A voter guide to Pennsylvania's 2021 judicial elections

By Katie Meyer, Sam Dunklau and Chris Potter - April 8, 2021

Yes, there's another election day just around the corner. It's May 18. And, in fact, thanks to no-excuse mail ballots, widespread voting is already open.

In addition to deciding local races, voters this year will elect a slew of new judges to Pennsylvania's three statewide appellate courts — judges who will no doubt shape important policy in the state for at least the next decade.
These are some of the most powerful positions in state government. But the elections that determine who gets the jobs tend to get little attention from voters. In the last two judicial election years that featured partisan contests, turnout hovered in the low 20% range, compared with more than 70% turnout in 2020's record-setting election.

"Odd-year elections are not like major presidential, legislative election years," said Deborah Gross, who heads the nonprofit Pennsylvanians for Modern Courts.
In Pennsylvania, judicial hopefuls run in partisan, statewide elections, as opposed to being selected based on merit by the commission, by the governor and legislature, or being elected in a nonpartisan contest, as in many states. After serving a 10-year term, they run in nonpartisan, yes-or-no retention elections, which they almost never lose.

That initial partisan election means judges must run under the umbrella of a political party, raise money through campaign committees, and collect endorsements from political groups. There are crucial differences from other political races, though. Judicial candidates aren't allowed to solicit donations directly. They also can't promise to rule a certain way on any specific issues.

Here's a guide to the roles and recent histories of the courts, and the candidates who are hoping for a chance to shape them.

The Pa. Supreme Court: What is it? Who's running?

Four judges — three Republicans and a Democrat — are trying to snag an open seat on Pennsylvania's highest court.

Currently made up of five Democrats and two Republicans, the Pa. Supreme Court calls itself the oldest appellate court in the country. Its job is to hand down final rulings on cases appealed from lower courts and — like the U.S. Supreme Court — it can usually choose the cases it accepts.

A seat is open because Chief Justice Thomas Saylor, a Republican, has hit the court's age limit of 75 and has to retire. Democratic Justice Max Baer is assuming the role of chief justice. The candidates running this year hope to replace the vacancy. All of these will be on the primary ballot on May 18, then face off in the Nov. 2 general election:

- Maria McLaughlin, a Democrat from Philadelphia who has served on the Superior Court since 2017, began her legal career as an assistant district attorney in Philly, before serving in the family division of the city's Court of Common Pleas.
- Kevin Brobson, a Harrisburg-area Republican who took a seat on the Commonwealth Court in 2010, and previously worked in private practice, practicing commercial litigation and administrative law for the firm Buchanan Ingersoll & Rooney.
- Paula Patrick, a Philadelphia Republican who was elected to the city's Court of Common Pleas in 2003 and has worked primarily in Juvenile Court, on delinquency and dependency cases, and previously worked as a solo practitioner.
- Patricia McCullough, a Pittsburgh-area Republican who became a judge on Pennsylvana's Commonwealth Court in 2010, and previously sat on the Allegheny County Court of Common Pleas and served as the head of the Catholic Charities, Diocese of Pittsburgh.

McLaughlin got her party's endorsement and, running as the sole Democrat in the primary, will advance to the general.

Of the Republicans, the state party has endorsed Brobson.

The Pennsylvania Bar Association has given Brobson, McLaughlin, and Patrick "highly recommended" ratings — its best possible assessment.

It has not given McCullough a rating for the race. Her husband, former Allegheny County Council member Charles McCullough, began serving a prison sentence in early April after being convicted of theft and misappropriation of funds for using his power of attorney to take $50,000 from an elderly woman's trust fund.

What are some of the biggest decisions by the Pa. Supreme Court in recent years?

The Pennsylvania Supreme Court has become a lightning rod in the last several years.
The current state of partisan tension dates to 2015 when Republicans lost control of the high court during a tumultuous period involving revelations that several judges had been exchanging offensive emails.
Since then, the GOP has chafed at decisions made by the Democratic majority, which have included an order to redraw the commonwealth's congressional districts after a ruling that they were unfairly gerrymandered to favor Republicans, which Democrats heralded as sensible and fair.

