

The Judiciary

The Ohio Constitution guarantees to all citizens certain basic rights. In the pursuit of these rights, disputes may arise — between individuals, between a person and the government, or between agencies of government. The judicial branch, or court system, is the arm of the government that provides a means to settle these disputes. The judiciary interprets the laws set forth by the Ohio Constitution or those enacted by the legislature. It is independent of both the executive and legislative branches in order to protect the legal rights of the people and guarantee equal protection under the law for everyone.

The Ohio Constitution established three courts to administer judicial powers: the Ohio Supreme Court, the Court of Appeals, and the Court of Common Pleas. These three courts cannot be abolished except through amendment of the Ohio Constitution. In addition to these constitutional courts, the Ohio Constitution allows the legislature to create other courts to assist the Court of Common Pleas. These are called statutory courts because they can be created or abolished by the legislature. The legislature has established municipal courts, county courts, mayor’s courts, and the Ohio Court of Claims.

Voting for Judges in Ohio

To avoid the possibility that voters will elect candidates based on promises made about specific court cases, judicial candidates must remain nonpartisan after the primary election campaign and should at all times refrain from making comments that might indicate how they would rule on certain issues. This rule is spelled out in the Judicial Canons:

“Canon 7 – Judges and Judicial candidates should refrain from political activity inappropriate to judicial office . . . [and] . . . should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit or appear to commit the judge or judicial candidate with respect to cases or controversies that are likely to come before the court; or misrepresent his or her identity, qualifications, present position, or other fact....”

Courts are charged with settling disputes rather than mediating between parties. As such, Ohio statute does not prescribe mediation courts. Mediation is a voluntary process involving a neutral third party, called a mediator, who assists adversaries such as those in a civil lawsuit in resolving a complaint in a manner acceptable to both parties. Various courts in Ohio may have mediation programs, just as some have drug courts. But these programs exist only within the jurisdiction of the court that created them and have no statutory powers.

Ohio's court procedures are based on the adversary system. Opposing sides in a dispute have the opportunity to present their arguments before a court of law. Two types of cases come before the courts: civil and criminal. Civil cases involve debts, contracts, property rights, and other matters not defined as criminal. Criminal cases are classified as either felonies or misdemeanors. Felonies are more serious crimes, and include, for example, murder, manslaughter, kidnapping, and burglary. Misdemeanor cases are more minor offenses and include most traffic violations. A court may have either original jurisdiction (beginning of a case through to a decision) or appellate jurisdiction (review of a lower court's decision), or it may have both jurisdictions in different cases.

Ohio's constitutional courts and the statutory courts, with the exception of mayor's courts, are courts of record. This means that the proceedings of these courts are kept as a perpetual record of what has taken place in each court, including the process, pleadings, reports, verdicts, transcripts, orders, and judgments. Appeals are based on the records kept by the courts.

Justices on the Ohio Supreme Court and judges on the appeals, common pleas, municipal and county courts are elected to six-year terms. Candidates must be admitted to practice law in Ohio and have at least six years' experience practicing in the state. In lieu of six year's practice here, candidates for the Ohio Supreme Court qualify if they have served six years as a judge in any state.

Candidates for these courts, with two exceptions, are nominated in party primaries or file nominating petitions as independent candidates but run in the general election on a nonpartisan ballot. In some cities, city charters establish different procedures for municipal court candidates. Candidates for county courts are nominated by petition only. Supreme Court justices are elected on a statewide ballot; judges are elected by voters within the boundaries of their courts' jurisdiction. When vacancies occur between elections, the governor appoints new judges to fill the open seats.

Constitutional Courts

THE SUPREME COURT

The Ohio Supreme Court is composed of a chief justice and six justices; the number of justices can be changed by statute. The court's primary concern is with cases that consider a substantial constitutional question. The Ohio Supreme Court is the court of final judicial review in the state. It must accept appeals of cases that originated in the courts of appeals; cases involving the death penalty; cases involving questions arising under the U.S. Constitution or the Ohio Constitution; and cases in which there have been conflicting opinions from two or more courts of appeals. It also must accept appeals from administrative bodies, including the Board of Tax Appeals and the Public Utilities Commission of Ohio. The court also has original jurisdiction to issue extraordinary writs, such as writs of habeas corpus, which is an order to bring a person before the court to determine if he or she is being illegally imprisoned or detained, or writ of mandamus, which orders a public official to perform a required duty that he or she has refused or neglected to fulfill.

