



Dear {{FirstName or 'Friend'}},

As the U.S. Supreme Court continues to chip away at Americans' fundamental rights, state constitutions represent the last refuge for protection of our liberties. In turn, the rights afforded by state constitutions are often shaped by the justices who sit on our state supreme courts. This issue of AFJ Action's State of Justice explores the increasing evidence that the next battle for our fundamental rights will be fought in state courts.

The Center for Public Integrity explores how Republicans flipped America's state supreme courts

In a detailed new analysis, the [Center for Public Integrity](#) explores how Republicans have worked for decades to flip America's state supreme courts to their control, starting with efforts to unseat liberal justices on the Texas Supreme Court in the 1980s. In recent years, legislators have added partisan designations to judicial races in [North Carolina](#) and [Ohio](#), and expanded the sizes of the high courts in [Arizona](#) and [Georgia](#). And in [Iowa](#), [Idaho](#), [Montana](#), and [Utah](#), Republican legislators took power from nonpartisan judicial nominating commissions and handed it to their governors. Control of these courts has since shifted in favor of conservatives, and legislatures in fifteen other states are now considering measures to amend how their state's supreme court justices are chosen.

This fascinating deep dive includes research and analysis from partners in state courts advocacy including the [Brennan Center for Justice](#) and the [People's Parity Project](#), as well as AFJ Action's own [Jake Faleschini](#). You can read the full report [here](#).



State Spotlight: North Carolina

The Center for Public Integrity's investigation takes a closer look at what it calls the starkest example of the partisan takeover of state supreme courts: **North Carolina**. Public Integrity examined the impact of the North Carolina Supreme Court's shift to the right through three crucial voting rights decisions recently handed down by the court. In addition to the [voter ID and legislative redistricting cases](#) the court recently [reheard and subsequently overturned](#) in a [highly unusual](#) move, the report examines the devastating impact on the lives of people affected by the court's ruling that reinstated the state's felony disenfranchisement law, which bars those on probation or parole from voting, after a lower court [ruled](#) it was unconstitutional. The supreme court's ruling revoked newly reinstated voting rights from at least 49,000 people. Read the powerful full report on North Carolina [here](#).

In a separate report, the [Carolina Public Press](#) has issued a two-part series investigating proposed changes to North Carolina's Judicial Standards Commission. [Part One](#) explores the history of the Commission and explains how it has worked to maintain the integrity and impartiality of the state's judicial system. [Part Two](#) highlights concerns about proposed changes to the commission raised by former judges, attorneys, and state lawmakers, who say that the proposal to give more power over judicial selections to the General Assembly will increase partisanship and threaten the independence of the judiciary.

You can explore the [Alliance for Justice's State Court Justice Project](#) coverage of the North Carolina Supreme Court and watch the video highlighting how its new Republican majority overturned important recent decisions impacting North Carolinians' rights [here](#).

State courts are playing an increased role in shaping the post-Roe reproductive rights landscape

State courts have become crucial decision-makers as the national abortion rights debate rages on more than a year after *Roe v. Wade* was overturned by the U.S. Supreme Court. Republicans have increasingly turned to state courts to enforce abortion bans that are starkly out of step with public opinion. The [Utah Supreme Court](#) heard arguments last week after being asked to overrule a lower court's decision to put a 2020 state law banning most abortions across the state

on hold. The justices appeared skeptical of the state's claims that the lower court abused its power in deciding to place a hold on the law while it determined the law's constitutionality.

A [Kansas judge](#) is considering whether to issue an injunction that would halt to new legislation that attempts to block abortion access using medically inaccurate information and unnecessarily burdensome requirements. At least three other states currently have abortion bans on hold due to ongoing litigation playing out in state courts, including [Arizona](#), [Wyoming](#), and [Nebraska](#). The [South Carolina Supreme Court](#) found that the state's constitution enshrines a right to privacy including in reproductive choice - but since the [retirement](#) of that court's only woman earlier this year, the now all-male court appears [open](#) to upholding a new ban.

State courts are the last line of defense of our fundamental rights

The crucial role that state courts play in preserving fundamental rights will continue into the 2024 election season. Abortion access will likely continue to be a decisive issue, as Republicans are already attempting to confront [the unpopularity of their anti-abortion agenda](#) by [restricting](#) voters' say on the issue.

