



Dear {{FirstName or 'Friend'}},

With the release of the final decisions of the U.S. Supreme Court’s latest term comes a stark reminder of the vital role that state courts play in protecting our rights and checking the power of other branches of state government.

This past term, the U.S. Supreme Court heard [Moore v. Harper](#), a troubling case brought by North Carolina’s Republican state lawmakers, who argued that the state’s supreme court lacked authority to check the state legislature on issues relating to federal elections—a concept referred to as the “independent state legislature theory.” Many court watchers worried that a ruling in favor of the plaintiffs would upend efforts to protect election integrity.

Fortunately, the Court [rejected](#) the independent state legislature theory, allowing state courts to remain a critical check on efforts to undermine elections. But in North Carolina, these efforts were not totally stymied by the decision in *Moore v. Harper*. Republicans secured a 5-2 majority on the North Carolina Supreme Court in the 2022 election, and quickly used their new power to overturn multiple important recent decisions by the court that had protected and expanded voting rights in the state. You can learn more about the troubling actions of the new North Carolina Supreme Court majority [here](#).

Those who seek to undermine our elections recognize the vital role that state courts play in protecting election integrity, and we must continue working to ensure that our state courts remain free from influences that would undermine the power of our votes and the security of our elections.



CURRENT VACANCIES & ELECTION UPDATES



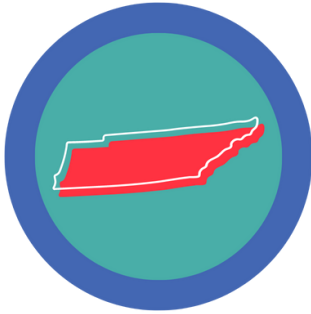
AFJ Action Closely Watching State High Court Vacancies

There are several current or upcoming vacancies on high courts in states that empower the governor to fill court openings. [Massachusetts Supreme Judicial Court](#) Justice Elspeth Cypher has announced that she will step down in early 2024, giving Gov. Maura Healey her first opportunity to appoint a new justice to that state's highest court.

In Connecticut, Gov. Lamont must announce a new nominee following the failed confirmation of his first nominee, Sandra Slack Glover, to fill a vacancy on the [Connecticut Supreme Court](#). Oregon Gov. Tina Kotek's office has released a list of candidates she will choose from to fill the vacancy on the [Oregon Supreme Court](#). And [Minnesota Supreme Court](#) Chief Justice Lorie Gildea has announced that she will retire early next year, with Gov. Tim Walz set to appoint her replacement.

There are also a number of vacancies in states that use nominating commissions to fill openings on their highest courts. The Hawaii Judicial Selection Commission has released a list of candidates under consideration to fill two vacancies on the [Hawaii Supreme Court](#) created by the retirements of Justices Michael D. Wilson and Paula Nakayama, and Hawaii Gov. Josh Green will choose their replacements from that list. [Missouri Supreme Court](#) Justices George Draper and Patricia Breckenridge are stepping down as both near the age of mandatory retirement. The state's Appellate Judicial Commission has invited interested candidates to submit their applications for consideration, and Gov. Mike Parson will select the new justices. [Idaho Supreme Court](#) Justice John R. Stegner will also retire in October, and Gov. Brad Little will choose his replacement from a list of applicants provided by the Idaho Judicial Council.

Finally, the [District of Columbia Court of Appeals](#), the court of last resort for Washington, D.C., still has a vacancy from 2013 that is contributing to the case backlog issue plaguing the D.C. court system. Due to the Home Rule Act, D.C. judges must be nominated by the President and confirmed by the U.S. Senate, a selection process that is contributing to the challenges associated with filling vacancies in that court system.



Lee Nominee to Assume Seat on Tennessee Supreme Court

In February 2023, Republican Tennessee Gov. Bill Lee announced that he would nominate Dwight E. Tarwater to fill an upcoming vacancy on the Tennessee Supreme Court created by the retirement of Justice Sharon Lee (no relation to the governor).

Tarwater's nomination was confirmed by the Tennessee General Assembly in April. Tarwater is a founding partner at a litigation firm and served as Chief Legal Counsel in the administration of Republican Tennessee Gov. Bill Haslam. His term on the state's highest court will begin on September 1, 2023, and he will appear on the 2024 general election ballot as a candidate for retention.

Outgoing Justice Sharon Lee is a former chief justice of the state's highest court, and has been a champion for access to justice, indigent representation, and judicial transparency during her time on the bench. She was seen as a lone progressive voice on a bench that has become increasingly conservative in recent years. With her seat being filled by Justice-designate Tarwater, the five-member Tennessee Supreme Court will complete its rightward shift and will comprise five justices appointed by Republican governors who possess strikingly similar personal and professional backgrounds.

CASES IN
THE **COURTS**

Labor & Employment



California

Adolph v. Uber Technologies, Inc.