The Ohio Supreme Court acts as a check on the legislative and executive branches through its review of the constitutionality of laws and its review of actions of executive agencies. It provides uniformity in the application of the laws of the state through its review process and is the final authority in the state on matters of law. The chief justice of the Ohio Supreme Court exercises general supervision over all courts, according to rules set by the Supreme Court.

The Supreme Court prepares rules governing practice and procedure in all Ohio's courts. Rules filed with the clerk of each house of the General Assembly by Jan. 15 take effect July 1 the same year, unless both houses adopt a concurrent resolution of disapproval. After adoption of a rule, all laws in conflict with it are nullified. Rules of civil, criminal, appellate, and juvenile procedure have been adopted in this manner, as well as evidence rules. Lower courts may adopt additional rules concerning local practice, providing they are consistent with the statewide rules prepared by the Supreme Court.

The Supreme Court also adopts administrative rules that apply to all courts. These rules of superintendence deal with assignment of judges, disqualification of judges, uniform record keeping, admission to the practice of law, and discipline of persons practicing law in the state. Rules of superintendence are effective immediately upon adoption by the Supreme Court. Only rules of practice and procedure are subject to legislative review.

The Supreme Court administers the Client Security Fund. Established in 1985, it is a fund for reimbursing clients for losses due to theft or fraud by their lawyers. The Client Security Fund is funded by a portion of the attorney registration fees assessed to each practicing attorney and judge in Ohio every two years.

The Supreme Court meets in Columbus year-round. Voters choose two justices during the general election in even-numbered years. In the year when the chief justice runs, voters choose the chief justice from among candidates for the position and two justices from among the candidates for regular seats on the court.

COURT OF APPEALS

The courts of appeals have original jurisdiction in certain specified cases, such as mandamus (when a person petitions the court to order a public official to perform a required act) or habeas corpus (a petition asking the court to determine if a defendant is unlawfully imprisoned or detained). But the primary responsibility of courts of appeals is to hear appeals from the common pleas, county, and municipal courts. They review orders and actions of administrative officers or agencies through an appeal from the common pleas court. Cases are heard and decided by a panel of three appellate judges.

Ohio is divided into 12 appellate districts. Each district is served by a court of appeals that can sit in any county in that district, if circumstances warrant it. The court districts vary in size depending on population and workload. Cuyahoga, Franklin, and Hamilton counties are single-county districts. The 10th District Court of Appeals in Franklin County also hears appeals from the Ohio Court of Claims.

The number of judges in an appellate district depends on caseload and district size, but the minimum is three judges per district. The legislature may add judges to any district when an increase in caseload requires more jurists. In districts with more than three judges, any three may act as a court of appeals panel. As of 2018, there are 69 Ohio Court of Appeals judges.

COURT OF COMMON PLEAS

The constitution provides for a court of common pleas to serve each of the 88 counties in the state. The general division of courts of common pleas have original jurisdiction in felonies and in civil cases where the amount in dispute is greater than \$500. Common pleas courts also have appellate jurisdiction over some state administrative agencies, such as the Unemployment Compensation Review Commission, Ohio Liquor Control Commission and state licensing boards. The number of judges on each common pleas court varies according to county population.

Three specialized divisions of the court of common pleas have been established to decide cases involving probate, domestic, and juvenile matters. In some counties, judges have authority over two or more divisions.

Probate courts have jurisdiction over the probate of wills and supervise the administration of estates and guardianships. They are responsible for overseeing adoption proceedings, issuing marriage licenses, and ruling on cases involving questions of mental competency or physical disability. Probate judges are allowed to perform marriages as well.

Ohio Court of Appeals Districts



Source: Ohio Secretary of State's Office, https://www.sos.state.oh.us/globaiassets/publications/maps/2012-2022/appeals_2012-2020_districtmap.pdf

Courts of domestic relations handle divorce, dissolution of marriage, spousal support, annulment, separation, and allocation of parental rights and responsibilities for the care of children. Each court works in conjunction with a local child support enforcement agency to establish and enforce child support orders.

