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## A look at notable state supreme court races in 2016



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FILE - In this Sept. 7, 2016, file photo, Justices on the Washington state Supreme Court listen during a hearing in Olympia, Wash. Political groups are engaging in a high-stakes battle for institutions that were once considered above politics: state supreme courts. Both liberal and conservative groups now view control of the high courts as essential to either defending or thwarting state laws. Ted S. Warren, File AP Photo

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The News Tribune

At least half a dozen states have high-profile elections for their state supreme courts this year, and partisan groups are spending hundreds of thousands of dollar to influence the races. A look at some of the more notable court elections this year:

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### IOWA

Three Iowa Supreme Court justices are facing voters for the first time since they joined their colleagues in unanimously ruling to legalize gay marriage seven years ago.

The ruling drew the ire of Christian conservatives, who spent \$1 million to oust three of the court's members in 2010. Those justices are the only ones removed from the bench by voters since the adoption of a retention election system in 1962.

This time around, with gay marriage legalized nationally by the U.S. Supreme Court in 2015, no aggressive campaign has targeted Chief Justice Mark Cady or Justices Daryl Hecht and Brent Appel. They need a simple majority to remain on the bench.

The three have refused to campaign for their jobs because they believe the court should be above politics.

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## KANSAS

No justice has been voted out of office since Kansas adopted retention elections for its state Supreme Court in 1960. This year could test that, with five justices facing yes-or-no questions about whether they should remain on the court.

Conservatives are trying to remove four: Justices Carol Beier and Dan Biles, who were appointed by former Democratic Gov. Kathleen Sebelius; and Justice Marla Luckert and Chief Justice Lawton Nuss, who were appointed by former Gov. Bill Graves, a moderate Republican.

The fifth, Justice Caleb Stegall, is a 2014 appointee of conservative GOP Gov. Sam Brownback and has not been targeted.

The court's critics have objected to its rulings in capital punishment cases, including a decision overturning the death penalty for two brothers convicted of murdering four people in 2000 in Wichita. Independent advertising criticizing the justices has focused on that case, with a group called Kansans for Justice spending \$276,000 on television ads, according to the nonprofit Center for Public Integrity.

But the court also has other important business before it, including an education-funding lawsuit filed in 2010 and a lawsuit challenging a 2015 ban on the most common second-trimester abortion procedure.

Another group, Kansans for Fair Courts, is spearheading the campaign to keep all five justices in office. It has support from four former governors from both parties and has run nearly \$223,000 in television ads across the state since mid-October.

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## LOUISIANA

In Louisiana, justices of the seven-member Supreme Court are elected to 10-year terms. One incumbent is running unopposed, while two candidates are running for an open seat from southwestern Louisiana.

As of late last month, Marilyn Castle, a state district court judge in Lafayette, had raised more than \$500,000 compared with more than \$1 million raised by her opponent, James Genovese, a state appeals court judge. In addition, the race has drawn some \$785,000 in outside TV spending, according to the Brennan Center for Justice at New York University Law School.

Both candidates are Republicans, but Castle is the favorite of the state's business lobbyists and the oil and gas industry, which is concerned about expensive "legacy lawsuits" that seek money to repair environmental damage.

A group called the Center for Individual Freedom, which does not disclose its donors, has spent nearly \$500,000 on Castle's behalf. Its ads have accused Genovese of siding with sexual predators. Another group attacking Genovese, Citizens for Judicial Excellence, is backed by a prominent charter schools supporter. A lawsuit challenging public funding of charter schools is making its way through the courts.

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## MONTANA

For the first time in decades, a state political party has contributed in Montana's nonpartisan Supreme Court race, evidence of the high stakes involved in an election that could set a fundraising record.

The Montana Democratic Party has kicked in more than \$60,000 to support District Judge Dirk Sandefur. Outside money has also poured in for his opponent, former University of Montana law professor Kristen Juras.

The amount spent is expected to top the \$1.6 million record set in 2014.

The Republican State Leadership Committee, which is spending heavily to elect conservatives in down-ballot races around the country, has spent more than \$225,000 to oppose Sandefur.

Montana's chief justice and two dozen other judges have criticized ads attacking Sandefur as soft on crime, saying they threaten the integrity of the judiciary.

Montanans for Liberty and Justice, a group backed largely by trial lawyers, has spent more than \$350,000 on Sandefur's behalf, running ads accusing Juras of being beholden to out-of-state corporations. Juras, who is endorsed by the NRA and Montana Chamber of Commerce, touts her experience representing farmers, ranchers and small business owners.

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## NORTH CAROLINA

Justices registered as Republicans hold a 4-3 edge on North Carolina's officially nonpartisan Supreme Court. That power balance would tip in the Democrats' favor for the first time since 1998 if Superior Court Judge Mike Morgan succeeds in his bid to unseat two-term Republican Justice Bob Edmunds.

In the past two years, the court's Republican majority has upheld the use of taxpayer money for student scholarships at private schools, as well as the redrawing of congressional and legislative districts in a manner that federal appeals courts later struck down as racial gerrymandering.

The campaign has drawn heavy outside spending, including more than \$905,000 from North Carolina Families First, a liberal group running ads critical of Edmunds. One ad says Edmunds supported "his party's discrimination" by writing the 2014 opinion upholding a district drawn "to segregate African-American voters."

The business-friendly North Carolina Chamber is running a largely biographical TV ad supporting Edmunds. The group is bankrolled by a \$1 million contribution from a legal reform arm of the U.S. Chamber of Commerce.

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## OHIO

In a race for an open high court seat, Cincinnati appeals court judge Pat DeWine, a Republican, has booked almost \$644,000 in TV ads, according to an analysis by the Brennan Center. DeWine's opponent, Warren Democratic appeals court judge Cynthia Rice, released her first TV ad Monday, but no spending figure was immediately available.

Democrats say DeWine will face a monumental conflict of interest if elected because his father is Attorney General Mike DeWine. DeWine says he has been assured through legal opinions that he would have to step aside only if his father personally argued a case.

In its annual ratings of judicial candidates, the Ohio State Bar Association rated Rice as highly recommended and DeWine as not recommended. The association does not explain its ratings.

In a second contested race, Democratic Judge John P. O'Donnell, a Cuyahoga County Common Pleas Court judge, is running against Cincinnati appeals court judge Pat Fischer.

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## WASHINGTON

Chief Justice Barbara Madsen faces a challenge from Kittitas County Prosecutor Greg Zempel, and Justice Mary Yu is defending her seat against retired Gonzaga University law professor David DeWolf. But the most expensive matchup is between first-term Justice Charlie Wiggins and Dave Larson, a municipal court judge in the Seattle suburb of Federal Way.

Outside groups backed by billionaires have dumped \$900,000 into the race on Larson's behalf in the final weeks of the campaign, swamping the \$236,000 Wiggins has raised this year. Larson also has backing from the Republican Party.

What's driving the money? Wiggins, who supported Democratic gubernatorial candidates in his prior career as an appellate lawyer, joined court majorities in striking down a state law that allowed public funding of charter schools and a voter-approved anti-tax measure. He also supported the decision to hold the state in contempt and fine it \$100,000 per day for failing to pay enough for public schools.

Larson says such rulings have improperly imposed political pressure on the Legislature, making it more difficult to solve tough problems.

Even though Wiggins has a stronger rating from the state prosecutors association than Larson, the advertising against Wiggins has painted him as soft on crime, citing one ruling on police searches and mischaracterizing another about whether criminal defendants who post bond can have guns. A group that included retired state Supreme Court Chief Justice Gerry Alexander and former Seattle U.S. Attorney John McKay called the ads improper and dishonest.

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