

**MINUTES OF THE ANNUAL PUBLIC HEARING  
OF  
THE NEBRASKA JUDICIAL RESOURCES COMMISSION  
December 14, 2023**

The annual public hearing of the Nebraska Judicial Resources Commission was held on the 14<sup>th</sup> day of December, 2023, in Room 1507 of the State Capitol Building in Lincoln, Nebraska. The Chair called the meeting to order at 1 p.m. The meeting included a Zoom videoconferencing option for attendance.

Roll call showed a quorum of the following Commission members:

PRESENT (\*denotes Zoom attendance)

Justice Stephanie Stacy, Chair

Judge Matthew Kahler\*

Judge Travis O’Gorman\*

Judge Anne Paine\*

Timothy Engler\*

Taylor Gage

Kenneth Hartman

Roxanne Kracl\*

Nancy McCabe

Robert Parker

Meagan Spomer\*

Darlene Starman

Ron Temple\*

Jacqueline Tessorf

Maria Whitmore\*

EXCUSED

Cyd Hall

Brian Phares

The Chair introduced and welcomed returning Commission member Robert Parker, who replaced resigning member Michael McCarthy as the attorney representative for the 6<sup>th</sup> Judicial District.

The Chair confirmed that all Commission members had received and reviewed the minutes from the last quarterly meeting on September 15, 2023. On an oral vote, the minutes of September 15, 2023 were accepted. Maria Whitmore abstained.

The Chair identified and received the following six exhibits for consideration during the hearing:

Exhibit 1: Meeting Agenda

Exhibit 2: Minutes of the September 15, 2023 hearing

Exhibit 3: NSBA Report to JRC

Exhibit 4: NSBA County Court Appeals report

Exhibit 5: Letter from Nebraska County Judges Association

Exhibit 6: Letter from the Omaha Bar Association

All commissioners in attendance confirmed they had received and reviewed the exhibits listed above, copies of which are attached to these minutes.

The Chair presented the 2023 Report of Judicial Caseloads, Trends and Factors Affecting Judicial Resources. Supportive data was shared via PowerPoint, and a copy of the presentation is attached to these minutes. The Commission also received and considered public testimony from the following individuals: Corey Steel, Nebraska State Court Administrator.

The Commission took up whether it is appropriate to recommend adding a judgeship in any judicial district. No motions were made on this issue.

The Commission took up whether it is appropriate to recommend reducing a judgeship in any judicial district. After discussion, no motions were made to recommend reducing the number of judges in any judicial district. However, it was moved by the Chair and seconded by Taylor Gage that the Commission's Annual Report to the Legislature should, once again, call attention to the potential impact of population growth in Sarpy and Lancaster Counties on the current statutory framework governing the number of separate juvenile court judges in those counties. More specifically, it was moved that the Legislature be advised that although the populations in Sarpy and Lancaster counties are approaching statutory thresholds set out in Neb. Rev. Stat. § 43-2119 (Reissue 2016) that would appear to require adding two more separate juvenile court judges in each county, neither the Weighted Caseload Reports, nor the historical caseload data, suggest a need for additional separate juvenile court judges in any county at this time. On a roll call vote, the motion passed unanimously.

The Commission took up whether to recommend any judicial district boundaries, or the number of judicial districts, should be changed for the district or county courts. No motions were made on this issue.

The Commission took up whether to make any other recommendations for the more balanced use of existing judicial resources. No motions were made on this issue.

The Chair addressed the vacancy in the office of Secretary, resulting when the Honorable John Samson resigned from the Commission after having been elected in June 2022 to a two-year term as Secretary. The Chair advised that pursuant to Rule 001.05 of the Judicial Resources Commission Rules, member and current Vice-Chair Tim Engler has been appointed to serve as Secretary for the balance of Judge Samson's term.

The Chair advised commissioners that a tentative schedule of quarterly meeting dates for 2024 would be disseminated soon. The Chair also announced that effective January 1, 2024, Nebraska Supreme Court Justice Jonathan Papik would begin serving as Chair of the Judicial Resources Commission. The Chair introduced

Justice Papik to commissioners and reflected on the importance of the Commission's work.

There being no other matters brought before the Commission, the Chair adjourned the annual meeting.

Respectfully submitted:

A handwritten signature in blue ink, appearing to read 'Stephanie F. Stacy', is written over the text 'Respectfully submitted:'. The signature is highly stylized and cursive.