The move ultimately made Democrats much more competitive in congressional elections. Before the change, Republicans held a 13-5 advantage in the Pa. congressional delegation. Since the new map went into effect just ahead of the 2018 midterm, there has been a 9-9 partisan balance.

"What the court has done is truly breathtaking," U.S. GOP Sen. Pat Toomey said during a rare visit to Harrisburg after the decision that year. "When the Pennsylvania State Supreme Court violates the law, violates the constitution as they have done in this case, then there is a terrible miscarriage of justice."
There was also mass GOP pushback against the high court's decision ahead of the 2020 election allowing emergency changes to voting laws.
After the election, state judges — some Democrats, some Republicans — handed down near-universal dismissals of the flood of lawsuits by the Trump campaign and other Republicans that made baseless allegations of widespread election fraud and sought to get the results reconsidered or overturned. Former President Donald Trump's campaign lost all of its cases that made their way to the Pa. Supreme Court.

How have political leanings played into candidates' past rulings?

Even when there's some political harmony in the commonwealth, running for any judicial seat often means walking a thin line between courting donors and voters, and staying above the

political fray. In a recent forum hosted by Pennsylvanians for Modern Courts and the Free Library of Philadelphia, all four of the Pa. Supreme Court candidates said the system can be fraught.

Asked if she'd rather have nonpartisan elections, Patrick responded, "Well, sure." McLaughlin insisted that she wants to be a judge, not a politician, but "in Pennsylvania, that's how you get there." McCullough said it would be "nice" not to have to run a partisan campaign, and Brobson said he tends to "bristle" when coverage of rulings notes the judge's party, because "we need to make sure Pennsylvanians have faith that politics is not playing a part in the judiciary."

Despite those universal promises to be fair and nonpartisan, these judges have all been caught up in politicized cases and ruled along predictable party lines.

Brobson, who calls himself a "strict constructionist" who believes in "the separation of powers … judicial restraint … [and] reading laws as they're written," decided several high-profile cases involving the counting of ballots in the 2020 election.

In one case, he took a measured approach to a GOP attempt to invalidate ballots that had been fixed by voters, ordering them not to be immediately thrown out, but to be segregated from other ballots. In a subsequent case, he ruled in favor of Republicans who wanted to toss out more than 2,000 mail ballots that had been submitted without dates.

McCullough said she considers herself a conservative judge reluctant to overturn precedents, but wouldn't always favor Republicans. She recently got considerable attention for being one of the only lower court judges in Pennsylvania to rule in favor of Trump's campaign when it sued to have election certification delayed.

As a Superior Court justice, McLaughlin, who said she has no plans to ever "legislate from the bench," is caught up in explicitly political cases less frequently than her colleagues on the Commonwealth Court. But along with two other judges, she did preside over a recent, high-profile case that echoes a national conversation about sexual assault: whether to uphold a lower court's decision to throw out a jury conviction in a sexual assault case.

The rest of the panel ruled that the conviction should be thrown out, because the accuser, a University of Pittsburgh student, testified that she didn't remember the evening in question, not

that she didn't consent to sex, and she appeared to show some awareness of her situation in a recording from the evening.

McLaughlin dissented. The accused, she said, "testified that he recorded the encounter with the victim in case there was any question of the voluntariness of the intercourse … that damning testimony was enough for the jury to find that [the accused] knew the victim could not properly consent. Why else would he create a record to protect himself?"

Patrick, too, had a brush with a big political issue when officials in Philadelphia clashed with South Philadelphia residents last summer over the removal of a Christopher Columbus statue. With the city poised to move the statue into storage in August, Patrick ordered they halt their plans while a legal challenge played out. More recently, she delayed the removal again when she ordered the statue unboxed for an inspection at the behest of its defenders.

How is the GOP hoping to erode Democrats' sizable advantage on the court?

With their chances of retaking the court virtually zero until at least 2025, when the Democratic justices face retention elections, Republicans in the state legislature have launched a plan to totally remake the court by electing judges by region.

Their proposed constitutional amendment could force more than one Democrat off the court by requiring justices — who are currently concentrated in cities — to run in geographic districts drawn by the legislature.
The plan, which Gross said "would completely destroy judicial independence" and "make judges legislators," already passed the GOP-controlled House once.

