



Constitutional Amendment

**Subject: Restrictions on Partisan Judges**

**Text:**

*“No person who has run for elected federal or state office as a member of a political party, or served in such a capacity within the previous ten years, shall serve as a federal or state judge.”*

**Reform Category(ies):**

- ☐ Anti-Corruption, Transparency, Accountability
- ☐ Counter-Majoritarian Requirements
- ☒ Democratic Processes
- ☐ Enhanced Rights/Protections
- ☐ Limits to Political Power/Immunities
- ☐ Necessary Clarifications
- ☒ Responsible Government
- ☐ Separation of Powers/Check and balances

**Branch(es) targeted:**

- ☐ Legislative      ☐ Executive      ☒ Judicial

**Justification:**

The problem is not only that judges with partisan political backgrounds may make partisan decisions from the bench, but that their decisions may fail to obtain broad acceptance, undercutting respect for the judicial branch. This measure also will reinforce the distinction between two very different responsibilities – adjudicating the law and advocating for positions (against other politicians and parties). Moreover, there is evidence that partisan judicial elections attract campaign contributions that then sway judicial decision-making after judges are elected.

[Preemptive response to those who would claim a former President, William Howard Taft, was a good Chief Justice: 1) debatable; 2) his partisan political career did complicate his judicial one; and 3) 21CAR does not subscribe to the “essential man” theory of history.]

**Alternatives to Amendment?** In *Republican Party of Minnesota v. White*, the Supreme Court threw out restrictions on issue-based electioneering by judicial candidates. There is no reason to believe the current court would feel differently about restrictions on partisan judicial candidates.

**Similar proposals/rules:**

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