Stephanie F. Stacy, Chair

**MEETING AGENDA**  
**JUDICIAL RESOURCES COMMISSION**  
**December 14, 2023 – 1 p.m. CST**  
**Room 1507, State Capitol, Lincoln, Nebraska**  
**Proceedings include virtual conferencing VIA ZOOM**

- I. Call meeting to order; determine attendance via roll call
- II. Acceptance of minutes from meeting held September 15, 2023
- III. Identify & receive any exhibits to be considered by Commission

NOTE: Copies of any exhibits received by the deadline of December 12, 2023, will be available in the hearing room during the meeting, and will be linked electronically to this agenda just prior to the meeting

- IV. FY2023 Report on Judicial Caseloads, Filing Trends, & Factors Affecting Judicial Resources
- V. Reports from the Bench
  - (a) Chief Justice
  - (b) State Court Administrator
  - (c) Trial Judges
- VI. Report from the Nebraska State Bar Association
- VII. Annual Meeting topics under Neb. Rev. Stat. § 24-1205:
  - (a) Determine whether a new judgeship is appropriate in any judicial district
  - (b) Determine whether a reduction in judgeships is appropriate in any judicial district
  - (c) Determine whether the judicial district boundaries, or the number of judicial districts, should be changed for the district or county courts
  - (d) Make any appropriate recommendations for the more balanced use of existing judicial resources
- VIII. Other Items
  - (a) Interim Secretary
  - (b) 2024 quarterly meeting agenda
  - (c) Miscellaneous
- IX. Adjourn





**MINUTES OF THE PUBLIC HEARING  
OF  
THE NEBRASKA JUDICIAL RESOURCES COMMISSION  
September 15, 2023**

Pursuant to the press release issued August 31, 2023, a public hearing of the Nebraska Judicial Resources Commission was held on the 15<sup>th</sup> day of September, 2023, in Room 1507, State Capitol Building, in Lincoln, Nebraska.

AGENDA ITEM I: The Chair called the proceedings to order at approximately 10 a.m. The proceedings included a Zoom videoconferencing option for Commission members and for members of the public. Roll call by the Secretary:

PRESENT (\*denotes Zoom attendance)

Justice Stephanie Stacy, Chair  
Judge Matthew Kahler  
Judge Travis O’Gorman\*  
Judge Anne Paine\*  
Timothy Engler  
Taylor Gage  
Kenneth Hartman  
Roxanne Kracl\*  
Nancy McCabe  
Michael McCarthy\*  
Meagan Spomer\*  
Darlene Starman  
Ron Temple\*  
Jacqueline Tessororf\*

EXCUSED

Cyd Hall  
Brian Phares  
Maria Whitmore

AGENDA ITEM II: The Chair confirmed that all Commission members had received and reviewed the minutes from the June 16<sup>th</sup>, 2023 hearing. On an oral vote, commissioners accepted the minutes of June 16, 2023.

AGENDA ITEM III: The public hearing was conducted and the following exhibits were received and considered by the Commission, and are attached to these minutes:

- Exhibit 1: Meeting Agenda
- Exhibit 2: Minutes of the June 16, 2023 hearing
- Exhibit 3: Governor’s Press Release appointing Judge Derek Vaughn to the District Court bench
- Exhibit 4: Letter of retirement from Judge James Doyle
- Exhibit 5: Letter from the NSBA, CC 4th and DC 11th
- Exhibit 6: Letter from Attorney Lindsay-Gross, Welch Law Firm, CC 4<sup>th</sup>
- Exhibit 7: Letter from Presiding Judge, CC 4<sup>th</sup>



