

**Amendment 40**  
**Term Limits for Supreme Court and Court of Appeals Judges**

1 **Amendment 40 proposes a change to the Colorado Constitution that:**

- 2 ♦ limits the number of terms that Colorado Supreme Court justices and Court of  
3 Appeals judges, called appellate court judges, may serve;
- 4 ♦ reduces the term of Supreme Court justices from ten years to four years, and of  
5 Court of Appeals judges from eight years to four years;
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7 leave their current position in January 2009; and
- 8 ♦ requires appellate court judges who are eligible to serve another term to appear  
9 on the November 2008 ballot for retention.

10 **Summary and Analysis**

11 ***The Supreme Court and Court of Appeals.*** The Colorado Supreme Court consists  
12 of seven justices who serve ten-year terms. The Colorado Court of Appeals consists of  
13 nineteen judges who serve eight-year terms. When a vacancy occurs on either of these  
14 courts, an appointed commission selects three nominees for consideration by the governor.  
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18 a retention election, voters vote to either keep a judge in office or to remove a judge from  
19 office. If voters choose to keep the judge in office, he or she serves an additional term  
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23 Appellate judges who are standing for retention are evaluated by a state commission on  
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1            *How does Amendment 40 change the current system?* Amendment 40 limits  
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## 7            **Arguments For**

8            1) Amendment 40 limits the number of years that a judge can influence the  
9 decisions of the state's two highest courts. By creating more turnover in office, it provides  
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11 courts. Voters have already limited the number of terms that elected officials in the  
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21            3) Judges on Colorado's two highest courts should be held accountable more  
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14           Based on current terms, at least five of seven Supreme Court justices and seven of  
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Note to Staff: Under “Arguments For,” we request that the first and third paragraphs be switched as shown, in addition to the change of text in (old) lines 20-23. Under “Arguments Against,” we request that the (old) first sentence of 3<sup>rd</sup> paragraph be moved into middle paragraph as shown—boldface type calls attention to this – in addition to the proposed new language in small caps.

Thank you – John Andrews & Kathleen LeCrone, Proponents

## **7 Arguments For**

**1) 3) TERM LIMITS ARE A CHECK AGAINST THE ABUSE OF JUDICIAL POWER, WHICH CONCERNS MANY CITIZENS TODAY. ADDITIONALLY, BY CREATING MORE TURNOVER IN OFFICE, TERM LIMITS WILL provide more opportunities for other judges to serve on the two highest courts. Voters have already limited the number of years that elected officials in the legislative and executive branches may serve; Amendment 40 applies term limits to the highest officials in the judicial branch as well.**

2) The current options available to remove a judge from office are inadequate. No Supreme Court justice or Court of Appeals judge in Colorado has ever been removed by the voters in a retention election. Further, impeachment of judges is almost never used, and there is no process to recall a judge. As a result, judges can essentially serve as long as they want up until the mandatory retirement age. Amendment 40 ensures that after an appellate judge's initial two-year term, he or she does not remain in office longer than eight more years.

3) 4) Judges on Colorado's two highest courts should be evaluated more frequently than every eight to ten years. Requiring appellate judges to stand for retention every four years allows the public to hold these judges accountable for their actions and decisions more often. All other judges in Colorado stand for retention every four to six years; Amendment 40 will make the terms of appellate judges more similar to the other courts.

## **Arguments Against**

1) Amendment 40 removes judges regardless of their skills, accomplishments, or experience. It is essential for judges to understand particular areas of legal theory and how laws develop over time. This knowledge comes from years of serving on the court. With the limit on terms, judges will not have adequate time to gain this experience.

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3) Since this proposal ends the terms of judges in January 2009 who have served ten years or more, the next governor would appoint at least five Supreme Court justices and seven Court of Appeals judges. Therefore, one political party will appoint a substantial number of judges to the

state's two highest courts, including a majority of the justices of the Supreme Court. **Every ten years THEREAFTER, DEPENDING ON THE TENURE OF INDIVIDUALS, one governor MAY AGAIN will have the ability to appoint a large number of judges to the Supreme Court and Court of Appeals.** Further, some judges will be forced to leave office before completing the full term that the voters previously gave them.



