



## Vermont Legislative Research Shop

### Mandatory Retirement Ages of Judges

The mandatory retirement age of judges varies throughout the U.S. A number of states have no mandated retirement ages, while others range from 70-75 years old. The debate of whether or not to lift retirement ages focuses on the removal of senile judges versus the retention of those who are experienced and knowledgeable in the field of law.

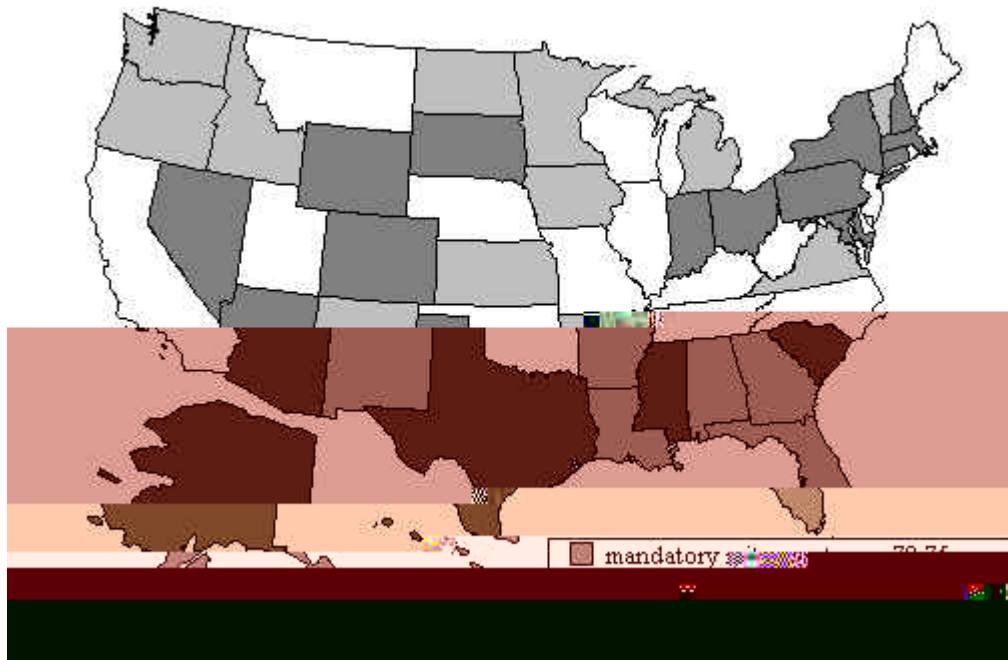
The removal of senile judges while retaining a competent judiciary is not an easy or pleasant task; therefore the states have traditionally favored mandatory retirement ages. However, improved technology, increased life expectancy, and changes in demographic trends over time have forced many state legislatures to reevaluate retirement ages (Makar, 1997).

Technological advancements that have occurred over the last several decades accompanied with the increase use of law clerks, judges are often able to reduce their work load thereby maintaining their ability to serve beyond traditionally set retirement ages. In addition, life expectancy has risen from 70.75 years in 1972 to 75.8 years in 1992. The increase longevity of the overall population may justify adjustments to mandatory retirement ages. Finally, mandatory retirement ages may unintentionally be biased towards white males due to the fact that statistically females live longer than males and whites live longer than non-whites (Makar, 1997).

On the federal level there are no mandatory retirement ages for judges; however, federal judges often voluntarily invoke the "rule of 80" which allows a 70 year old judge who has served for 10 years to accept "senior" status thereby accepting lesser caseload responsibilities (Makar, 1997).

In a number of states conditional provisions have been accompanied with mandatory retirement ages. For example, in the state of Florida appellate judges who turn 70 at the midpoint of a six-year term are allowed to serve out his or her term and retire at 73 (FLA Constitution art V, sections 8). In Ohio any voluntarily retired judge or any judge retired at 70 may be assigned, with his consent, by the Chief Justice or acting Chief Justice of the Supreme Court to active duty as a judge and while serving will receive compensation in addition to any retirement benefits to which he may be entitled (OHIO CONST. art. IV section 6). And, in Minnesota the legislature may provide for the extension of the term of any judge who becomes eligible for retirement within three years after the expansion of the term for which he is selected; a retired judge may also be assigned to hear and decide any case over which the court to which he is assigned has jurisdiction. (MINN CONST. art IV. section 9 and 10)

The following map displays the states in which no mandatory retirement exists, states in which there is a mandatory retirement age but conditional provisions, and states that have mandatory retirement ages set at 70-75 years of age.



## References

Makar, Scott D. 1997. "In Praise of Older Judges: Raise the Mandatory Retirement Age?" *Florida Bar Journal*. April 1997 v71 n4 p.48(3).

Florida Constitution, article V, section 8.

Ohio Constitution, article IV, section 6.

Minnesota Constitution, article IV, sections 9 and 10.

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