- Exhibit 8: Letter from the Nebraska County Judges Association, CC 4<sup>th</sup>
- Exhibit 9. Letter from Legal Aid of Nebraska, CC 4<sup>th</sup>
- Exhibit 10. Letter from Pastor Dwayne Hawkins, CC 4<sup>th</sup>
- Exhibit 11. Letter from Attorney Shapiro, CC 4<sup>th</sup>
- Exhibit 12. Letter from Attorney Boyer, CC 4<sup>th</sup>
- Exhibit 13. Letter from Jean Stothert, Mayor of Omaha, CC 4<sup>th</sup>
- Exhibit 14. Letter from Todd Schmaderer, Chief of Police, CC 4<sup>th</sup>
- Exhibit 15. Letter from Matthew Kuhse, City Attorney, CC 4<sup>th</sup>
- Exhibit 16. Letter from the Douglas County Sheriff, CC 4<sup>th</sup>
- Exhibit 17. Letter from Attorney Reff, CC 4<sup>th</sup>
- Exhibit 18. Letter from the Douglas County Attorney's Office, CC 4<sup>th</sup>
- Exhibit 19. Letter from the Omaha Bar Association, CC 4<sup>th</sup>
- Exhibit 20. Letter from Attorney Bloom, CC 4<sup>th</sup>
- Exhibit 21. Letter from Kevin Slimp, Omaha City Prosecutor, CC 4<sup>th</sup>
- Exhibit 22. Letter from Attorney Line, CC 4<sup>th</sup>
- Exhibit 23. Letter from Thomas Riley, Douglas County Public Defender, CC 4<sup>th</sup>
- Exhibit 24. Letter from Attorney Bradford, CC 4<sup>th</sup>
- Exhibit 25. Letter from Attorney Spahn, CC 4<sup>th</sup>
- Exhibit 26. Letter from Omaha Branch National Association for Advancement of Colored People, CC 4<sup>th</sup>
- Exhibit 27. FY-2023-County-Court-Weighted-Caseload-Report
- Exhibit 28. FY-2023-District-Court-Weighted-Caseload-Report
- Exhibit 29. AOCF Handout (disseminated during public hearing)

The Commission received and considered public testimony from: Judge Michael E. Piccolo, District Court Judge, 11<sup>th</sup> Judicial District; Judge Grant A. Fosberg, County Court Judge, 4<sup>th</sup> Judicial District; Judge Sheryl L. Lohaus, County Court Judge, 4<sup>th</sup> Judicial District; Judge Stephanie S. Shearer, County Court Judge, 4<sup>th</sup> Judicial District; Kevin Slimp, City Prosecutor, City of Omaha; Senator John Cavanaugh; Liz Neeley, Nebraska State Bar Association; Corey Steele, Nebraska State Court Administrator.

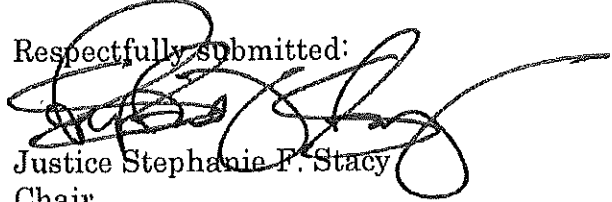
AGENDA ITEM IV(a): It was moved by Ken Hartman and seconded by Judge Matthew Kahler to declare a judicial vacancy in the County Court in the 4<sup>th</sup> Judicial District due to the appointment of Judge Derek R. Vaughn to the District Court bench, and to recommend the primary office location of such vacancy be in Omaha, Douglas, Nebraska. On a roll call vote, the motion passed unanimously.

AGENDA ITEM IV(b): It was moved by Judge Matthew Kahler and seconded by Michael McCarthy to declare a judicial vacancy in the District Court in the 11<sup>th</sup> Judicial District due to the retirement of Judge James E. Doyle IV, and to recommend that the primary office location of such vacancy be in Lexington, Dawson County, Nebraska. On a roll call vote, the motion passed unanimously.

AGENDA ITEM V: Justice Stacy provided an update on the first meeting of the judges working group appointed by the Chief Justice. Remaining agenda items were laid over due to length of meeting.

There being no other matters brought before the Commission, the Chair adjourned the meeting.

Respectfully submitted:



Justice Stephanie P. Stacy  
Chair

# Nebraska State Bar Association

*"Helping lawyers help people"*



December 5, 2023

The Honorable Stephanie F. Stacy  
Nebraska Supreme Court  
State Capitol, #2219  
Lincoln, NE 68509

RE: Nebraska Judicial Resources Commission Annual Hearing

Dear Justice Stacy:

The Nebraska State Bar Association works for Nebraska lawyers to help them achieve the highest standards of competence, ethics, and professionalism and to protect and promote the administration of and access to justice. Providing adequate judicial resources throughout our state is essential to ensuring that all Nebraskans have access to the justice system, and we are proud to be involved in the important work of the Judicial Resources Commission.

