

Judicial Selection in Texas

Mark P. Jones

James A. Baker III Institute for Public Policy

Rice University

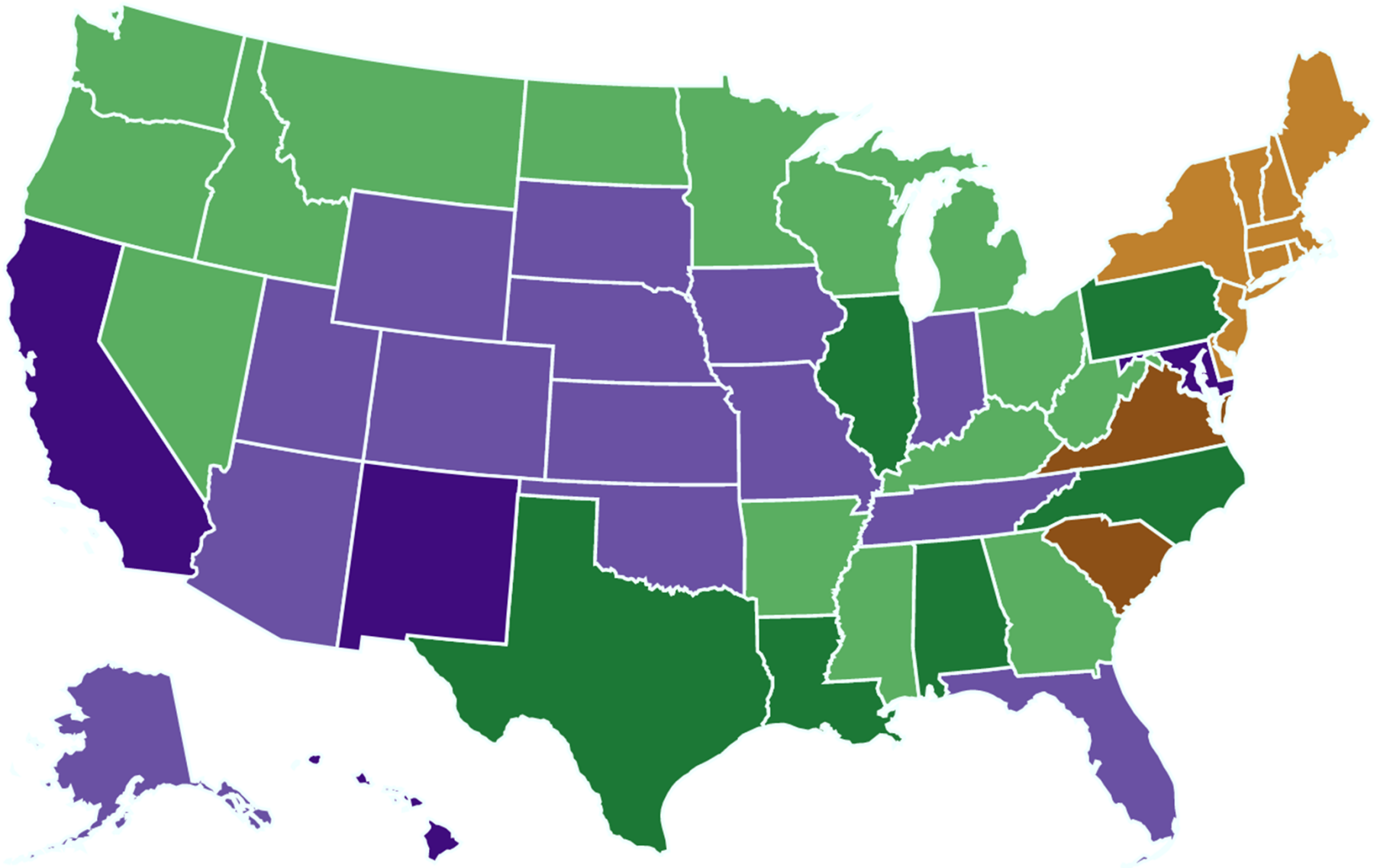
Methods of Judicial Selection

- **Most Common Methods (~4/5)**
 - Non-Partisan Elections
 - Merit/Retention (Missouri Plan)
 - Gubernatorial Appointment
- **Least Common Methods (~1/5)**
 - Partisan Elections
 - Legislative Appointment
 - Hybrid

