

Amendment D: New 23rd Judicial District Judges

Placed on the ballot by the legislature • Passes with 55 percent of the vote

1 **Amendment D proposes amending the Colorado Constitution to:**

- 2 • require the Governor to reassign judges from the existing 18th Judicial District
3 to the new 23rd Judicial District on a one-time basis.

4 **What Your Vote Means**

YES

5 A “yes” vote on
6 Amendment D directs the
7 Governor to reassign
8 judges from the existing 18th Judicial
9 District to the new 23rd Judicial District
10 by November 30, 2024.

NO

A “no” vote on Amendment D means that there could be uncertainty in Colorado law about assignment of judges in the new 23rd Judicial District and that continuity of court functions could be disrupted.

1 **Summary and Analysis for Amendment D**

2 In 2020, the state legislature passed a law to create the 23rd Judicial District out of the
3 existing 18th Judicial District. The law specified that judges who currently live within the
4 new district boundaries will be reassigned to the new district. Amendment D addresses
5 this same judicial transfer by adding constitutional provisions for the seating of 23rd
6 district judges and ensures court services continue without interruption or uncertainty.
7 Specifically, Amendment D amends the state constitution to require the Governor to
8 reassign judges from the 18th Judicial District to the newly formed 23rd Judicial District.

9 **What is the difference between the Colorado Constitution and state statutes?**

10 The Colorado Constitution is the highest legal authority in the state, establishes
11 government duties and functions, and tends to be broad in scope. It can only be
12 changed if approved by a statewide vote. The state legislature has the authority to enact
13 statutes that impact many aspects of daily life and are generally more detailed and
14 specific. State statutes must not violate the state constitution.

15 **What are judicial districts?**

16 Under the state constitution, the state is divided into judicial districts consisting of one or
17 more counties. District courts in these judicial districts hear both civil and criminal court
18 cases, including felony criminal cases, family law matters, settling of wills after death,
19 and behavioral health cases. The state legislature may change the boundaries of a
20 judicial district, or increase or reduce the number of judicial districts.

21 There have been 22 judicial districts in Colorado since 1964. In 2020, the state
22 legislature created a new 23rd Judicial District out of the existing 18th Judicial District.
23 Beginning in 2025, the 18th Judicial District will consist of Arapahoe County, and the
24 23rd will include Douglas, Elbert, and Lincoln Counties.

25 **How are judges selected in Colorado?**

26 The constitution requires judges to be nominated by a judicial nominating commission
27 and then appointed by the Governor. Thereafter, judges must periodically go before
28 voters in retention elections if they wish to serve additional terms. Reassigning judges
29 from one district to another is not covered in this process.

30 **What happens if Amendment D passes?**

31 Amendment D directs the Governor to reassign judges from the 18th Judicial District to
32 the newly created 23rd Judicial District. Reassigned judges must live in the new 23rd
33 Judicial District, and may run in retention elections to serve additional terms in the new
34 district once their initial terms are complete.

35 **What happens if Amendment D fails?**

36 If Amendment D fails, it is uncertain how the transition of judges to the new district will
37 be resolved. The constitution provides that judicial vacancies are filled by a Governor's
38 appointment through the nominating process, regardless of how the vacancy occurred.
39 Casework and court proceedings in the new 23rd Judicial District also may be
40 reassigned as determined by the Judicial Department.

For information on those issue committees that support or oppose the measures on the ballot at the November 8, 2022, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

1 **Argument For Amendment D**

2 1) Amendment D establishes a smooth transition for the new judicial district and helps
3 avoid the cost of potential litigation. Because it is unclear if current state law will
4 ensure the proper seating of judges in the new district, the amendment provides a
5 definitive legal mechanism for the transition. This will prevent the invalidation of
6 rulings resulting from allegations of improper seating of judges, as well as offset
7 costs and address other logistical concerns. Requiring the Governor to assign
8 judges to the new district in a timely and efficient way also prevents disruptions and
9 delays in casework and court proceedings.

10 **Argument Against Amendment D**

11 1) Amendment D is not the only way to assign judges to the 23rd Judicial District. The
12 constitution and state statute allow for judges to be appointed through a vacancy
13 process or to serve in other districts under certain circumstances.

14 **Fiscal Impact for Amendment D**

15 Amendment D will increase workload in the Governor's office to reassign judges to the
16 new 23rd Judicial District. In addition, by resolving the constitutionality of seating judges
17 in the new 23rd district in advance, the state may avoid potential costs for litigation in the
18 courts to determine how the judges should be assigned.