But abortion access won't be the only fundamental right that state courts will be tasked with preserving. These same courts also play a unique role in deciding issues around the administration of elections, and could even be asked to hear litigation challenging [2024 election](#) outcomes. The fight to protect the impartiality, independence, and integrity of our state courts is more important now than ever.

[Sign our pledge to become a state courts voter today.](#)



Arkansas Gov. Sarah Huckabee Sanders appoints state GOP chair to fill Supreme Court vacancy

Arkansas Supreme Court Justice [Robin Wynne](#) died on June 21 at the age of 70. He won a seat on the Arkansas Supreme Court in 2014 and was reelected to a second eight-year term in November 2022.

Arkansas Governor Sarah Huckabee Sanders [appointed](#) Cody Hiland, a former U.S. Attorney for the Eastern District of Arkansas, to fill the vacancy. Hiland worked on Sanders's gubernatorial campaign in 2022 and became the chair of the Arkansas Republican Party shortly after her election. Because Justice Wynne was only months into his second term when his death occurred, Hiland will serve out the remainder of Wynne's term and will not be required to stand for election to the court until 2030.



Justice Janet Protasiewicz joins the Wisconsin Supreme Court, giving liberals their first majority in 15 years

Justice Janet Protasiewicz has been sworn in to a 10-year term on the Wisconsin Supreme Court, flipping control of the court to a liberal majority for the first time in 15 years. During those years, the court regularly upheld much of the legislation that was enacted by former Republican Governor Scott Walker and the Republican-controlled state legislature.

Justice Protasiewicz formerly served as a circuit court judge and an assistant district attorney. She is replacing former conservative Justice Patience Roggensack, who was first elected in 2003 and declined to seek a third term. To win the seat, Protasiewicz beat conservative former Justice Dan Kelly, who lost his seat in 2020 and sought to return to the court.

A [challenge to Wisconsin's 19th-century abortion](#) ban is currently being heard in the lower courts, and will likely ultimately be heard by the state supreme court. The court will also hear a [challenge to the state's legislative maps](#) that argues the maps violate the fair representation and separation of powers clauses of the state constitution and should be redrawn.



LGBTQ+ Rights



Michigan
[Pueblo v. Haas](#)

The Michigan Supreme Court ruled in a 5-2 opinion to extend the state's equitable parent doctrine to non-biological parents in former same-sex relationships who had been prevented from marrying their child's legal parent by Michigan's unconstitutional past prohibition on same-sex marriage and were blocked from seeking custody consideration because they were unmarried.



Maryland
[John Doe v. Catholic Relief Services](#)

The Maryland Supreme Court held that the parts of the state's fair employment laws applying to sex-based discrimination do not also apply to discrimination based on sexual orientation, ruling that adding sexual orientation as a protected class would require separate legislative action. The decision is directly at odds with the 2020 decision by the U.S. Supreme Court in *Bostock v. Clayton County* holding that discrimination based on sexual orientation cannot be separated from sex-based discrimination.

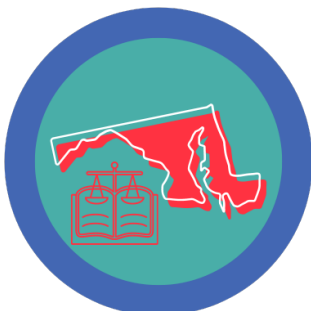
Disability Rights



Michigan
[Andary v. USAA Casualty Insurance Co.](#)

In a 5-2 opinion, the Michigan Supreme Court ruled that a key provision of a 2019 law overhauling the state's auto insurance system does not apply to the approximately 18,000 individuals who were injured prior to the law's passage, finding that those individuals have both contractual and statutory protections that shield them from the law's key cost-saving fee cuts.

Fourth Amendment Rights



Maryland
[State v. McDonnell](#)

The Supreme Court of Maryland held that a person who allowed investigators to seize his laptop and make a copy of its hard drive was entitled to withdraw his consent to a search before the data was examined, and the government's subsequent decision to examine the data without a warrant constituted an unreasonable search.

Criminal Justice



Illinois *People v. Washington*

In a unanimous decision, the Illinois Supreme Court ruled that a man beaten by detectives into signing a confession and pleading guilty to a murder he did not commit is eligible for a certificate of innocence purging his criminal record and making him eligible to receive compensation from a fund for the wrongfully convicted.



Ohio *State v. Hacker*

The Ohio Supreme Court ruled in a 5-2 opinion that a 2019 law allowing the state's corrections department to advocate for sentence extensions based on factors such as bad behavior or evidence that offenders have not been rehabilitated does not violate the state constitution's separation of powers clause.