Juvenile courts hear cases involving people under 18 years of age who have been charged with acts that would be crimes if committed by an adult. Special rules govern procedures in juvenile courts, of which the most noteworthy are that the accused does not have the right to a jury trial and juvenile records can be sealed or expunged. There are also separate rules for traffic cases. Young children and most teens charged with criminal acts remain under the jurisdiction of juvenile courts but if a juvenile court finds that an individual charged with committing a felony while age 14 to 17 is not amenable to rehabilitation in the juvenile system, the judge may transfer, or bind over, the teen to be tried in adult court.

The juvenile court has authority in cases involving unruly, dependent, or neglected children. Juvenile courts have jurisdiction in adult cases that involve matters of paternity, child abuse, nonsupport, contributing to the delinquency of a minor, or failure to send children to school.

All Courts

To reduce the wait for trial, both parties in a civil suit may agree to have a retired judge hear their case. The chief justice of the Ohio Supreme Court then assigns the cases. Judges who retired in good standing from any court may accept cases, regardless of whether the assigned case is in the court of common pleas, a municipal court or the court of claims.

Every judge must file monthly and annual reports with the chief justice covering the number of cases assigned, those pending, and those terminated. Within each county, the administrative judge of each court division reviews the reports of all judges in the division. Judges cannot be forced to manage and dispose of the same number of cases. The reports are public documents and provide one way to gauge the efficiency of each judge.

Judges in all courts rely on statutes, case law, local court rules, Ohio rules of criminal and civil procedure, and the Ohio Rules of Superintendence to manage and make decisions in civil and criminal cases.

Statutory Courts

MUNICIPAL COURTS

Municipal courts are courts of record with preliminary hearing jurisdiction in felony cases and original jurisdiction in traffic and criminal misdemeanor cases committed within the court's jurisdictional territory. The court also hears civil cases in which the amount in dispute does not exceed \$15,000. Municipal courts may establish small claims divisions that handle civil cases in which the dollar amount

does not exceed \$3,000.

State law establishes the territorial jurisdiction for each municipal court in Ohio; many have county-wide jurisdiction. The Ohio Supreme Court established standard uniform rules for superintendence of municipal courts, similar to those for common pleas courts, in 1975.

COUNTY COURTS

County courts were established in 1957 for counties where municipal courts do not have county-wide jurisdiction. They can have territorial jurisdiction in all areas of the county not served by municipal courts. They are courts of record and exercise the same civil and criminal jurisdiction as municipal courts. All county court judges are part-time.

MAYOR'S COURTS

Mayor's courts handle misdemeanors and traffic violations in communities with no municipal court of record. Mayors of municipal corporations not served by a municipal court but populated by more than 100 people may hear only cases involving violations of local ordinances and state traffic laws.

Mayor's courts are not courts of record but must file statistics quarterly and annually with the Supreme Court. Additionally, at the request of the General Assembly, the Supreme Court has adopted rules providing for court procedures and basic legal education for mayors. Mayors whose courts hear alcohol- and drug-related traffic offenses must fulfill additional requirements.

A mayor is not required to be a lawyer but may appoint an attorney who has engaged in the practice of law for at least three years to hear cases in mayor's court.

A person convicted in a mayor's court may appeal the conviction to the municipal court or county court that has jurisdiction within the municipal corporation.

COURT OF CLAIMS

The Court of Claims has statewide original jurisdiction in all civil actions against the state of Ohio and its agencies. Cases may include matters involving personal

In the Minority

Ohio and Louisiana are the only two states that allow the mayors of municipal corporations to preside over courts. Mayor's courts are controversial entities, and there have been outspoken Ohio Supreme Court Justices who have debated over whether they should continue to operate. Proponents tout the convenience of mayor's courts as a way to alleviate minor offenses from Common Pleas dockets. Opponents believe it is problematic to have inexperienced non-attorneys run courts, and see the focus of these courts as collecting revenue rather than protecting residents.

injury, property damage, discrimination, or wrongful imprisonment actions. Established by the General Assembly in 1976, the court sits in Franklin County, but the chief justice may order the court to sit in any county to hear a case if circumstances warrant it. Incumbent and retired judges temporarily assigned by the chief justice of the Ohio Supreme Court sit on the Court of Claims.

