



# State Democracy Research Initiative

UNIVERSITY OF WISCONSIN LAW SCHOOL

## Explainer: Wisconsin Supreme Court Race

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On April 1, 2025, Wisconsin voters will choose the newest justice on the Wisconsin Supreme Court. In doing so, they will determine whether the court retains its current 4-3 liberal lean or flips back to a conservative-leaning majority. Either way, the race could have major implications for high-profile issues likely to come before the court, including abortion, election law, and union rights.

The two candidates on the ballot are Judge Susan Crawford and Judge Brad Schimel. Both are former prosecutors and currently serve as circuit court judges in Dane County and Waukesha County, respectively. Schimel served as the Wisconsin Attorney General as a Republican from 2014 to 2019 and before that was the district attorney for Waukesha County. Crawford started her career as an assistant attorney general in Iowa and Wisconsin and later occupied various roles, including chief legal counsel, in the administration of then-Governor Jim Doyle, a Democrat. Crawford most recently worked in private practice as a law firm partner prior to becoming a judge.

Campaign ads for both candidates have centered on their handling of criminal cases, both as prosecutors and judges. For example, one ad supporting Schimel [criticizes Crawford for the sentence she imposed](#) in a child sexual assault case. On the other side, an ad supporting Crawford criticizes Schimel [for plea deals](#) he gave as a prosecutor in cases involving rape, domestic abuse, and child pornography.

But this narrow focus on a few hand-picked criminal cases distracts from the fact that both Crawford and Schimel have handled thousands of cases in a wide range of legal areas. Additionally, the Wisconsin Supreme Court's primary role is [to decide significant or novel legal questions](#) rather than to oversee the handling of criminal cases. Only a tiny fraction of the state's criminal cases ever get to the supreme court level, and in recent years such cases have made up only about a third of the court's docket. In 2022, for example, [more than 100,000 criminal cases were filed](#) in the state, but the Wisconsin Supreme Court issued opinions in just 18 criminal cases

in the 2022-2023 term—or about 1 for every 5,500 cases in circuit court. Last term, the court only issued an opinion in one criminal case. Most of the court’s biggest cases involve non-criminal questions of constitutional law and statutory interpretation, like [whether an 1849 Wisconsin law bans abortion](#) or [whether a law stripping collective bargaining rights violates the Wisconsin Constitution](#).

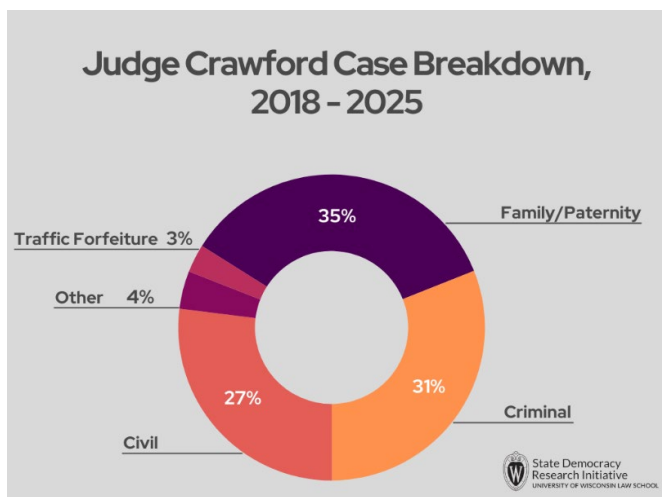
To provide context and background on the supreme court candidates, this explainer details the types of cases Crawford and Schimel have handled as circuit judges, looks at how their rulings have fared on appeal, analyzes key democracy-related decisions they have authored, and examines what they have said about major issues that may soon come before the court.

## Circuit Court Experience

Circuit courts are Wisconsin’s county-level trial courts. They have jurisdiction over all civil and criminal cases in the state, ranging from divorce cases to traffic fines to disputes over the constitutionality of statutes. Statewide, Wisconsin circuit courts resolve about 700,000 cases per year, on average.