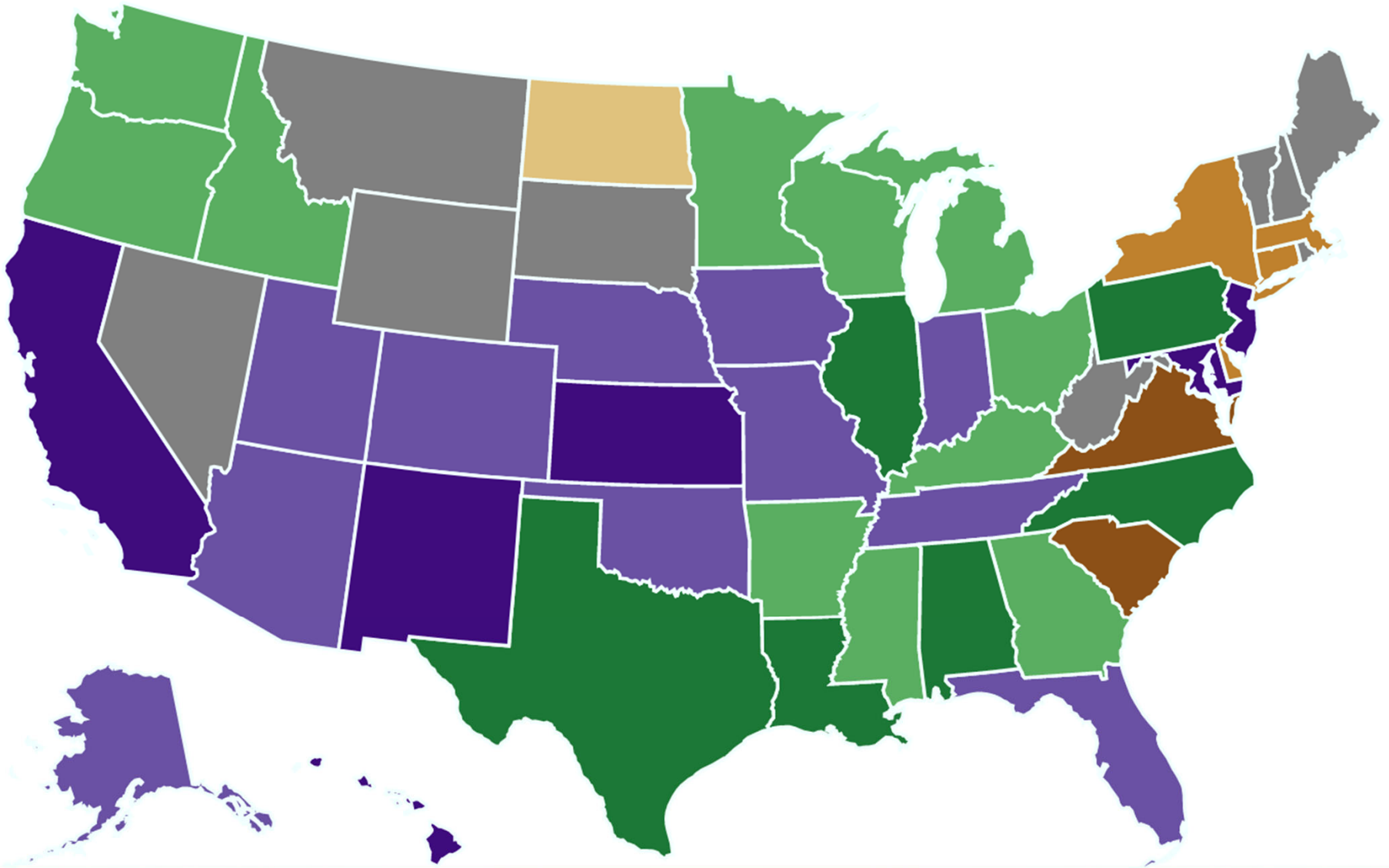
Texas Judicial Elections

- Supreme Court/Court of Criminal Appeals: 18
- Courts of Appeals (14: 80 Justices)
- District Courts (478)
- County-Level Courts (522)
 - Constitutional (254)
 - Statutory (250)
 - Probate (18)
- Justice Courts (802)
- Municipal Courts (945: 1,316)