By way of background, the Nebraska State Bar Association (NSBA) has a separate Judicial Resources Committee, charged with developing the policy and position of the Association on matters pertaining to the creation, elimination, or movement of judicial positions. It is a fourteen-member body that includes the NSBA officers and 12 members of the House of Delegates—two from each of the six Supreme Court judicial districts. As judges retire, the Committee meets, reviews the weighted caseload statistics, and solicits testimony from the impacted communities. We then bring our recommendations to the Judicial Resources Commission. When the number of judges or district boundaries need to be changed, the NSBA's Legislative Counsel drafts those changes, finds a senator to sponsor that bill, and advocates for those changes.

At this time, the NSBA does not have any specific recommendations regarding the Commission's charge to review the addition or reduction of judgeships or revisions to the number or composition of our current judicial districts. We appreciate the work currently being undertaken across Nebraska's judicial districts to explore the efficient use of judicial resources. Once formal proposals are established, the NSBA stands ready to provide input from the practicing bar on proposed solutions.

635 South 14<sup>th</sup> Street ~Ste 200~ Lincoln, Nebraska 68508  
(402) 475-7091 ~ FAX (402) 475-7098 ~ www.nebar.com

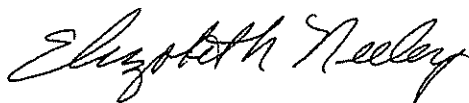


In 2023, then NSBA President Jason Grams appointed an Ad Hoc Committee to review the appellate process in Nebraska and to make recommendations promoting judicial efficiency, the practice of law and access to the justice system. Specifically, the Committee was asked to review the appellate process for appeals from the County Court to District Court and Administrative Appeals to the District Court. The working group exploring appeals from County Court to District Court issued its final report to the House of Delegates in October of 2023. A copy of the report is enclosed for your information. After considerable discussion, over a period of many months, the working group ultimately decided not to recommend changes to the current process for appeals from County to District Court. None of the proposed changes presented a strong opportunity to improve the system without creating additional concerns. The working group reviewing Administrative Appeals is still in progress. We will keep the Judicial Resources Commission abreast of any recommendations that may impact judicial resources in Nebraska.

In closing, the NSBA appreciates the work of the Judicial Resources Commission and for the opportunity to provide input on any recommendations for the more balanced use of existing judicial resources.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Neeley". The signature is written in black ink and is positioned above the typed name and title.

Elizabeth Neeley  
Executive Director



## **Ad Hoc Committee on Reviewing the Appellate Process in Nebraska: County Court Appeals**

In 2023, NSBA President Jason Grams appointed an Ad Hoc Committee to review the appellate process in Nebraska and to make recommendations in the best interest of judicial efficiency, the practice of law and access to the justice system. Specifically, the Committee was asked to review the appellate process for appeals from the County Court to District Court and Administrative Appeals to the District Court.

To ensure representation from the bench, the NSBA solicited participation by the Nebraska Court of Appeals, the Nebraska District Court Judges Association, and the Nebraska County Court Judges. The NSBA also recruited volunteers from the NSBA's Appellate Practice Section, Government and Administrative Law Section and Practice and Procedure Committee.

### **Composition of the Committee**

The Committee was composed of the following members:

#### **Chair**

Cathy Trent Vilim, Lamson Dugan & Murray, LLP

#### **Judges**

Hon. Arterburn, Nebraska Court of Appeals

Hon. Harmon, Douglas County Court

Hon. Dave Partsch, 2<sup>nd</sup> Judicial District County Court

Hon. Ryan Post, Lancaster District Court

#### **Lawyers**

John Albin, Commissioner of Labor

Dwyer Arce, Kutak Rock

Melodie Bellamy, Kearney County Attorney

Jen Gaughn, Legal Aid of Nebraska

Jason Grams, Lamson Dugan & Murray, LLP

Jennifer Huxoll, Nebraska Attorney General's Office, Civil Division

Annette Kovar (retired Nebraska Department of Environment and Energy

Doug Law, Black Hills Corporation

Danny Leavitt, Salerno & Leavitt

Matt Lewis, Nebraska Attorney General's Office, Criminal Division

Sarah Marfisi, District Court Douglas County



Jennifer Meckna, Douglas County Attorney's Office  
John McWilliams, Gross Welch Marks Clare  
Marna Munn, Lincoln City Attorney's Office  
Matthew Parker, Nebraska Department of Health and Human Services  
Timothy S. Sieh, Assistant City Attorney Lincoln  
Tim Texel, Nebraska Power Review Board  
Susan Ugai, Department of Environment and Energy  
Theresia Uhrich, Douglas County Attorney's Office  
Ryan Watson, Gross Welch Marks Clare, PC, LLO  
Ryan Wiesen, City of Omaha  
Abbie Widger, Johnson Flodman Guenzel & Widger