Environmental Protections



Minnesota *In the Matter of the Denial of Contested Case Hearing Requests and Issuance of National Pollutant Discharge Elimination System / State Disposal System Permit No. MN0071013 for the Proposed NorthMet Project St Louis County Hoyt Lakes and Babbitt*

In a unanimous decision, the Minnesota Supreme Court ordered the state's Pollution Control Agency to reconsider permits it granted to a copper-nickel mine project, finding the agency sought to hide the risk of illegal water pollution after the U.S. Army Corps of Engineers revoked a critical water quality permit. The proposed mine and processing sites are on the St. Louis River upstream from the Fond du Lac Band of Lake Superior Chippewa Reservation, which includes pristine waters and protected habitats.

Civil Liability



Mississippi

[Favre v. Mississippi Department of Human Services](#)

The Mississippi Supreme Court denied an appeal from a lower court petition to remove a prominent former NFL quarterback as a defendant in a lawsuit filed by the state's Department of Human Services, which is seeking to recover millions of dollars of welfare money intended to provide relief to some of the nation's neediest families that was instead allegedly misspent on pet projects supported by wealthy and influential people.

Firearm Restrictions



Illinois

[Caulkins v. Pritzker](#)

The Illinois Supreme Court issued a 4-3 ruling upholding a statewide ban on assault-style firearms, part of legislation passed after a 2022 mass shooting and challenged by a Republican lawmaker and others who argued that the ban violated the state constitution's equal protection clause. The law is facing an ongoing challenge in federal court.

Religious Exceptions



New Jersey

[Crisitello v. St. Theresa School](#)

The New Jersey Supreme Court ruled that the religious tenets exceptions to the state's anti-discrimination law permit religious institutions to require employees to abide by the tenets of their faith as a condition of employment. The ruling ended a nearly decade-long fight by a Catholic school teacher to restore the job she was terminated from after disclosing to the school's principal that she was unmarried and pregnant.



KEEP YOUR EYES ON



Pennsylvania's Supreme Court will consider whether state legislatures can remove a local law enforcement official

The Pennsylvania Supreme Court will hear arguments about the constitutionality of articles of impeachment passed against a popular progressive Philadelphia district attorney by Republican members of the state's House of Representatives, alleging that his reform-minded policies amounted to "misbehavior in office" and attempting to remove him from the position.



Ohio Supreme Court sets date to hear arguments in challenge to 'heartbeat' abortion ban case

The Ohio Supreme Court will hear a challenge to an appeals court's ruling that upheld a stay on the state's restrictive abortion ban. The law was prevented from taking effect when a lower court judge issued the indefinite stay in a suit brought in the common pleas court. The Supreme Court will also consider whether reproductive rights groups had standing to file that suit.



Colorado Supreme Court to hear criminal appeals on racial bias, 'Make My Day' defense

The Colorado Supreme Court has agreed to hear arguments in four separate criminal cases that will resolve questions involving racial bias in jury selection, the definition of a familial association, the extent to which state law allows deadly force against home intruders, and the proper procedure in post-conviction petitions for ineffective assistance of counsel.



[OAG files appeal to Texas Supreme Court, blocking judge's injunction in lawsuit over exceptions to state abortion laws](#)

The Texas Attorney General filed an appeal to the Texas Supreme Court that keeps the state's restrictive abortion ban in effect after a district court judge issued a temporary injunction to the law. The injunction was issued due to the vagueness of the law's exceptions in a suit brought by five women who were denied abortions despite having pregnancy complications.

[Michigan Supreme Court Takes Case Involving Minimum Wage](#)

The Michigan Supreme Court will hear a case alleging that the state legislature violated Michigan's constitution when it adopted and then subsequently significantly weakened a 2018 citizen-initiated constitutional amendment that would raise the minimum wage and peg it to annual inflation adjustments and would eventually eliminate the state's tipped wage system.

[Measure J, L.A. County's 2020 criminal justice reform measure, is constitutional, appellate court finds](#)

A California appeals court ruled that a Los Angeles County criminal justice reform initiative is constitutional, reversing a 2021 superior court ruling that struck down the initiative, which requires a portion of county funds to be spent on social services. The opposition group that brought the suit is considering whether to appeal the ruling to the California Supreme Court.

SIGN OUR PLEDGE

Become a state courts voter today!



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