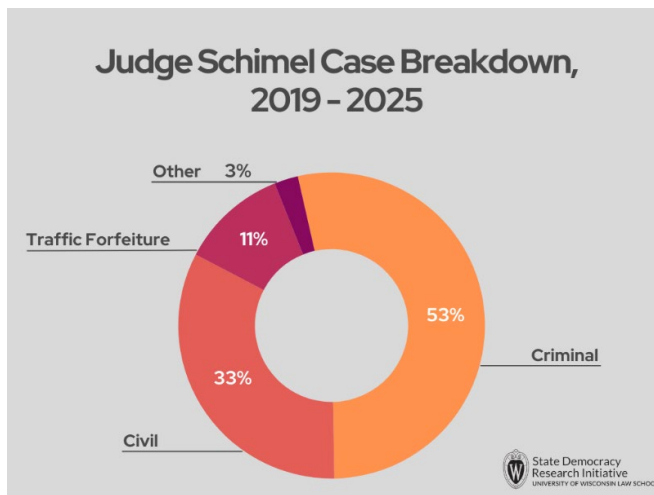
Circuit court judges are elected in non-partisan, countywide elections for six-year terms. There are currently [261 circuit judges statewide](#), and the number of judges varies widely between counties. Some have only one or two judges, whereas larger counties have more than a dozen. Dane County, where Crawford sits, has 17 judges, and Waukesha County, where Schimel sits, has 12. Judges in both counties primarily handle one category of cases (like civil, criminal, or juvenile cases) at a given time.

Crawford won election to the Dane County Circuit Court in 2018. She then ran unopposed for re-election in 2024. During the six-and-a-half years she has been on the bench, Crawford has served on [all three of the court’s subject-matter divisions](#): the criminal division (2018–2019), juvenile division (2019–2023), and civil/family/probate division (2023–2025). Juvenile cases are not public, so full data on her caseload is not available. Looking at publicly available cases, Crawford has handled approximately 5,350 cases, according to dockets on Bloomberg Law. Approximately 35 percent of Crawford’s cases have been family or paternity cases, including divorce, custody, and child



support cases.<sup>1</sup> Another 31 percent have been criminal cases, including felony, misdemeanor, and criminal traffic cases. And 27 percent have been civil cases, a wide-ranging category that includes everything from name changes to contract disputes to lawsuits against state officials. The remainder have been traffic fine cases (3 percent), liens (1 percent), and small claims, probate, and other case types (all less than 1 percent).

Schimel joined the Waukesha County Circuit Court in January 2019 when then-Governor Scott Walker appointed him to fill a vacant circuit court judge position. Schimel then ran unopposed in the April 2019 election to gain a full term. During his six years on the bench, Schimel has served on two of Waukesha County's [five divisions](#): the criminal/traffic division (2019–2022) and civil division (2022–2025). Although he has not served on the juvenile division, he has handled juvenile cases, which are not



public. In all, Schimel has handled approximately 6,200 public cases. He has spent more time on criminal rotations than Crawford, and his case load reflects that difference—53 percent of Schimel's public cases have been criminal, including felony, misdemeanor, and criminal traffic cases. His civil case load, meanwhile, has been similar to Crawford's—33 percent of his cases. Traffic forfeitures (or fines) make up a larger portion of his docket than Crawford's, at 11 percent of cases. His other types of cases include non-traffic ordinance violations (1 percent) and small claims, foreign judgments, and other case types (all less than 1 percent).

In addition to Schimel having a higher proportion of criminal cases, the primary difference between the two judges is that Crawford has handled a large number of family cases, while Schimel has had none. This in part stems from a difference in how Dane County and Waukesha County divide caseloads: the civil case division in Dane County includes family and paternity cases, whereas there is a separate family rotation in Waukesha County. So Crawford's time in the civil rotation has included family law cases, while Schimel's has not. And he has not separately served on Waukesha's family rotation.

Because circuit judges hear so many cases, they decide most matters without issuing substantive written opinions. (In contrast, the Wisconsin Supreme Court issues such opinions in nearly all of the few dozen cases it decides on the merits each year.) Crawford appears to issue written

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<sup>1</sup> The paternity category, which makes up 9 percent of Crawford's total cases, involves "[p]ost judgment actions in paternity cases, such as support and custody. Pre judgment information concerning the determination of paternity is confidential and is not available to the public."

opinions somewhat more often than Schimel. Based on a review of each judge’s publicly available dockets, we identified approximately 85 substantive written opinions that Crawford has authored, compared to roughly 20 for Schimel.<sup>2</sup>

## Appeals of Circuit Court Decisions

A losing party in the circuit court may appeal to [the next level of the Wisconsin courts](#), the Wisconsin Court of Appeals. The vast majority of circuit court decisions are not appealed, but when they are, the court of appeals is required to hear the case.

