



February 28, 2009

Supreme Court justice defends Missouri Plan

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The Associated Press*

Columbia -- Retired Supreme Court Justice Sandra Day O'Connor on Friday defended Missouri's judicial selection plan while offering suggestions to disarm critics by increasing public participation.

In a speech at the University of Missouri-Columbia law school, O'Connor told a group of students, professors, attorneys and judges that the role money plays in states with partisan judicial elections has risen to "obscene levels."

Her former colleagues on the high court will consider one such example in a West Virginia appeal arguing that the state's chief justice should have recused himself from a coal company lawsuit after the company's chief executive officer spent more than \$3 million to help the judge win election in 2004.

"Justice is a lot like friendship," O'Connor said. "If you have to pay for it, it's not worth too much."

O'Connor is a Ronald Reagan appointee who retired in 2006 after 25 years as a U.S. Supreme Court justice. Her appearance at the University of Missouri School of Law was the highlight of a full day of panel discussions about Missouri's judicial selection process, which has become a national model known as the Missouri Plan.

She called Missouri "a leader of judicial independence" and a "target of those would marginalize it." Judges on the state Supreme Court, other state appeals courts and trial courts in Kansas City and St. Louis are appointed by the Missouri governor. A special nominating commission selects three finalists for the governor's consideration.

Some Republican state lawmakers and conservative critics of the plan want to change the state's judicial selection process, which they argue is dominated by trial lawyers who are not accountable to the public.

Efforts to add a state constitutional amendment regarding judicial selection failed last year. This year, legislators will again consider a pair of reform proposals calling for a statewide vote on changes to the selection process.

"Clearly the Missouri Plan is in need of reform," said James Harris, a former official in Republican governor Matt Blunt's administration. Harris leads Better Courts for Missouri, which backs the initiative proposal.

O'Connor pointed to her home state of Arizona, where changes to the judicial selection process include a public Web site that allows citizens to study the qualifications of all nominees, a public comment period and open meetings of the judicial nominating committee.

"It sure removes a lot of the criticism," she said. "You can't have secret proceedings."

But despite the increased transparency, interest in that state's judicial selection process seems confined to the legal community and not with the general public, O'Connor added.

"Not very many people take advantage," she said. "We're a big state, but nobody shows up (to the

meetings)."

In response to criticism about the Missouri Plan, state Supreme Court Chief Justice Laura Denvir Stith announced several incremental changes last year. The qualifications and backgrounds of judicial finalists whose names are forwarded to the governor by the nominating commission are now made public in advance.

The current Appellate Judicial Commission consists of the chief justice, three lawyers chosen by members of the Missouri Bar and three people appointed by the governor. The nominating commissions for individual judicial circuits follow a similar model.

Blunt and other Republicans contended that the nominating panels don't always give the governor choices that match his conservative philosophy.

O'Connor is the fifth Supreme Court justice to speak at the Columbia law school's Earl F. Nelson Memorial Lecture since it was established in 1954, joining past participants Abe Fortas, William Rehnquist, Antonin Scalia and Clarence Thomas.

She concluded her speech -- which was closed to the press but broadcast on a live feed in an adjacent classroom -- with a plea for more civics education for young students, noting that more Americans can name at least one of the judges on television's "American Idol" than any of the nine U.S. Supreme Court justices.
