



Judicial Independence

Its Meaning | Its Threats | Its Protections

THE CONSTITUTIONAL FOUNDATION

Judicial Independence Is Rooted in Our Constitution



SEPARATION OF POWERS

Protects liberty by dividing government power.



ARTICLE III

Judges hold office during good behavior and compensation shall not be diminished.



MARBURY v. MADISON (1803)

Courts have the authority to "say what the law is."

“ The complete independence of the courts of justice is peculiarly essential in a limited constitutional democracy. ”

– Alexander Hamilton, Federalist No. 78



Constitutional Foundation

- *“There is no liberty, if the power of judging be not separated from the legislative and executive powers.”* - Baron de Montesquieu



What does Judicial Independence Mean?

- Separation of powers protects liberty
- Judges must decide cases free from political pressure
- Article III protects tenure and compensation
- Courts exist to interpret the law – not public opinion
- *Marbury v. Madison* (1803)

TIMELINE OF JUDICIAL INDEPENDENCE

Key Milestones in the Protection of an Independent Judiciary

1787



Protecting Tenure and Compensation

Article III of the U.S. Constitution guarantees that judges cannot be removed and that their compensation cannot be reduced as retaliation.

1803



Marbury v. Madison

Supreme Court asserts judicial review and affirms the role of courts to “say what the law is.”

1880



Ex parte Virginia

Supreme Court strikes down legislative attempt to remove a judge from a case.

1972



ABA Model Code of Judicial Conduct

Ethical standards reinforce impartiality and independence in decision-making.

Today



Ongoing Vigilance

Judicial independence requires constant protection from political pressure, threats, and misinformation.



SOURCES

1. U.S. Constitution, Article III, §§ 1–2.
https://constitution.congress.gov/browse/essay/artIII-S1-10-2-3/ALDE_00000686/
2. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).
<https://www.oyez.org/cases/1790-1850/5us1>
3. *Ex parte Virginia*, 100 U.S. 339 (1880).
<https://supreme.justia.com/cases/federal/us/100/339/>
4. ABA Model Code of Judicial Conduct (Adopted 1972).
https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/
5. Federal Judicial Center. “Judicial Independence Matters.”
<https://www.fjc.gov/history/independence>

TWO DIMENSIONS OF JUDICIAL INDEPENDENCE





INSTITUTIONAL INDEPENDENCE

The structural autonomy of the judicial branch

-  Jurisdiction
-  Funding
-  Court Structure
-  Tenure
-  Court Composition

DECISIONAL INDEPENDENCE

The freedom of an individual judge

-  Decide cases based on law and facts
-  Free from external pressure or coercion
-  Impartiality and ethics
-  Recusal and fairness

BOTH ARE NECESSARY. BOTH MUST BE PROTECTED.



Judicial Independence is Not Unlimited

- Judges remain bound by ethics
- Canons require impartiality and integrity
- Restrictions on political activity
- Limits on public response
- Obligation to avoid appearance of impropriety

JUDICIAL INDEPENDENCE IS NOT...



- ✘ Immunity from criticism
- ✘ Freedom from ethics rules
- ✘ Protection from accountability
- ✘ Authority to ignore the law
- ✘ Partisan loyalty

*Independence exists to protect impartial decision-making,
not to benefit judges.*



Why Judicial Independence Matters

Judicial independence protects everyone!

- Fair process for everyone
- Rights are protected
- Public trust in courts

Without independent courts. . .

- rights depend on politics
- unpopular litigants lose protection
- constitutional limits weaken
- public trust erodes

MODERN THREATS TO JUDGES



PHYSICAL THREATS

Judges and their families face increasing threats and intimidation.



DOXXING

Personal information is published online to harass, intimidate, and endanger.



ONLINE MISINFORMATION

False narratives and distorted information undermine public trust in the courts.



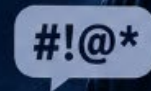
CALLS FOR IMPEACHMENT OVER RULINGS

Judicial decisions are attacked and politicized, threatening judicial independence.



SOCIAL MEDIA PRESSURE

Relentless campaigns, harassment, and pressure to influence judicial decisions.



THREATS TO FEDERAL JUDGES REMAIN ELEVATED.