The California Supreme Court unanimously ruled that Uber violated California labor law by attempting to prevent its drivers from pursuing relief in court against the company for labor law violations, regardless of whether drivers had previously agreed to bring such claims only in private arbitration.

Democracy/Election Integrity



Georgia

Trump v. Willis et al.

The Georgia Supreme Court unanimously dismissed former President Trump's emergency motion to stop Fulton County District Attorney Fani Willis' investigation into Trump's efforts to overturn the 2020 election, ruling that Trump is not entitled to relief while the matter is before the Fulton County Superior Court.

Access to Justice/Public Health



California

California Medical Association v. Aetna Health of California Inc.

The California Supreme Court unanimously overturned a lower court ruling that the California Medical Association (CMA) lacked standing to sue Aetna for its policy of firing or threatening to fire physicians who referred patients to out-of-network providers, allowing the CMA's lawsuit challenging Aetna's policy to proceed.

Criminal Justice



Illinois
Rowe v. Raoul

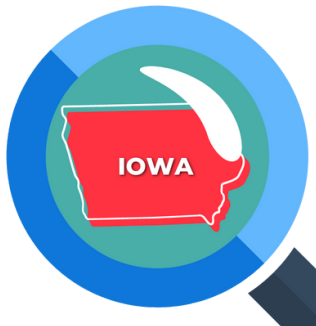
In a 5-2 ruling, the Illinois Supreme Court allowed a new law eliminating the state's cash bail system to go into effect, ending cash bail as a condition of pretrial release in the state. The decision overturned a lower court ruling that had found the law to be in violation of the state's constitution.

Voting Rights & Democracy



Missouri
State ex rel. Fitz-James v. Bailey

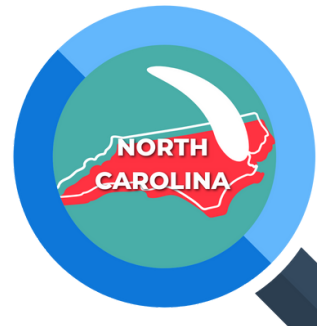
In a unanimous en banc opinion, the Missouri Supreme Court ordered Attorney General Andrew Bailey to comply with a lower court order to certify language for a ballot initiative that would amend the constitution to restore abortion rights in the state, the first in the nation to outlaw abortion after the U.S. Supreme Court's Dobbs decision triggered a near total statewide ban.



Abortion in Iowa is legal again for the moment after a judge blocks new restrictions



Court sides with Amish families in case that pits septic tank rules against religious beliefs



NC Supreme Court could blunt local government efforts to block charter schools

A judge in Iowa temporarily blocked the state's new law banning most abortions after six weeks' gestation, allowing abortions to remain legal up to 20 weeks' gestation as the courts determine whether the new ban is constitutional. The case will likely be decided by the Iowa Supreme Court.

The Minnesota Court of Appeals ordered Fillmore County public health officials to cease threatening members of an Amish community with the loss of their homes for failing to comply with the county's orders to install septic systems to dispose of gray water. Lawyers for the county are considering appealing the case to the Minnesota Supreme Court.

The North Carolina Supreme Court agreed to hear a case brought by a charter school development company against the town of Wake Forest, which had blocked the company's plans for a charter school due to a lack of pedestrian and bicycle connectivity to surrounding neighborhoods.



[New study analyzes NC Supreme Court's rulings in favor of workers, corporations](#)

A new report from People's Parity Project Action warns that past rulings by the North Carolina Supreme Court favoring workers and consumer protections may be in jeopardy following the court's recent shift to the right. You can read the report [here](#).



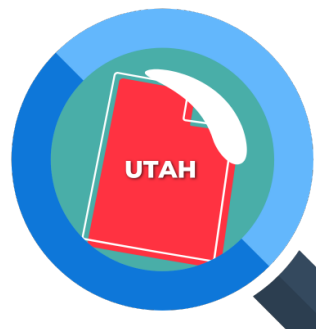
[Pa. Supreme Court to consider insurance coverage for COVID-19 business losses](#)

The Pennsylvania Supreme Court has agreed to hear appeals from Superior Court decisions to determine whether two businesses' insurance companies must cover some of the financial losses they incurred while ordered to shut down during the pandemic.



[Texas Supreme Court to hear case from sanctioned judge who refused same-sex weddings](#)

The Texas Supreme Court agreed to hear a case brought by a state judge against the state's judicial conduct commission, which had sanctioned the judge for casting doubt on her own ability to act with impartiality after she refused to officiate same-sex weddings due to her religious beliefs.



[Utah Supreme Court asks for more arguments in](#)

[lawsuit over redistricting maps](#)

The Utah Supreme Court is considering the validity of the state's congressional district maps as part of a lawsuit challenging the legislature's amendments to a 2018 ballot initiative that gave redistricting power to an independent commission.

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