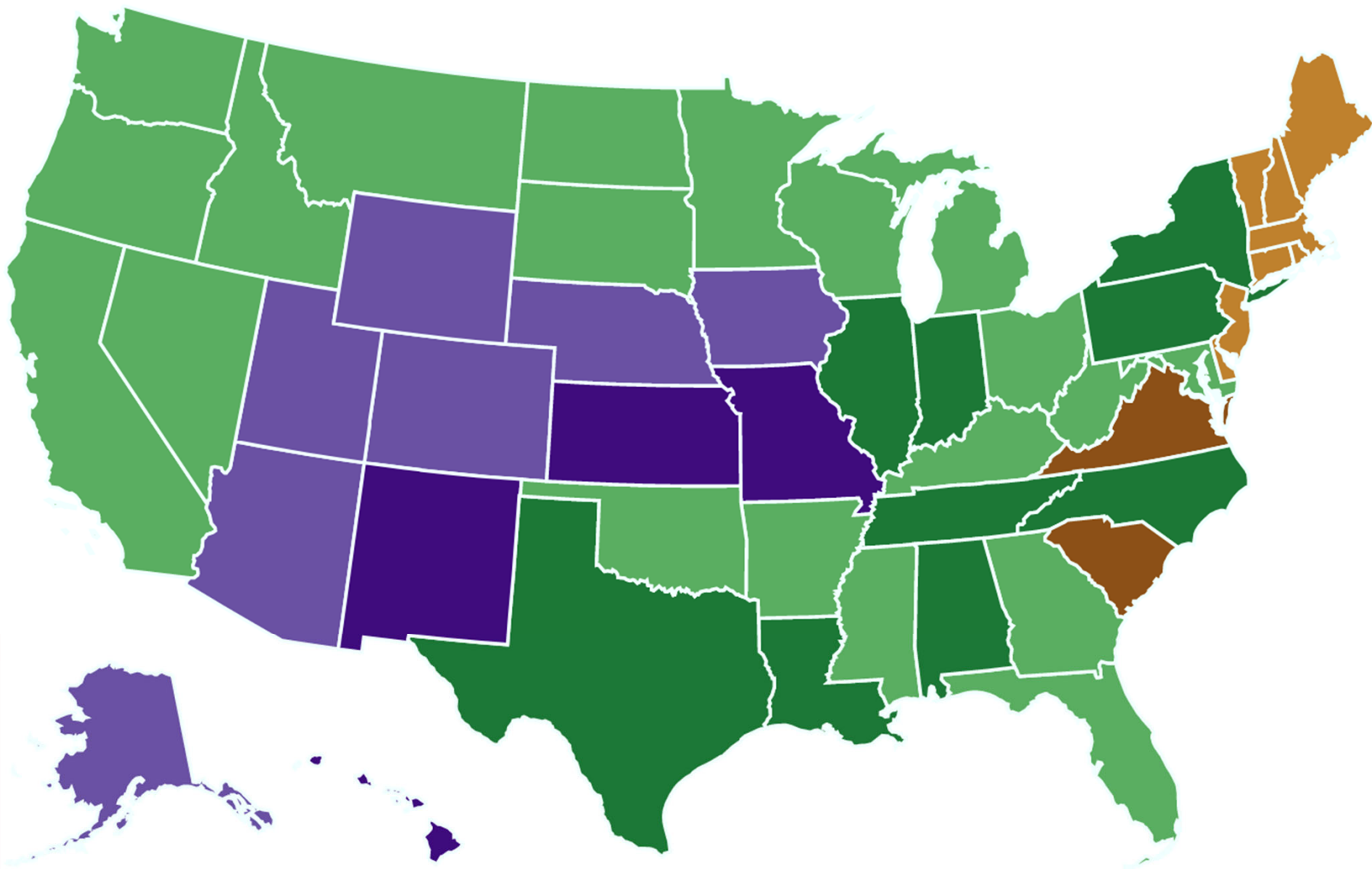
State Supreme Court



Intermediate Appellate Courts ▾



Trial Courts



Current Texas System

Advantages

- Voice for voters
- Greater Judicial independence
- Party Label Information (v. Non-Partisan)
- Reduces role of \$\$ (v. Non-Partisan)

Disadvantages

- Responsibility placed in hands of voters who know little to nothing about candidates
- Greater role of money & politics in Judicial Selection (v. Merit/Appointment)
- Politicizes judiciary

Non-Partisan Elections

Advantages

- Voice for Voters
- Less Control by Governor/Legislature over Judiciary (v. Merit/Appointment)
- Reduces role of partisanship in Judicial Selection (v. Partisan)

Disadvantages

- Responsibility placed in hands of voters who know little to nothing about candidates
- Greater role of money & politics in Judicial Selection (v. Merit/Appointment & Partisan)
- Remove information for voters provided by party (v. Partisan)
- Higher roll off (v. Partisan)

Gubernatorial Appointment

(From Nominating Commission or Via Senate)

Advantages

- More qualified judges
- Less likely to be swayed by public opinion (vs. Elected)
- Reduces role of money in judicial selection

Disadvantages

- No voice for voters
- Opaque process
- Politics still involved, cronyism
- Judges may be less willing to contradict Governor

Missouri/Merit Plan

Advantages

- More qualified judges
- Less likely to be swayed by public opinion (vs. Partisan/Non-Partisan Election)
- Reduces role of money in judicial selection
- Provides voice for voters
- Bolsters Judicial independence (vs. Appointment).

Disadvantages

- No initial voter voice
- Opaque process
- Politics still involved, cronyism
- Judges may be less willing to contradict Governor (v. Partisan/Non-Partisan Election)
- High roll off in retention elections (v. Partisan Election & Non-Partisan Election)

2020 Election: What to Watch

- Level of Roll Off
 - Increase (from 2-3%), but how much?
 - Statewide
 - Appeals Courts
 - District/County Courts
 - In Bexar, Dallas, Harris, Tarrant, Travis
 - In other counties
- Variance Among the Parties' Candidates
 - Increase, but how much?
 - Name ID
 - Gender, Race/Ethnicity cues via Name