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1) Judges on Colorado's two highest courts should be evaluated more frequently than every eight to ten years. Requiring appellate judges to stand for retention every four years allows the public to hold these judges accountable for their actions and decisions more often. All other judges in Colorado stand for retention every four to six years; Amendment 40 will make the terms of appellate judges more similar to the other courts.

2) The current options available to remove a judge from office are inadequate. No Supreme Court justice or Court of Appeals judge in Colorado has ever been removed by the voters in a retention election. Further, impeachment of judges is almost never used, and there is no process to recall a judge. As a result, judges can essentially serve as long as they want up until the mandatory retirement age. Amendment 40 ensures that after an appellate judge's initial two-year term, he or she does not remain in office longer than eight more years.

3) Term limits create more turnover in office, and thus provide more opportunities for other judges to serve on the two highest courts. Voters have already limited the number of years that elected officials in the legislative and executive branches may serve; Amendment 40 applies term limits to the highest officials in the judicial branch as well.

### Arguments Against

1) This will make the process more political because Every ten years, one governor will have the ability to appoint a large number of judges to the Supreme Court and Court of Appeals. Since this proposal is retroactive, ends the terms of judges in January 2009 who have served ten years or more, the next governor would appoint at least five Supreme Court justices and seven Court of Appeals judges. Therefore, one political party will appoint a substantial number of judges to the state's two highest courts, including a majority of the justices of the Supreme Court. Further, some judges will be forced to leave office before completing the full term that the voters previously gave them.

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### **Estimate of Fiscal Impact**

As a result of Amendment 40, at least five of seven Supreme Court justices and seven of nineteen Court of Appeals judges will leave office on January 13, 2009. Replacement justices and judges will need time to receive training in judicial procedure and review pending cases, which could create a case backlog and increase workload for agencies working in the court system. Any case backlog will depend on the number of appeals filed and the number of cases resolved during the next two years. It is estimated that if additional resources are needed, they will be requested during the annual budget process.

# Second Draft Mailed to Interested Parties

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AMENDMENT 40  
TERM LIMITS FOR SUPREME COURT AND COURT OF APPEALS JUDGES  
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AMENDMENT 40  
TERM LIMITS FOR SUPREME COURT AND COURT OF APPEALS JUDGES  
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**Amendment 40 - Term Limits for Supreme Court  
and Court of Appeals Judges**

1    **Ballot Title:** An amendment to the Colorado constitution concerning term limits for  
2    appellate court judges, and, in connection therewith, reducing the terms of office for  
3    justices of the supreme court and judges of the court of appeals to four years, requiring  
4    appellate judges serving as of January 1, 2007, to stand for retention at the next general  
5    election, if eligible for another term, prohibiting an appellate judge from serving more  
6    than three terms, specifying that a provisional term constitutes a full term, and making  
7    any appellate judge who has served ten or more years at one court level ineligible for  
8    another term at that level.

9    **Text of Proposal:**

10   *Be it Enacted by the People of the State of Colorado:*

11    Section 1. Article VI of the constitution of the state of Colorado is amended by the  
12    addition of a new section to read:

13            **Section 27. Terms of office and term limits.** EFFECTIVE JANUARY 1, 2007,  
14    TERMS OF OFFICE FOR APPEALS COURT JUDGES AND SUPREME COURT JUSTICES SHALL BE  
15    FOUR YEARS. INCUMBENTS AS OF THAT DATE SHALL STAND FOR RETENTION AT THE NEXT  
16    GENERAL ELECTION, IF ELIGIBLE FOR ANOTHER TERM AT THAT LEVEL. AT EACH  
17    APPELLATE COURT LEVEL, NO ONE SHALL SERVE MORE THAN THREE TERMS OF OFFICE.  
18    A PROVISIONAL TERM SHALL BE A TERM OF OFFICE. ANYONE WHO HAS SERVED TEN  
19    YEARS OR MORE AT ONE APPELLATE COURT LEVEL SHALL NOT BE ELIGIBLE FOR ANOTHER  
20    TERM AT THAT LEVEL.

21    Section 2. Repeal. Section 7 of Article VI of the constitution of the state of Colorado  
22    is repealed as follows:

23            **Section 7. Term of office.** ~~The full term of office of justices of the Supreme~~  
24    ~~Court shall be ten years.~~