FY2024

(Oct. 1, 2023 – Sept. 30, 2024)

509

THREATS TO FEDERAL JUDGES

FY2025

(Oct. 1, 2024 – Sept. 30, 2025)

564

THREATS TO FEDERAL JUDGES



Source: U.S. Marshals Service – Protective Investigations
Judicial Threats Statistics (Updated October 2025)

<https://www.usmarshals.gov/what-we-do/judicial-security/protective-investigations-threat-statistics>

Judicial independence depends on the safety and security of those who serve in our courts.



TEXAS

Structural Changes Affecting Judicial Autonomy and Judicial Discretion

- Texas Business Courts
- 15th Court of Appeals
- Legislative restructuring of jurisdiction
- Bail reform constraints
- Judicial compensation linked to reporting
- Changes to judicial qualifications
- Administrative oversight expansion

RECENT STRUCTURAL CHANGES IN TEXAS

Examples of Developments Raising Concerns About Judicial Independence



BUSINESS COURTS

Creation of specialized courts with expanded jurisdiction.



15TH COURT OF APPEALS

New intermediate appellate court created by legislation.



EXPANDED REPORTING REQUIREMENTS

Increased reporting mandates imposed on the judiciary.



BAIL REFORM LEGISLATION

Limits on judicial discretion in bail decisions.



CHANGES AFFECTING JURISDICTION & DISCRETION

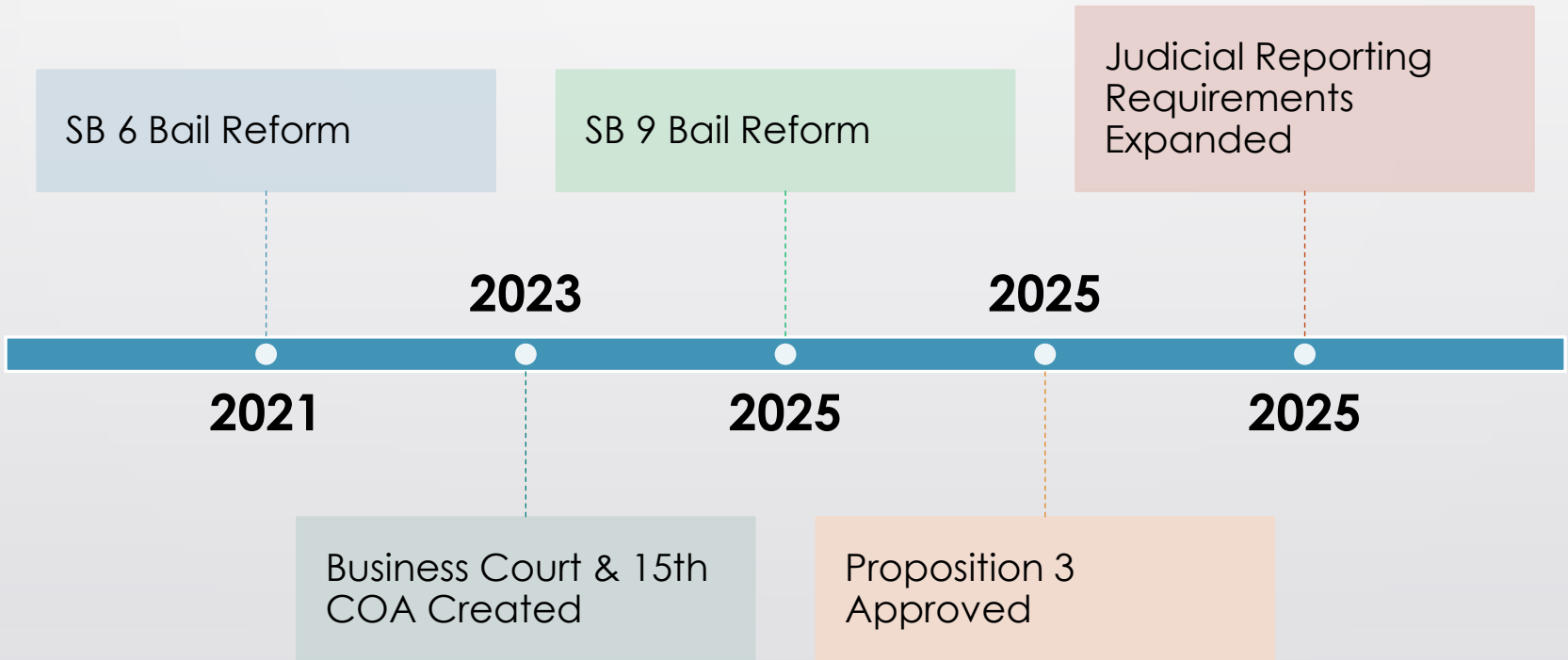
Legislation affecting court authority and case assignments.