If it passes again, it will go directly to voters for a referendum vote as soon as November.

What other court reforms are being discussed?

Along with a mission to get people engaged with judicial elections, Gross' group has worked for years to change the way they're conducted.

It’s a system, Gross argues, that isn’t good for anyone. She thinks it increases the public perception that the courts are skewed, and judicial candidates tend to dislike it because it takes them away from the bench and can make them look biased.

“Electing judges means they have to go out and campaign, and they can’t focus on doing their job,” she lamented. And voters may be frustrated by the fact that judges are ethically barred from making campaign-style pledges to rule a certain way.

Instead of partisan contests, PMC has long supported a system of merit selection for judges. And while that idea has repeatedly died in the state legislature, Gross said this year, in the wake of the 2020 election legal disputes, she’s seeing an uptick in interest in the judicial election process.

“I really believe it stems from the increased engagement from the past year,” she said.

The Pa. Superior Court: What is it? Who’s running?

Let’s face it: Campaigns for Pennsylvania Superior Court judge aren’t exactly glamorous. Voters often pay little attention to such races, and seeking one of the statewide appellate court’s 15 seats is about as exciting as running for county judge, only with steeper turnpike tolls.

Whoever wins a 10-year term to fill the lone vacancy on the Pa. Superior Court may not get a lot of press coverage, but they will play a huge part in how justice is carried out across the commonwealth.

“It’s the busiest appellate court in the country. It handles over 8,000 cases a year,” Gross said. “And it is a court of last resort in many cases because the Supreme Court has discretion to take a case or not, but the Superior Court doesn’t have that choice.”

Superior Court judges, usually seated in three-judge panels, hear appeals from criminal, family, and civil cases handled by county courts of common pleas. Most of the job involves workaday reviews of those lower-court decisions, and even rulings that set a precedent may not last: The state Supreme Court can take up appeals of Superior Court rulings, though it doesn’t often choose to do so.

As Superior Court Judge Susan Gantman prepares to retire, three candidates seeking to replace her are set to appear on the Democratic primary ballot:

- Jill L. Beck, a Pittsburgh civil litigator who has worked with at-risk children in Allegheny County's family court system, then clerked for Justice Christine Donahue in the Superior and state Supreme Court.
- Timika R. Lane, a Common Pleas Court Judge who handles criminal matters in Philadelphia. She previously worked in the Public Defender's office and practiced family law as a private attorney.
- Bryan S. Neft, of Mt. Lebanon, whose background in commercial litigation includes work for health care giant UPMC, previously clerked for Superior Court Judge William Cercone.

The winner will likely face the lone Republican in the race, Megan Sullivan, who prosecuted child abuse cases for the Chester County District Attorney's office and later focused on insurance fraud as a Deputy Attorney General for the state.

Beck, Lane, and Neft have all received "recommended" ratings from the state Bar Association. Sullivan has not yet received a rating.
Pennsylvanians for Modern Courts held a livestreamed forum Tuesday that offered more on the candidates' thinking.

Campaign finance reports in this year's race are spotty, and candidates most often receive support from fellow lawyers. But Sullivan received $10,000 from a school choice group, while Lane has received $70,000 from a number of unions. Gross, of Pennsylvanians for Modern Courts, says that judges "shouldn't be influenced" by such money, but "it's something you can take into consideration."

But, she adds, "I honestly think most candidates who run for judge would prefer to not be involved in politics. I've heard candidates and judges say, 'If I had known the craziness of campaigning for judge, I never would have done it.'

What are some noteworthy decisions by the Pa. Superior Court in recent years?

The Pa. Superior court can be a "farm team" for the state's top tribunal: Five of Pennsylvania's seven current Supreme Court justices served on Superior Court first. And the lower court's rulings can make headlines while making law.

In 2019, for example, a unanimous Superior Court ruling tossed out a drug- and gun-related conviction of Philadelphia rapper Meek Mill, due to concerns about the reliability of a police officer involved in making the case. Charges against the rapper, who'd been on probation or behind bars for more than a decade, were later dropped after he pled guilty to a misdemeanor.

That same year, a Superior Court panel opened the door to extending the statute of limitations in some years-old cases of alleged sexual abuse by Catholic priests. That opinion is being reviewed by state Supreme Court justices.