Staff

Liz Neeley, Nebraska State Bar Association

**Subcommittee Assignments**

Once the Committee was formed, it determined the processes for county court and administrative appeals involved different factors, considerations, and statutory schemes. Therefore, the Committee divided itself into two Subcommittees: one for the County Court appeals and one for the Administrative Appeals.

This Report addresses only the work of the County Court Subcommittee ("Subcommittee").

**County Court Appeals Subcommittee**

The County Court Appeals Subcommittee was comprised of the following members:

- Cathy Trent Vilim, Lamson Dugan & Murray, LLP, Chair
- Hon. Arterburn, Nebraska Court of Appeals
- Hon. Harmon, Douglas County Court
- Hon. Dave Partsch, 2<sup>nd</sup> Judicial District County Court
- Hon. Ryan Post, Lancaster District Court
- Dwyer Arce, Kutak Rock
- Melodie Bellamy, Kearney County Attorney
- Jason Grams, Lamson Dugan & Murray, LLP
- John McWilliams, Gross Welch Marks Clare
- Danny Leavitt, Salerno & Leavitt
- Matt Lewis, Nebraska Attorney General's Office, Criminal Division
- Sarah Marfisi, District Court Douglas County

- Jennifer Meckna, Douglas County Attorney's Office
- Theresia Uhrich, Douglas County Attorney's Office

### **County Court Appellate Process**

Currently, the following categories of cases may be appealed from the county court to the district court: misdemeanor cases (including traffic and municipal ordinance violations), preliminary hearings in felony cases, civil cases involving less than \$57,000.00, small claims involving less than \$3,900.00, and eminent domain cases. Probate, guardianships, conservatorships, adoptions, and juvenile cases are appealed directly to the Court of Appeals. (Appendix A: Nebraska Court Structure Process of Appeal).

### Review of Other State's Appellate Process

As a first step, Subcommittee member John McWilliams undertook a review of the two-tier court systems across the nation. (Appendix B: Initial Review of Other States' Appellate Processes). Forty-two states, including Nebraska, have at least one separate court of limited jurisdiction that handles matters like traffic violations, misdemeanors, and small claims.

Of these forty-two states, at least thirty-nine have procedures by which most or all cases from the court of limited jurisdiction are initially appealed to another trial court. In contrast, the few remaining states require most cases filed in a court of limited jurisdiction to be heard directly by the state's first appellate court.

### Available Data regarding Appeals in Nebraska

In addition to looking at other states' procedures, the Subcommittee also determined, during the course of its work, that additional data would be helpful in directing its analyses and conclusions. As a result, the Subcommittee requested data from the Administrative Office of the Courts and Probation ("AOC").<sup>1</sup> To account for any potential skewing of the data caused by the Covid-19 pandemic, the Subcommittee requested data that pre-dated the pandemic. Specifically, the Subcommittee requested that the AOC provide data on the following:

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<sup>1</sup> The NSBA would like to thank Rick Hixon and Hazel Delgado from the Administrative Office of the Courts and Probation for their assistance with obtaining the court data presented in this report.



- The number of County Court cases appealed to the District Court (Table 1, below);
- The number of appeals from the County Court to the District Court based on case subtype (civil, criminal, probate, small claims, and traffic) (Table 2, below);
- The percentage of appeals from county court to district court involving self-represented litigants (Table 3, below).

Briefly summarized, the data provided by the AOCP indicates:

- Over the last four fiscal years, 1,048 County Court appeals were filed with the District Court;
- Of these, only 15.8% were further appealed to the Court of Appeals;
- The majority of cases appealed from county to district court are criminal matters, followed by civil appeals and small claims appeals.
- Only a handful of traffic appeals are filed in the district courts each year.
- More than one-half of the civil cases appealed from the County Court to the District Court involved the Uniform Residential Landlord and Tenant Act.