Civil actions brought before the Court of Claims are decided by one of two methods. Actions of less than \$2,500 are decided administratively by the clerk or deputy clerk. Actions of more than \$2,500 are decided by a single judge or, in the case of a complex law, by a three-judge panel. Juries are not used in deciding cases that come before the Court of Claims.

In 1976 the Ohio Victims of Crime Compensation Program was established, to be administered by the Court of Claims under the guidance of Ohio's chief justice. The purpose of the program is to grant compensation to a person injured or dependents of those killed during a crime or while preventing a crime, apprehending a criminal, or assisting a police officer. Victims of drunk drivers became eligible for compensation in 1989.

Victims or dependents of deceased victims may receive compensation for certain crime-related expenses, including medical and rehabilitation expenses, payment for lost wages, psychological counseling, funeral expenses, and the cost of services the victim normally would perform but now must pay someone else to perform. The maximum compensation is \$50,000 per victim per incident. The program is funded by extra charges on court costs collected from felony and misdemeanor convictions and pleas (excluding non-moving traffic violations) as well as on the reinstatement of a driver's license pursuant to a drunk driving conviction.

Applications for compensation are available from the Court of Claims, all county common pleas courts, and most law enforcement agencies. After the Court of Claims receives the application, the Ohio Attorney General's Office investigates it and recommends the court approve or deny compensation. If an individual disagrees with the attorney general's decision, he or she may appeal it to the Court of Claims within 30 days. The court will then hear the claim and make a final determination.

The Court of Claims also hears challenges by individuals, organizations and the media who believe that state agencies are withholding public records, in violation of Ohio's Public Records Act, often called the sunshine law. More about these challenges can be found on page 121.

The Jury System

For adults, "In any trial, in any court, the party accused shall be allowed . . . to have . . . a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed." Section 10, Article 1 of the Ohio Constitution guarantees the right to trial by jury. Trials are first held in courts of original jurisdic-

tion (common pleas, municipal, or county courts). Two types of juries are used in the Ohio court system, the grand jury and the petit (pronounced *PET-it*) jury.

In most cases, a grand jury hears evidence from the prosecution before a suspect is arrested and decides whether the accused should be indicted. Jurors may ask questions and for additional evidence before making a decision. A grand jury does not make final judgment of guilt, and its proceedings are secret, without the accused present. The prosecutor's role is to present cases, question witnesses, and make recommendations. The prosecutor does not hear the jury's deliberations. The grand jury is composed of 15 members selected at random either from the registered voters in the county or from a list of licensed drivers. At least 12 members must concur in order to bring an indictment.

A petit jury is used in both criminal and civil cases and is the jury system most commonly associated with a trial. In criminal cases, the jury determines if the accused is guilty or not; in civil cases, it determines liability. The opposing parties present evidence and the jury decides the verdict based on the evidence and the instructions from the judge about the law of the case. Criminal defendants are presumed innocent unless shown to be guilty beyond a reasonable doubt. In civil cases, a lesser threshold must be met, with liability assigned using what is known as a preponderance, or majority, of the evidence. The number of petit jurors depends on the case.

Juries hearing criminal cases are composed of 12 members for felonies and eight members for misdemeanors. The verdict must be unanimous. Eight-member juries hear civil cases unless both parties agree to a lesser number. At least two-thirds of the members must concur to render a verdict in a civil case.

Sentencing

Sentencing laws are established to punish offenders and to protect the public. The state uses both incarceration and rehabilitation to pursue these goals. In the late 1980s, Ohio faced a growing prison population, resulting in crowded facilities and fewer resources. To address this concern, the Ohio General Assembly established the Ohio Criminal Sentencing Commission in 1990 to restructure Ohio's sentencing laws. Felony sentencing laws adopted in 1996 lengthened prison terms judges imposed on many violent offenders and steered more nonviolent offenders to participate in local rehabilitation facilities.

