  
Pittsburgh Firemen Local 1  
Pittsburgh United/PA United  
Plumbers Union Local 690  
POWER Interfaith  
Progressive Montco  
Public Interest Law Center  
Reading Branch National Association for the Advancement of Colored People  
(NAACP)  
Reclaim Philadelphia  
Regional Housing Legal Service



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[Represent PA](#)

Restaurant Opportunities Center of Pennsylvania (ROC)

School District of Philadelphia

Sedgwick Group

Senior Law Center

Service Employees International Union (SEIU) Healthcare Pennsylvania

Service Employees International Union (SEIU) Local 668

Service Employees International Union (SEIU) PA State Council

Social Justice Indivisible

Southeast Asia Mutual Assistance Association Coalition (SEAMAAC)

Southwestern PA Coalition of Labor Union Women (CLUW)

Steamfitters Local 449

Support Center for Child Advocates

32BJ Service Employees International Union (SEIU)

Tone and Tenor Radio Show

Turn PA Blue



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215 People's Alliance

Unitarian Universalist Fellowship of the Poconos (UUFP)

UNITE HERE Local 274

United Food and Commercial Workers Union (UFCW) Local 1776

United Home Care Workers of Pennsylvania

United Steelworkers

Urban League of Philadelphia

VietLead

We the People - PA

Why Courts Matter

[Governor Tom Wolf](#)

[Women's Law Project](#)

York National Association for the Advancement of Colored People (NAACP)

Youth Sentencing & Reentry Project



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# WHO SUPPORTS THE AMENDMENT?

Representative Diamond and many other republican legislators



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# Legislative History continues

- August 2020 proposed question published in county newspapers
- January 2021 – presented to House Judiciary Committee
  - Available to watch by streaming
  - Discussion among committee
  - Still no public hearing or testimony
  - 13-12 vote to support amendment
  - Two Republicans representatives who are attorneys voted against – they know the harm this bill will create
  - Heard from a lot of groups, individuals



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## Legislative History of Bill

- Introduced in House early in 2019, strict party line vote in House Judiciary Committee, no discussion, no hearings, no testimony, no experts
- Voted out of House in Dec. 2019, no discussion, no hearings, no testimony, no experts, no minority support
- July 2020, after holiday weekend, considered in Senate State Government Committee as one bill among many – considered for less than 10 minutes, no testimony, no experts, no public hearing -
- Next week, voted out of Senate, no testimony, no experts, no public hearing, no minority support





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# Do any other states elect their appellate judges by district?

- Only two states, Illinois and Louisiana, elect their appellate judges by district
- In Illinois, districts haven't been redrawn since 1963
- In 2004, 2 candidates spent \$8.9 million in one district – filings later revealed dark money, special interest groups
- In Louisiana, districts haven't been redrawn since 2000



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- New England law professor, Jordan Singer
  - “Having partisan elections in small geographic districts invites more campaign mischief than in a statewide race because special interests are able to target their audience more narrowly, and there are fewer media markets to consider.”
- University of Pittsburgh political science professor, Chris Bonneau
  - “Candidates win by larger margins in judicial districts, and there are fewer contested races because the districts are more homogenous.”



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# WHAT ARE THE NEXT STEPS?

- Continue to voice your opposition to this bill
- It could reappear at any time in the next year and a half



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# What can you do?

- Reach out to your government affairs groups and lobbyists
- Reach out to your state senators and representatives
- Write letters to the Editors or Op-Eds
- Invite PMC to speak and educate your organization on this Bill





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# Thank you for inviting us to speak

[www.pmconline.org](http://www.pmconline.org)