



Guest columnist, James Harris: Reform Missouri Plan

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— The Missouri General Assembly is currently considering two proposals that would give Missourians the ability to vote on changes to the way judges are picked in Missouri (Missouri House Resolution No. 10 and Missouri Senate Resolution No. 9).

On March 11, The Joplin Globe editorialized against these resolutions. The Globe's editorial misstated some facts and entirely ignored what is good for Missouri's courts.

In Missouri, when a vacancy occurs on the Supreme Court or any other intermediate court, a commission dominated by lawyers meets and decides on a list of three candidates.

The list is then submitted to the governor and he must pick the next judge. In contrast, the vast majority of trial judges in Missouri are elected by the people.

The Globe's editorial stated that "more than 30 other states" copied that form of judicial selection, now known as the Missouri Plan. In fact, 30 states never adopted the Missouri Plan or any form of it. Only seven states have adopted a system that allows as much lawyer influence as our Missouri plan, and Missouri is virtually alone in the level of secrecy that characterizes its process for picking judges.

So why is the Missouri Plan for choosing judges in need of reform?

First, the current system is conducted in almost absolute secrecy. The press and the public have no access to the list of applicants, their qualifications, their backgrounds or even have any insight into the kinds of discussions or decisions that lead the nominating Commission to choose certain nominees and reject others. Without a constitutional amendment, that will never change. Even the moderate former Supreme Court Justice Sandra Day O'Connor agreed that such secrecy is bad for judicial selection when she recently visited Missouri.

Second, the process is dominated by special-interest trial lawyers. The seven-member commission that nominates judges for the Supreme Court has three commissioners who are members of the Missouri Association of Trial Attorneys (or as you might know them, "the ambulance chasers' guild").

The Chief Justice of the Supreme Court is also on the commission, which means that three of the seven votes deciding who should fill Supreme Court vacancies are trial lawyers who will practice in front of that new judge; and a fourth is a sitting judge who could have an interest in picking an ideologically similar new judge. The results of this secretive, lawyer-dominated system have been bad for a fair and impartial judiciary: 20 of the last 21 nominees chosen by the commission to fill vacancies to the Supreme Court have been trial lawyers, Democratic legislators or Democratic donors or supporters.

Vanderbilt Law Professor Brian Fitzpatrick recently presented an independent study of the Missouri Plan at the University of Missouri and noted that 89 percent of the 117 nominees to the Supreme Court and all intermediate courts since 1994 have been Democrats. Is that non-partisan? Is that the kind of judicial selection process anyone, even a Democrat, should want?

If the Globe really wants a system that "does away with political influence," then it should start by endorsing House Resolution No.10 and Senate Resolution No. 9. For too long, Missouri's judicial selection process has been dominated by financially motivated trial lawyers who found a way to pick the kind of judges who will rule in their favor.

If anything looks like a "boss" system, it's what Missouri currently has. It's time for that to change. Please call your local state representative and your local state senator and tell them to support reform of the Missouri Plan.

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