Based on a review of each judge’s publicly available dockets on Bloomberg Law, the Wisconsin Court of Appeals appears to have issued written decisions in 17 appeals from Crawford rulings and 15 appeals from Schimel rulings. To be clear, these numbers do not reflect the total number of each judge’s cases that have been appealed, only those that resulted in written appellate decisions. Some appeals are instead resolved by summary dispositions or settlements.

These appeals reflect the mix of cases over which the judges have presided. Of the 17 appeals for Crawford, nine were criminal cases, six were civil, and two were juvenile. The court of appeals affirmed Crawford’s decisions in 15 of these appeals and reversed twice. In *Kaul v. Wisconsin State Legislature*, discussed further below, the court of appeals determined that Crawford had erred in concluding that certain provisions of Wisconsin’s controversial 2018 lame-duck legislation violated the state constitution’s separation of powers doctrine. That case is now pending at the Wisconsin Supreme Court. The second reversal came in a criminal case. Crawford rejected a criminal defendant’s motion to suppress evidence. In a split 2-1 decision, the court of appeals concluded that officers had seized the evidence without reasonable suspicion in violation of the Fourth Amendment, and it therefore had to be suppressed.

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<sup>2</sup> To identify each judge’s written decisions, we used Bloomberg Law to create a database of dockets for each judge. We then conducted searches for docket entries containing the words “decision” or “opinion.” We reviewed each of those docket entries to confirm that the reference to decision or opinion was to a written decision by the judge. We then followed up by reviewing the underlying docket documents at the Dane County Courthouse for Crawford and the Waukesha County Courthouse for Schimel. Although our search terms may not have identified every written opinion by the two judges (and necessarily exclude any opinions in juvenile cases, which are not public), the courts’ practices for filing and labeling docket entries suggest our search captured the vast majority of publicly available opinions.

The nature and limitations of this research reflect [broader transparency and accessibility limits](#) in some courts in Wisconsin and other states. Whereas Wisconsin’s supreme court and court of appeals provide free, public, online access to key documents, circuit courts do not. Circuit court docket pages only include short descriptions denoting the type of filing, and the filings themselves are only accessible in person at the relevant county’s courthouse. Additionally, the circuit court system does not allow for searching dockets by judge.

As for Schimel, of the 15 cases with written decisions by the court of appeals, nine were criminal, four were civil, and two were juvenile cases. The court of appeals affirmed Schimel's rulings in 12 of the cases and reversed, at least in part, in three cases. The most recent of these cases involved Wisconsin's open meeting law. The court of appeals rejected Schimel's conclusion that a person complaining of a violation of the law had to show that the defendant intended to hide the meeting. In a second case, the court reversed Schimel's decision to dismiss a breach-of-contract claim, concluding that he erred in requiring a plaintiff to plead the elements of the breach with specificity. The last reversal involved a criminal case—specifically sentencing for an OWI offense. For that case, Schimel only handled the post-conviction motion; a different judge had sentenced the defendant. The court of appeals concluded that a new state statute permitting a sentencing enhancement where a defendant refused a warrantless blood draw violated the Fourth Amendment; it therefore vacated the defendant's conviction. The Wisconsin Supreme Court granted review and affirmed the court of appeals.

## Notable Democracy-Related Decisions

Some of the Wisconsin Supreme Court's most consequential rulings in recent years have involved [elections and the functioning of the state's democratic system](#), and such matters are highly likely to continue to come before the court. As it turns out, Crawford and Schimel have each issued a written decision in a high-profile democracy-related dispute. These rulings may offer at least a small window into how they might approach such cases as justices.

### ***Crawford: Kaul v. Wisconsin State Legislature***

As noted above, Crawford handled *Kaul v. Wisconsin State Legislature*, a case in which Attorney General Josh Kaul has challenged the constitutionality of a statute adopted by the legislature in a lame-duck session following the election of Governor Tony Evers and Kaul in 2018. The disputed provision requires Kaul to receive approval from the legislature's Joint Committee on Finance in order to settle certain civil lawsuits involving the state.

