

How Do the People Get Rid of Judges They Do not Like?

By John L. Messina

People complain a lot about executive and legislative officers, who are generally elected. They complain less about judges. Still, we do hear grumblings about judicial officers now and then, especially when some are concerned about “activist” judges. I guess those judges are the ones who rule differently than the complainers think they should.

In Washington state and most states, judges are elected, so they can be voted out of office. In more extreme circumstances, they might be “recalled” before their terms are up by a vote of the people who elected them.

It’s different with federal judges. These are the judges who sit in the local federal trial courts, the courts of appeal, and the United States Supreme Court. Article 2 of the United States Constitution (Section 4) states that "The President, Vice President, and all other civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other High Crimes and Misdemeanors." The House of Representatives has the sole power of impeaching, while the United States Senate has the sole power to try all impeachments. The removal of impeached officials is automatic upon conviction in the Senate.

This means that it is no easier to remove a federal judge than the President of the United States. It has to be done by the process of impeachment. The first step in the process is that a majority of the House of Representatives must find that there is probable cause for the person to be removed from office. That is the beginning of the impeachment but not the end. After that, the Senate will hear the charges and decide if the officer is guilty. If the official is convicted by the Senate, he or she loses the office.

Impeachment is an extreme remedy and should be used only in very rare circumstances. When used, it should be based on some egregious conduct and should never be used solely for political purposes, such as the circus that resulted from the attempted impeachment of former President Bill Clinton.