



# New 23<sup>rd</sup> Judicial District Judges

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

## Amendment D proposes amending the Colorado Constitution to:

- require the Governor to reassign judges from the existing 18<sup>th</sup> Judicial District to the new 23<sup>rd</sup> Judicial District on a one-time basis.

## What Your Vote Means

**YES** A “yes” vote on Amendment D directs the Governor to reassign judges from the existing 18<sup>th</sup> Judicial District to the new 23<sup>rd</sup> Judicial District 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 23<sup>rd</sup> Judicial District and that continuity of court functions could be disrupted.

## Summary and Analysis for Amendment D

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

### What is the difference between the Colorado Constitution and state statutes?

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

### What are judicial districts?

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

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

### How are judges selected in Colorado?

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

### What happens if Amendment D passes?

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

### What happens if Amendment D fails?

If Amendment D fails, it is uncertain how the transition of judges to the new district will be resolved. The constitution provides that judicial vacancies are filled by a Governor’s appointment through the nominating process, regardless of

how the vacancy occurred. Casework and court proceedings in the new 23<sup>rd</sup> Judicial District also may be 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:*

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

### **Argument For Amendment D**

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

### **Argument Against Amendment D**

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

### **Fiscal Impact for Amendment D**

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