In two written decisions, Crawford granted summary judgment in favor of Kaul, holding that the statute violates constitutional separation-of-powers principles, at least as applied to certain kinds of settlements. Drawing on state and federal precedents as well as state historical practice, Crawford concluded that settling cases implicates core executive functions, and the law impermissibly injected the legislature into those functions. As mentioned, the Wisconsin Court of Appeals reversed Crawford's rulings, but the Wisconsin Supreme Court has taken the case and is scheduled to hear oral argument on April 3. The court is expected to issue its decision before the winner of the April election joins the court in August.

For more, Crawford's opinions are available [here](#), and the court of appeals opinion is available [here](#).

## **Schimmel: *Kormanik v. Wisconsin Elections Commission***

Schimmel handled *Kormanik v. Wisconsin Elections Commission*, a case involving absentee voting. The key question is whether voters who submit absentee ballots prior to election day can ask election officials to destroy their ballots and issue them a new ballot to cast—for example, if new information causes the voter to change their mind, or if a candidate they voted for drops out of the race. The Wisconsin Elections Commission (WEC) had said that Wisconsin law authorizes this practice, known as ballot spoiling. (Absentee ballots in Wisconsin remain sealed and uncounted until election day.)

In October 2022, Schimmel temporarily enjoined this practice, and he made that injunction permanent in November 2023. He concluded that state statutes do not affirmatively authorize clerks to destroy an already–returned ballot and issue a new one upon a voter’s request. In addition to analyzing the relevant statutory text, Schimmel noted that the state’s absentee ballot law includes a policy statement that describes absentee voting as a “privilege” rather than a right and makes all absentee voting requirements mandatory, meaning that ballots cast in contravention of those procedures “may not be counted.”

Schimmel also addressed some important threshold procedural issues, including ruling that the plaintiff had suffered an injury that gave her legal standing to bring the case. Schimmel reasoned that “election fraud . . . cannot be repaired” and that “[o]nce it happens, people are disenfranchised by improperly cast votes.”

WEC appealed Schimmel’s decision, but the case was on hold for months pending the Wisconsin Supreme Court’s decision in another election law case, *Brown v. WEC*. The Wisconsin Supreme Court decided that case in February, concluding in a 4-3 decision that the plaintiff did not have standing to bring the lawsuit. The *Brown* ruling could affect the outcome of the *Kormanik* appeal because the theory of standing that Schimmel’s decision endorsed is similar to the one that *Brown* rejected.

For more, Schimmel’s full circuit court opinion is available [here](#), and the full *Brown* opinion is [available here](#).

## **Candidate Views on Major Issues Before the Court**

The cases that make it to the Wisconsin Supreme Court vary widely, from questions about [whether religious charities are properly exempt from state unemployment taxes](#) to questions about [who can adopt a child](#). It can be difficult to predict what issues will reach the court, given that the court has discretion over whether to grant review, and because new cases can arise at any time. It is also important to note that many of the court’s cases do not divide the justices on ideological lines, and many address consequential but lower–salience legal issues. The Wisconsin Supreme Court decided 14 cases during its 2023–2024 term and split 4-3 on ideological lines only four times.

Still, three prominent and contentious issues likely to arrive in the near future involve abortion, labor unions, and voting rights. This section provides an overview of each issue, including some information on where each candidate stands.

## **Abortion**

The Wisconsin Supreme Court heard oral argument in November 2024 in [Kaul v. Urmanski](#), which centers on whether an 1849 state law is enforceable today as a ban on abortion except to save the mother's life. (A lower court ruled in 2023 that the statute only bans feticide, not consensual abortions.) That case will be resolved before a newly elected justice joins the court in August, but a companion case on whether the Wisconsin Constitution protects the right to an abortion may remain unresolved. That case, [Planned Parenthood of Wisconsin v. Urmanski](#), argues that if the 1849 statute does prohibit most abortions, then it violates the Wisconsin Constitution. Depending on who is elected in April, it is also very possible that litigants will seek to bring additional abortion-related cases to the court.

Both Schimel and Crawford have been relatively vocal about their views on abortion.