**Table 1: District Court Appeals from County Court sent to Court of Appeals by Fiscal Year**

County Court Appeals by FY	2019 Cases	2019 Appeals	2019 %	2020 Cases	2020 Appeals	2020 %	2021 Cases	2021 Appeals	2021 %	2022 Cases	2022 Appeals	2022 %
County Court-Civil Appeal	94	34	36%	157	14	9%	78	7	9%	66	7	11%
County Court-Criminal Appeal	138	26	19%	110	22	20%	113	22	19%	157	26	17%
County Court-Probate Appeal	0	0	0%	0	0	0%	0	0	0%	4	0	0%
County Court-Small Claims Appeal	26	2	8%	27	1	4%	31	2	6%	33	2	6%
County Court-Traffic Appeal	5	1	20%	3	0	0%	4	0	0%	2	0	0%
<b>Total Cases</b>	<b>263</b>	<b>63</b>		<b>297</b>	<b>37</b>		<b>226</b>	<b>31</b>		<b>262</b>	<b>35</b>	

**Table 2: County Court Civil Appeals to District Court- Filed CY 2022**

<b>Number of Cases</b>	<b>Counsel was Retained</b>	<b>Self Represented Litigant</b>	<b>Total</b>
Chapter 25-Forcible Entry & Detainer	6		6
Chapter 76-Uniform Residential LLTA	22		22
Chapter 76-Uniform Residential LLTA-Dam	1		1
Contract-Replevin	1		1
Contract-Unspecified	8	3	11
Miscellaneous-Handgun/Denial of Cert.		6	6
Miscellaneous-Small Claims Transfer		1	1
Miscellaneous-Unspecified	1		1
Small Claims-Unspecified	1	28	29
<b>Total</b>	<b>40</b>	<b>38</b>	<b>78</b>

**Table 3: County Court Civil Appeals to District Court CY 2022 by Percentage**

<b>Percentage of Cases</b>	<b>Counsel was Retained</b>	<b>Self Represented Litigant</b>
Chapter 25-Forcible Entry & Detainer	100%	
Chapter 76-Uniform Residential LLTA	100%	
Chapter 76-Uniform Residential LLTA-Dam	100%	
Contract-Replevin	100%	
Contract-Unspecified	73%	27%
Miscellaneous-Handgun/Denial of Cert.		100%
Miscellaneous-Small Claims Transfer		100%
Miscellaneous-Unspecified	100%	
Small Claims-Unspecified	3%	97%

**Advantages and Disadvantages of Existing System**

The Committee discussed and identified the advantages and disadvantages of the current process for appeals from the County Court to District Court.

The Subcommittee determined the current system offers a number of benefits, including:

1. Litigants, especially self-represented litigants, have the opportunity to be heard and argue their case before the District Court sitting as a court of appeal. The

alternative to appealing to the District Court would be appealing to the Court of Appeals. However, fewer than 10% of cases heard by the Court of Appeals are set for oral argument.

2. Second, litigants can be heard in the same county location as the underlying case, making it easier (and less expensive) for litigants to access the appellate process. While technology can alleviate some of the cost, by allowing parties to participate remotely, the Subcommittee believes in-person oral arguments are preferable to oral arguments heard remotely.
3. Third, for those represented by counsel, there may be a cost-savings for litigants because there are fewer briefing formalities and requirements when appealing at the District Court compared to the Court of Appeals. Alternatively, it is easier for self-represented litigants to navigate the appellate process at the District Court level.
4. Finally, cases are generally resolved sooner at the District Court level than by the Court of Appeals.

The Subcommittee also identified a number of perceived negative aspects of the current system:

1. First, the existing system can create additional workload for the District Courts, who are not technically “appellate” courts, particularly at a time where the appellate courts appear to have additional capacity.
2. Second, allowing litigants to appeal the same case multiple times (i.e., first to the District Court and then to the Court of Appeals) increases the costs to the judicial system. During discussions with bar members, a lawyer shared a story where a single case was appealed from the County Court to the District Court, from the District Court to the Court of Appeals, from the Court of Appeals to the Supreme Court, and then remanded back to the County Court.