Just last month, a Superior Court ruling that could expand financial liability for businesses in civil disputes has raised alarm in the corporate community, with business groups asking for a chance to reargue the case before a larger panel of judges.

The Pa. Commonwealth Court: What is it? Who's running?

Pennsylvania is one of only a handful of states that has two separate intermediate-level appeals courts, with the Commonwealth Court operating alongside the Superior.

This nine-judge body decides civil disputes involving the state itself and hears appeals against decisions made by state agencies. Cases usually come before a three-judge panel in either Harrisburg, Philadelphia, or Pittsburgh, and as in the other appellate courts, judges are elected to 10-year terms.

Voters will be asked to fill two open seats on the court this year, which will mean the two top vote-getters from each party move through the primary election, and then the two overall winners make it to the bench.
One of the seats is being vacated by Judge Mary Hannah Leavitt, who is not running for retention. The other, notably, involves incumbent Judge Andrew Crompton, who was appointed to the court by Gov. Tom Wolf to fill a vacancy in 2019. Crompton, a former top GOP aide in the statehouse, is running to keep the seat.

All told, there are six candidates in the running — two Republicans and four Democrats:

- Crompton, the incumbent, is a Harrisburg area Republican who, unlike most judicial hopefuls, has an explicitly political background. He spent 26 years working for the Senate, and most recently was former Republican Senate President Pro Tempore Joe Scarnati's right-hand man, serving as chief of staff and caucus counsel. Crompton played a key role in Republicans' efforts to overturn the state Supreme Court's 2018 congressional map redrawing. Among other things, he helped draft the Senate's unsuccessful attempt to appeal the map to the U.S Supreme Court.
- Stacy Wallace, a Bradford attorney running as a Republican, who her local newspaper describes as a small business owner and president of the McKean County Bar Association.
- Lori Dumas, a Democrat who has been on the Philadelphia Court of Common Pleas for more than 18 years, primarily in the juvenile division.
- Sierra Street, a Philadelphia Court of Common Pleas judge running as a Democrat, who previously worked as a hearing officer in Philadelphia Family Court, and as a trial attorney at the Defender Association of Philadelphia, among other nonprofit work.
- Amanda Green-Hawkins, a Pittsburgh attorney and two-time Democratic Allegheny County Council member who also works as assistant general counsel for United Steelworkers.
- David Spurgeon, a Democrat who serves on the Allegheny County Common Pleas Court, and before that served for nearly two decades as assistant district attorney, and then deputy district attorney for the county.

Spurgeon received a "highly recommended" rating from the Pennsylvania Bar Association, which said he "displayed confidence, integrity, and excellent judicial temperament" in his interview with the group.

The rest of the candidates were "recommended," save Wallace, who the group said "lacks the depth and breadth of experience and preparation necessary to take on the commanding role of judge," and Green-Hawkins, whom it did not rate.

What are some noteworthy decisions by the Pa. Commonwealth Court in recent years?

Seven of the nine sitting judges on the court currently were elected as Republicans. And in the last year, the court notably handed the Trump campaign and other 2020 election challengers some of their only legal wins, though the Pennsylvania Supreme Court eventually overturned those decisions.

One of those noteworthy rulings came from McCullough, the Supreme Court candidate, who ordered state officials to stop the vote certification process in late November. She agreed with lead plaintiff and Republican U.S. Rep. Mike Kelly that Pennsylvania's no-excuse mail-in

voting provision violated its own constitution, despite the fact that the state legislature had approved that rule as part of a package of voter law changes in 2019, and the legislation received wide support from the Republican majority.

Around the same time, Brobson, McCullough's fellow Commonwealth Court judge and now Supreme Court candidate, ruled that around 2,300 mail ballots cast in the 45th Senate District race should not be counted because they lacked handwritten dates. The Pa. Senate later relied on that decision when it refused to seat the declared winner in that race, Sen. Jim Brewster (D-Allegheny County).

That ruling was ultimately overturned by the Pa. Supreme Court as well, which wrote that technical violations of the Election Code like missing dates "do not warrant the wholesale disenfranchisement of thousands of Pennsylvania voters."

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