Schimel has [described himself as "firmly pro-life"](#) and has signaled support for the 1849 law. He [signed onto a legal white paper in 2012](#) that supported overturning *Roe v. Wade* and reinstating the 1849 law as a ban on abortion in nearly all cases. The law only has an exception for saving the mother's life and does not include exceptions for rape or incest. [While campaigning](#) to join the Wisconsin Supreme Court, Schimel has [asked supporters, "what is flawed about that law?"](#) He has also [stated while campaigning that](#) "There is not a constitutional right to abortion in our State Constitution. That will be a sham if they find that." At the same time, he has also said that he would [respect the "will of the voters"](#) on the issue as expressed [by referendum or through elected representatives](#). To date, the Wisconsin Legislature has not asked voters to weigh in, and Wisconsin, unlike some states, has no mechanism for citizens to propose constitutional amendments directly.

Crawford, conversely, [has portrayed herself as pro-choice](#), though she doesn't usually use the term. She has declined to comment specifically on the 1849 law, but she [has said](#): "I believe as a woman that I should be the one to make decisions about my own body and my health care, together with my doctors. I trust other women to make those same decisions." One of Crawford's [campaign's ads](#) also touts that she "fought for abortion rights."

That statement likely refers to an abortion case in which Crawford and Schimel were on [opposite sides](#) prior to becoming judges. Crawford, while working as a law firm partner, represented Planned Parenthood in a challenge to a state law that required physicians providing abortion services to get admitting privileges at a nearby hospital. After a federal judge struck down the law, Schimel, who was the Wisconsin Attorney General at the time, appealed. The appellate court [upheld the ruling](#), however, and the U.S. Supreme Court [declined to take the case](#).

## ***Labor unions and Act 10***

A second issue likely to come before the court is the ability of public employees to form unions and collectively bargain. A Wisconsin circuit court [recently struck down much of Act 10](#), a 2011 law that significantly curtailed collective bargaining rights for public employees in Wisconsin. When it was proposed, the law sparked weeks of protest, [drawing tens of thousands to the state Capitol](#).

The Wisconsin Supreme Court declined to take the case directly from the circuit court, so it will next be heard by the Wisconsin Court of Appeals.

As with abortion, both candidates have previously expressed views on Act 10.

During her time as a private attorney, Crawford worked on a team of lawyers seeking to overturn Act 10. At the time, [she said that the law](#) was “aimed at crippling public employee unions” and argued that it violated the state constitution. That case was unsuccessful—the state supreme court upheld the constitutionality of Act 10 in 2014, though the specific legal claims at issue in that case differ from the ones that have been raised in the current case.

Schimmel, meanwhile, has [repeatedly criticized the recent lower court decision](#) striking down Act 10. [While he was attorney general](#), Schimmel said that he would defend Act 10 and [that he was “proud” to successfully defend](#) a later [“right-to-work” law](#). He also supported the exemption of police and firefighter unions from Act 10’s collective bargaining restrictions.

Neither candidate has said whether they would recuse from hearing the current Act 10 challenge. [During the candidates’ debate on March 12](#), Crawford said that she most likely would recuse from a case involving the same provision that she previously litigated, but she noted that this case involves a different provision. [Recusal rules in Wisconsin](#) largely leave the decision up to individual justices and only require recusals in limited circumstances. One justice, Justice Brian Hagedorn, has already recused from the case because he was involved in drafting and defending Act 10 as chief legal counsel for Governor Walker. Justice Janet Protasiewicz has rejected calls for her recusal, which were based on her participation in the Act 10 protests at the Capitol, signing a petition to recall Walker, and stating that she agreed with the dissent in the prior Wisconsin Supreme Court case that upheld Act 10.

## ***Voting rights***

A third set of issues almost certain to come before the court involves voting rights and election law. Some voting-related cases are already pending in lower courts and may make their way up to the supreme court. These include questions about [absentee ballot requirements and the accessibility of absentee voting for individuals with disabilities](#) who cannot independently read or mark ballots.

Other issues are not currently pending, but observers [have speculated](#) that litigants may raise them, depending on the election’s outcome. These include voter ID requirements and Wisconsin’s congressional districts.