In 2011, a new Ohio sentencing reform bill was passed, with the renewed goal of easing prison overcrowding and saving the state money. The act generally requires judges to sentence nonviolent fourth- and fifth-degree felony offenders to alternative facilities such as community based correctional facilities and halfway houses, rather than prison. It also allows for the release of nonviolent offenders who did not commit a sexually oriented offense if they have served more than 80 percent of a prison term of one year or more. It provides an alternative to prison for felony

offenses for failure to pay child or spousal support and eliminates the distinction between criminal penalties for drug offenses, such as the unequal penalties for possession of crack cocaine versus possession of powdered cocaine. The act also instituted an earned credit system allowing certain prisoners to earn time off of their sentence by completing education and rehabilitation programs.

Penalties for the most serious offenses include life in prison or death. Juries in death penalty cases recommend death or a lesser sentence but, as in all cases, a judge or judges makes final sentencing decisions. State prison terms are mandatory for murderers, rapists, higher-level drug offenders, and those who use firearms or repeat serious offenses. Prison terms are presumed for other serious offenses. Judges may also impose fines and order supervision after the offender's release from prison.

For less serious felonies and most misdemeanors, trial judges have more discretion in imposing a sentence that is appropriate to the crime and circumstances of the case. This spectrum of options includes state prison (for felons only), terms in community-based facilities, fines, house arrest, community service, drug and alcohol use monitoring, supervision by community officials and curfew. These options are designed to shift some of the burden of dealing with nonviolent offenders from state prisons to community programs. State funding is provided to administer these programs, which are generally cheaper than housing an offender in a state prison or local jail.

Minor misdemeanors are the least serious and most commonly committed offenses. Most traffic infractions (at least on first offense) fall under this category. No prison or jail term is imposed for minor misdemeanors. While the court typically imposes a fine for these offenses, since January 2004, judges have the option to require a defendant to work hours of community service and even pay restitution if the victim suffers property damage.

The criminal sentencing commission, created under the Ohio Revised Code, is charged with enhancing justice and ensuring fair sentencing in the state. The chief justice of the Ohio Supreme Court chairs the 31-member commission. The chair nominates ten members of the commission, including one judge from the Court of Appeals, three municipal or county judges, and three common pleas judges. The governor appoints 12 members, including a county, juvenile, and municipal prosecutor; two defense attorneys; an Ohio State Bar Association representative; a sheriff; two police chiefs; a crime victim; a county commissioner; and a mayor. Four members of the General Assembly serve on the commission as well, two from each party and two from each house. Furthermore, the state public defender, the director of the Department of Rehabilitation and Correction, the director of the Department of Youth Services, and the superintendent of the Highway Patrol are members of the commission.

Board of Professional Conduct

The Board of Professional Conduct helps regulate the legal profession in Ohio. When Ohio lawyers or judges are charged with ethical misconduct, the board holds hearings and makes findings and recommendations to the Supreme Court, or, alternatively, monitors and assists bar association certified grievance committees to do the same. The board also holds hearings involving lawyers or judges suspected of being impaired by alcohol or drug use or from mental, emotional or physical issues during performance of their duties. Further, it also holds hearings on reinstatement of lawyers suspended from practice. In all cases, the board makes recommendations but the Ohio Supreme Court decides whether to impose sanctions, take no action or reinstate lawyers and judges. In addition, the board issues advisory opinions on ethical issues affecting lawyers and judges statewide, directly advises judges and lawyers on ethics compliance, and serves as the statewide ethics agency for judges and magistrates. The Supreme Court appoints the board's members — seventeen attorneys, seven active or retired judges, and four non-attorneys — to three-year terms.

Ohio Judicial Conference

The Ohio Judicial Conference is an agency in the judicial branch of government that works with Ohio judges to improve the administration of justice. Through the Judicial Conference, judges provide the General Assembly with analyses of the judicial impact of proposed legislation and with other information that is important to the legislative process.

