# Transcript

**Archival:** [00:00:01] After careful reflection, I am proud to nominate for associate justice of the Supreme Court, Judge Ruth Bader Ginsburg of the United States Court of Appeals for [00:00:10] the District of Columbia.

[00:00:11] Also, a contest of voters in Brooklyn will be weighing in on a very important one. It's for Surrogate's Court. The June 9th election serves as the general election for candidates for West [00:00:20] Virginia Supreme Court of Appeals and inspiring woman who I believe will make a great justice, Judge Sonia Sotomayor of New York.

**Hannah McCarthy:** [00:00:35] You're [00:00:30] listening to Civics 101, I'm Hannah McCarthy.

**Nick Capodice:** [00:00:38] I'm Nick Capodice.

**Hannah McCarthy:** [00:00:39] Today, we are looking [00:00:40] into the very different ways that a justice gets on the bench at the state and federal level in the United States appointment and election.

**Amy Steigerwalt:** [00:00:48] Article III judges [00:00:50] follow the same process that other top officials do in the United States government.

[00:00:56] They are nominated by the president, by and with the advice [00:01:00] and consent of the Senate.

**Hannah McCarthy:** [00:01:01] This is Amy Steigerwalt, professor of political science at Georgia State University. She's been walking us through the judiciary lately.

**Nick Capodice:** [00:01:08] And when Amy says Article [00:01:10] III judges, we're talking about Article III of the Constitution. That's the article that says there shall be a Supreme Court. Congress can also make inferior courts and justices hold [00:01:20] office during good behavior, which is indefinitely in Congress has indeed established inferior federal courts.

**Hannah McCarthy:** [00:01:26] In the U.S. there are courts of appeals district courts [00:01:30] and there's a court of international trade. All told, there are currently in twenty, twenty eight hundred and seventy Article III judgeships. When someone [00:01:40] dies or retires, the president gets to appoint someone to fill that seat.

**Amy Steigerwalt:** [00:01:44] And the Senate confirms and the reason why they were given that they use this appointment process as well [00:01:50] as in this part of super important life tenure, that they serve for good behavior, cannot be removed from office involuntarily [00:02:00] except through either impeachment or death.

**Nick Capodice:** [00:02:03] I know the idea here is to have judicial independence, to have justices who won't be swayed by politics over the course of their career because [00:02:10] they don't have to appeal to the political landscape, like they don't have to prove themselves to parties or a voter. But you mentioned elections. So are there some judges in the country who have [00:02:20] to campaign?

**Hannah McCarthy:** [00:02:21] Yeah, starting in the 60s, 70s and 80s, states began to consider judicial elections in large part because they felt like there was simply no check on the justices [00:02:30] that had been appointed, that they were too disconnected from the people.

[00:02:34] There was no accountability.

[00:02:36] There was no ability to say you are doing a bad job [00:02:40] and therefore we want to get you out of office.

[00:02:43] And plenty of states have some form of judicial appointment for state courts, whether it's the governor appointing or a commission [00:02:50] or some combination of both, but plenty. Others hold traditional elections.

[00:02:55] There are states that just have competitive [00:03:00] judicial elections for their judges.

[00:03:03] Sometimes those are nonpartisan elections and sometimes they're partisan.

[00:03:08] There's also a special kind of election [00:03:10] that crops up in states that have an appointment process. This is called a retention election. A justice is appointed and then after some specified period of time, there's [00:03:20] a vote and that incumbent judge either gets to stay or is booted off.

**Nick Capodice:** [00:03:24] So with many states having elections where you vote for judges, have there been any moves to change how [00:03:30] things are done? And the Article three level?

**Amy Steigerwalt:** [00:03:32] The issue is that almost everyone agrees that it would take a constitutional amendment. And that, of course, is a really high bar. [00:03:40] And so the sort of leading advocates of changes or less about judicial elections and more about [00:03:50] either terms, sometimes it's about age limits or removal. But I would say probably the most prominent one that I've seen is actually less about switching to an election [00:04:00] system and more about putting in term limits. The people who would make the final determination on that would be, of course, the justices whose potential [00:04:10] seats would be in jeopardy.

**Hannah McCarthy:** [00:04:12] So will our federal justices ever be willing to make themselves less powerful if we ever get that far? You're at least guaranteed a Civics [00:04:20] 101 episode on it.

[00:04:21] If you have questions about government and politics, ask us by clicking the button at the top of our homepage at civics101podcast.org.