These developments raise important discussions regarding judicial autonomy, court structure, and separation of powers.



Texas Judicial Independence Timeline



JUDICIAL INDEPENDENCE: KEY STATISTICS

NATIONAL PERSPECTIVE



509

Threats against federal judges in Fiscal Year 2024, a 3% decrease from 2023 (630 threats).

Source: U.S. Marshals Service – Judicial Threats Statistics, 2024¹



75%

of Americans say it is “very important” that courts are independent from political influence.

Source: Pew Research Center, 2024²



62%

of Americans say judges should be able to make decisions based on the law, even if those decisions are unpopular.

Source: American Bar Association, 2023 Survey of Likely Voters³

TEXAS PERSPECTIVE



100%

of Texas trial court judges are elected.

Source: Texas Office of Court Administration, 2024⁴



60%

of Texans believe electing judges makes them less independent.

Source: University of Houston Hobby School of Public Affairs, Texas Politics Project Poll, February 2024⁵



51%

of Texans are concerned about the influence of campaign contributions and fundraising on judicial decisions.

Source: University of Texas / Texas Tribune Poll, May 2023⁶



An independent judiciary is essential to protect rights, ensure fairness, and maintain public trust in the rule of law.

SOURCES

1. U.S. Marshals Service, Judicial Threats Statistics, FY2024. (Published March 2025)
<https://www.usmarshals.gov/what-we-do/judicial-security/protective-investigations/threat-statistics>
2. Pew Research Center, Americans' Confidence in Courts Remains Stable. (April 16, 2024)
<https://www.pewresearch.org/short-reads/2024/04/16/americans-confidence-in-courts-remains-stable/>
3. American Bar Association, 2023 Survey of Likely Voters. (July 2023)
https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/2023_survey_of_likely_voters.authcheckdam.pdf
4. Texas Office of Court Administration, Texas Judicial System – Trial Courts. (Accessed May 2024)
<https://www.txcourts.gov/about-texas-courts/texas-judicial-system/>
5. University of Houston Hobby School of Public Affairs, Texas Politics Project Poll. (February 2024)
<https://uh.edu/hobby/tpp/>
6. University of Texas / Texas Tribune Poll, May 2023.
<https://texastribune.org/2023/05/24/texas-tribune-poll-texans-judge-elections/>



Texas Judicial Elections and Public Trust

- • Judges run in partisan elections
- • Campaign fundraising
- • Greater public visibility
- • Potential perception of political influence

TEXAS JUDICIAL ELECTIONS AND PUBLIC TRUST



Judges run in partisan elections.

All Texas trial court judges are elected in partisan elections.



Campaign fundraising is common.

Judicial candidates may raise and spend money to campaign for office.



Judges are more publicly visible.

Candidates must campaign, which increases public attention and visibility.



May create a perception of political influence.

Campaigning and fundraising may create a perception—even if unfounded—that politics can influence judges.



Public confidence depends on the perception—and reality—that judges decide cases based on law and facts, not politics.

RESOURCES

- 1 Texas Ethics Commission**
Judicial Campaign Fairness Act Guidelines
(Revised January 2024)
<https://www.ethics.state.tx.us/data/resources/guidelines/jcfaqguidelines.pdf>
- 2 Texas Ethics Commission**
Campaign Finance Guide for Judicial Candidates and Officeholders
(Revised January 2024)
<https://www.ethics.state.tx.us/data/resources/guide/judicial.pdf>
- 3 Texas Commission on Judicial Selection**
Final Report and Recommendations
(December 2020)
<https://www.txcourts.gov/media/1451457/final-report-2020.pdf>
- 4 The Texas Tribune**
Texas partisan judicial elections unlikely to change
(September 16, 2020)
<https://www.texastribune.org/2020/09/16/texas-judicial-elections-partisan/>



Why Courts Are Vulnerable

- Judges cannot publicly defend rulings
- Judges can only speak through opinions
- Courts do not campaign for approval or justification
- Social media amplifies misinformation
- Public misunderstanding weakens trust