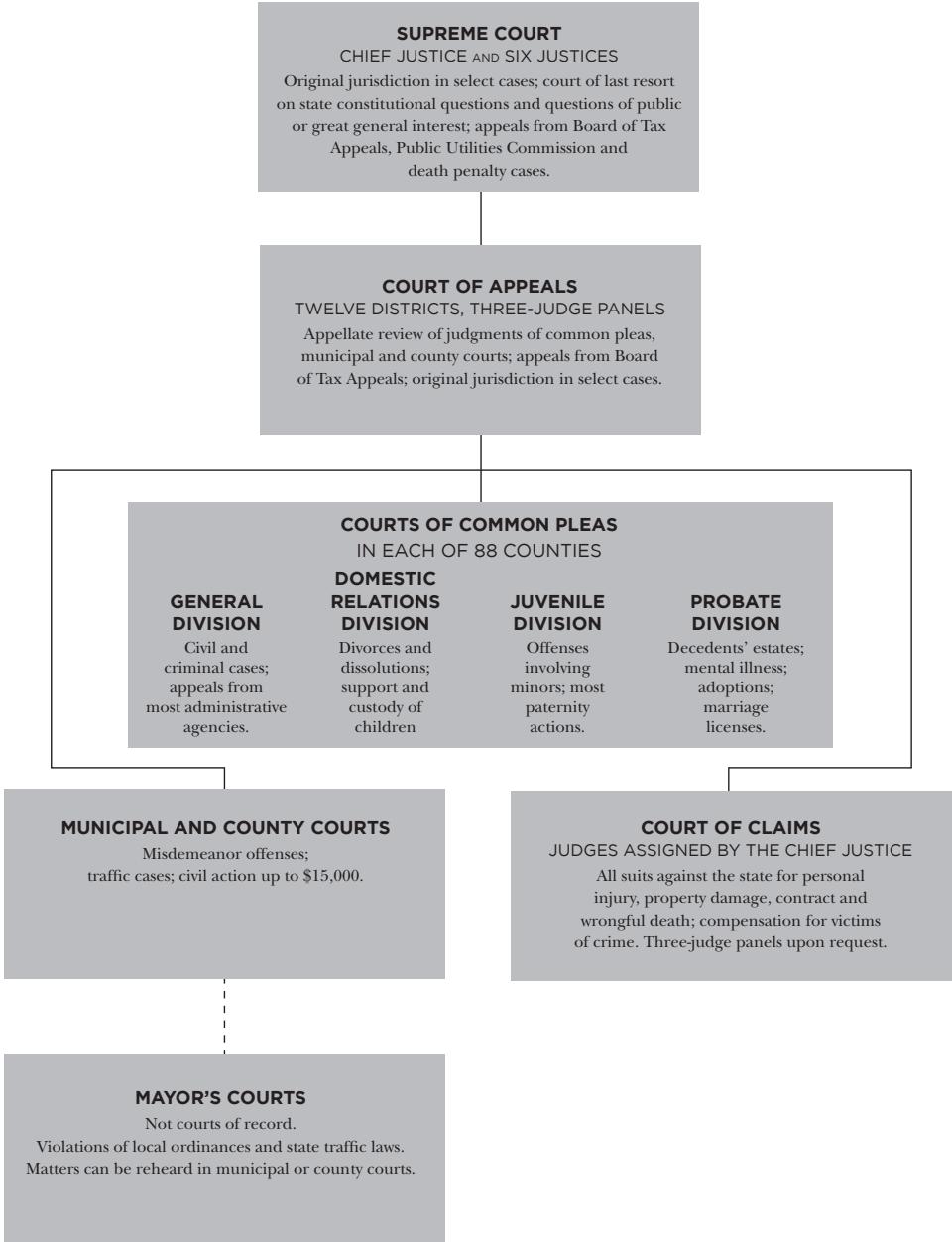
All Ohio judges are members of the Judicial Conference, and many serve on conference committees dealing with issues of concern to the judiciary. For example, committees recommend improvements to jury service, inform judges about developments in court technology and help judges develop programs to educate the public about how Ohio's judicial system functions.

Six judges serve as officers of the Judicial Conference and guide the work of an executive director and professional staff. The Judicial Conference offices are located in the Ohio Judicial Center in Columbus.

Board of Bar Examiners

The Board of Bar Examiners prepares and conducts examinations of applicants for admission to practice law in Ohio. The Ohio Supreme Court appoints the 18 members.

The Ohio Court System



Source: *The Ohio Supreme Court*,
<http://www.supremecourt.ohio.gov/SCO/jurisdiction/structure.pdf>