First, [Republican legislators have raised concerns](#) that if Crawford is elected, new challenges might be brought to the state's voter ID law, which is one of the strictest in the country. Crawford [was involved in a 2011 lawsuit](#) that unsuccessfully challenged that law. When running for a seat as a circuit court judge, she called the state's voter ID law "[draconian](#)" and touted her efforts to limit the law's potential to disenfranchise voters. At the candidates' March 12 debate, Crawford said she was "proud" of her prior litigation work, but she suggested that "the law is a very different law" today due to changes that allow individuals to obtain IDs more easily. Schimel, meanwhile, has [spoken in support of the voter ID law](#) and [criticized Crawford for opposing it](#).

In an effort to ward off possible challenges to the voter ID law, Republican legislators have [proposed a constitutional amendment that will appear on the April 1 ballot](#) alongside the state supreme court race. If passed, the amendment would add a voter ID requirement to the state constitution, thus reducing the potential for the state's existing voter ID laws to be invalidated in court (or rolled back by a future legislature). More information about this proposed amendment is [available here](#). At the candidates' March 12 debate, Crawford declined to comment on how she would vote on the constitutional amendment. Schimel, meanwhile, said that he will vote yes, noting that "voter integrity laws are critically important."

Second, some have [wondered if a liberal-leaning court might overturn the state's existing U.S. congressional map](#). No challenge to that map is currently pending, but some have criticized it for producing a congressional delegation consisting of six Republicans and only two Democrats, despite statewide elections being nearly evenly split between Democratic and Republican votes. In 2023-2024, the Wisconsin Supreme Court heard a challenge to the state's legislative maps, which ultimately prompted the legislature to adopt new maps with less partisan skew. Thus far, however, the court has [declined to revisit the congressional map](#). Crawford [has said that she has not considered](#) whether the existing congressional districts are fair. When he was attorney general, Schimel [defended the state's previous state legislative maps](#) in court, including against challenges that the maps were unlawfully gerrymandered in favor of Republicans. He has also [criticized Crawford for attending a donor event that suggested the congressional maps would be in play](#), but he [does not appear to have recently commented](#) on the maps themselves. At the candidates' March 12 debate, he declined to comment on whether he thought the maps were fair.

Notably, not all election and voting rights issues split on ideological lines. Following the 2020 election, the Wisconsin Supreme Court [rejected President Donald Trump's efforts to throw out hundreds of thousands of ballots](#), reaching the result in a 4-3 decision that united the court's three liberal-leaning justices at the time with the conservative-leaning Justice Hagedorn. Last term, the court unanimously ruled [that candidate Dean Phillips should appear on the state's Democratic presidential primary ballot](#). And this term, the court unanimously ruled [that the state's top election official, Meagan Wolfe, could remain in her position](#). But other recent election-related cases—like [the legality of drop boxes](#) and [the validity of the state's legislative maps](#)—have split on 4-3 lines, with the court's four liberal-leaning justices in the majority.





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## Other issues

Beyond these high-profile matters, many other issues will continue to come before the court, some of which may be less ideologically divisive.

One important area where the court has recently reached broader consensus is in the separation of powers between the branches of Wisconsin government. For example, in [Evers v. Marklein](#), the court ruled 6-1 that a legislative committee could not veto the Wisconsin Department of Natural Resources' (DNR) expenditures of funds that had already been appropriated to a DNR grant program. Similarly, in a case involving the governor's power to partially veto appropriation bills, justices of all ideological leanings [expressed skepticism at oral argument](#) that Governor Evers's creative attempt to extend a school revenue limit increase by 400 years was constitutional. The court has not yet issued a decision in that case, *LeMieux v. Evers*. Additional separation-of-powers disputes are likely to arise in the years ahead.

Other recent cases that have produced widespread consensus involved [termination of parental rights](#), [involuntary commitment](#), [whether a harassment injunction violated free speech rights](#), [whether evidence was properly admitted in a criminal case](#), and more. In short, the state's high court addresses a wide range of issues that often fly under the radar and that do not necessarily divide the justices along ideological lines.

## Conclusion

In the past two decades, Wisconsin's state supreme court races have become increasingly politicized and have [set new records for judicial campaign spending](#). With this increased funding, more money is allocated to advertisements that prominently feature the candidates' records in criminal law, typically with a narrow focus on one or at most a handful of cases. While that focus may grab viewers' attention, it does not offer an accurate sense of the issues that judges and justices handle in Wisconsin. To better understand a candidate's approach to judging, it is more helpful to engage with their prior experience, their judicial record, and their own statements about the high-stakes issues they may face.