Protecting Judicial Independence – JUDGES

- Maintain integrity
- Exercise courage
- Educate the public



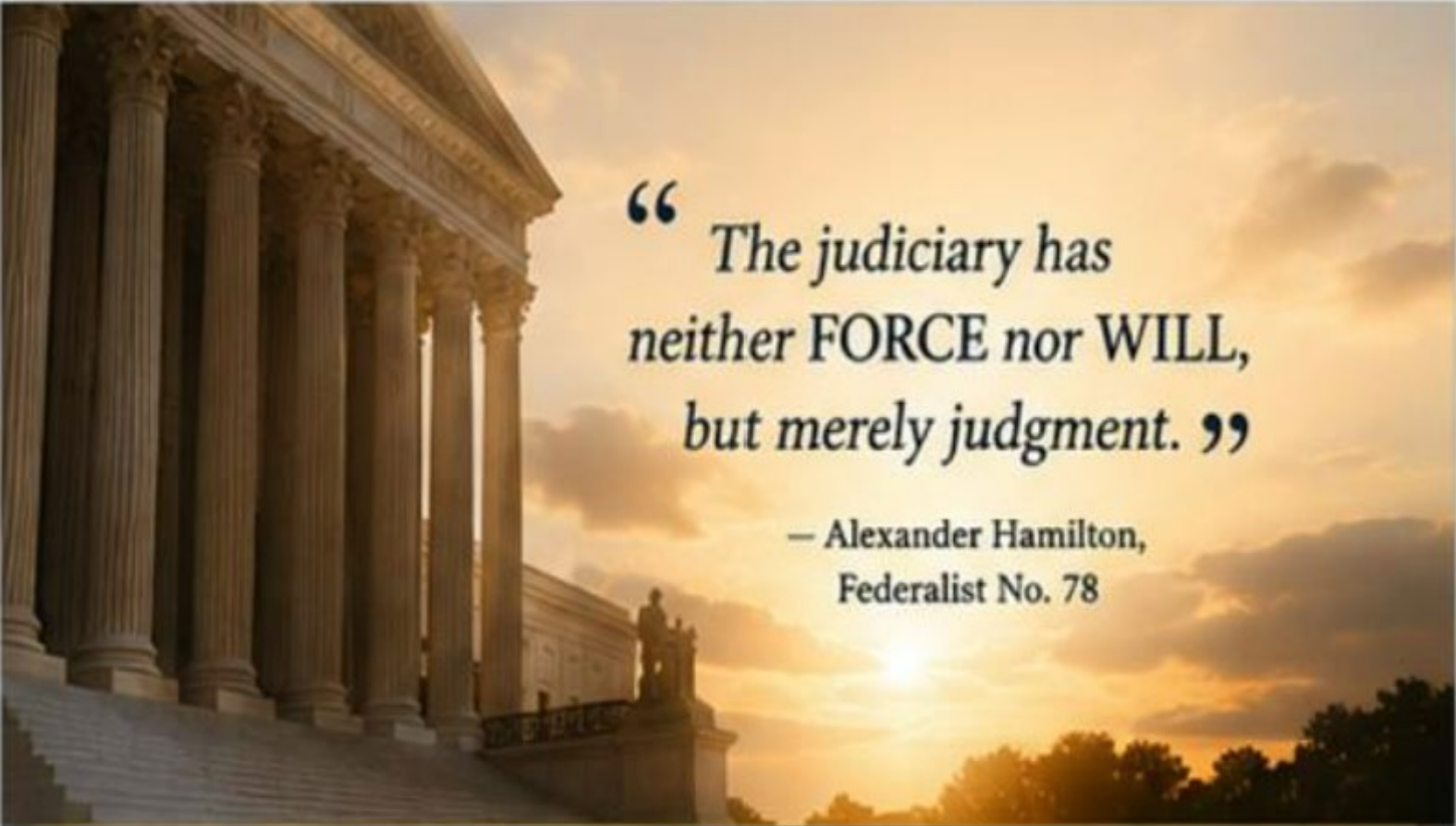
Protecting Judicial Independence – LAWYERS

- Defend the rule of law
- Correct misinformation
- Oppose intimidation
- Write op-ed pieces



Protecting Judicial Independence – PUBLIC

- Support impartial courts
- Understand constitutional structure
- Reject political coercion of judges
- Observe court proceedings
- Volunteer to promote the judicial system



“ The judiciary has
neither FORCE nor WILL,
but merely judgment. ”

— Alexander Hamilton,
Federalist No. 78



Judicial independence exists not to benefit judges,
but to promote the rule of law and protect our democracy.