### **Positive and Negative Aspects of Changing Process so that Appeals from County Court to District Court Instead Go Directly to the Court of Appeals**

The Subcommittee next discussed and identified the potential benefits and pitfalls of a system where appeals from the County Court skip the District Court and go straight to the Court of Appeals. The perceived benefits include:

1. Improved impact on District Court workloads, as the District Courts would no longer have to handle appeals.
2. Financial savings to litigants who want their appeal decided by an “appellate” court.
3. If cases are appealed directly to the Court of Appeals, there would be no issues of mootness in criminal matters because of the defendant’s ability to post a bond.

As to the perceived downsides of such a system, the Subcommittee concluded:

1. There would be a negative impact on the Court of Appeals’ workload, as cases previously appealed to the District Court would go to the Court of Appeals. Based on AOCF data, only a small percentage of cases appealed to the District Court get further appealed to the Court of Appeals.
2. Increased costs for litigants represented by counsel due to the additional briefing formalities and requirements of the Court of Appeals.
3. The potential loss of an appeal, or the waiver of issues on appeal, associated with the briefing formalities and requirements in the Court of Appeals. Under the current process, the District Courts will often hear the merits of an appeal even if the litigant fails to strictly comply with the uniform or judicial district rules. However, failure to comply with the Nebraska Rules of Appellate Procedure can result in the appeal being dismissed in its entirety or the waiver of specific issues on appeal.
4. There is value in the simplicity of the current process.

### **Creating a Bypass System**

The Committee discussed potentially creating a bypass system, whereby litigants could choose whether to file their appeal in the District Court or the Court of Appeals. After significant discussion, however, the Subcommittee decided against such a proposal for several reasons.

First, there were concerns about how a bypass system could adversely affect unrepresented litigants. For strategic reasons (namely the more rigorous briefing requirements of the Court of Appeals), represented parties might be more inclined to appeal directly to the Court of Appeals, putting unrepresented litigants at a disadvantage.

Second, to the extent the bypass system would be intended to improve judicial economy, by removing one level of appeals, any such bypass system would need to limit litigants to one appeal as of right, with any appeal thereafter as discretionary (*i.e.*, if you appeal to the District Court, there is no further appeal to the Court of Appeals unless leave is granted). However, there was a discussion as to whether the District Court should be the final court of review. The group generally disfavored this, in part because an appellate court is generally comprised of a panel of judges, while in the District Court the appeal is heard by a single judge.

Third, the Subcommittee discussed some of the potential procedural challenges of a bypass system. For example, should the District Court or Court of Appeals decide whether to grant leave for further appeal? What factors would be considered or weighed when deciding whether further appeal should be permitted? Would it be necessary to change the standards of review in cases where further appeal is permitted?

As an alternative to a bypass system applicable to all appeals, the Subcommittee also discussed whether particular types of cases could be identified as appropriate for immediate appeal to the Court of Appeals. In particular, the Subcommittee discussed making civil cases involving less than \$57,000 (but excluding landlord/tenant and small claims) directly appealable to the Court of Appeals.

As part of the discussion, the Subcommittee discussed whether there should be a minimum amount in controversy before direct appeal could be sought. After much discussion, the Subcommittee determined such an approach would not be feasible. Looking to the jurisdictional limit requirement for federal district courts, the Subcommittee noted that not all civil complaints filed in the county courts include

specific monetary prayers of relief. Therefore, direct appeals could not be premised on the amount prayed for in the complaint. Additionally, the direct appeal process could not be premised on the amount of the judgment, as judgments for a defendant would not include a monetary number. In cases where judgement is entered in favor of the defendant, and no amount is prayed for in the complaint, it would not be possible to determine whether a jurisdictional limit is satisfied.

While this potential problem could be solved for by requiring that civil complaints specify the amount of monetary damages being sought, the Subcommittee ultimately determined that the number of cases that would qualify under the proposed system was not significant enough to meaningfully impact workloads or to justify the creation of a completely different appellate process.

### **All Appeals Filed Directly in the Court of Appeals**

The Subcommittee also discussed a system whereby all appeals would be filed in the Court of Appeals. Under this hypothetical scenario, the Court of Appeals would resolve all appeals unless bypass is permitted or the Supreme Court removed the case to its own docket. Although discussed, there was no support for this concept, primarily due to the perceived impact on the Court of Appeals' caseload and because it would likely lengthen the amount of time for the appeal to be resolved.

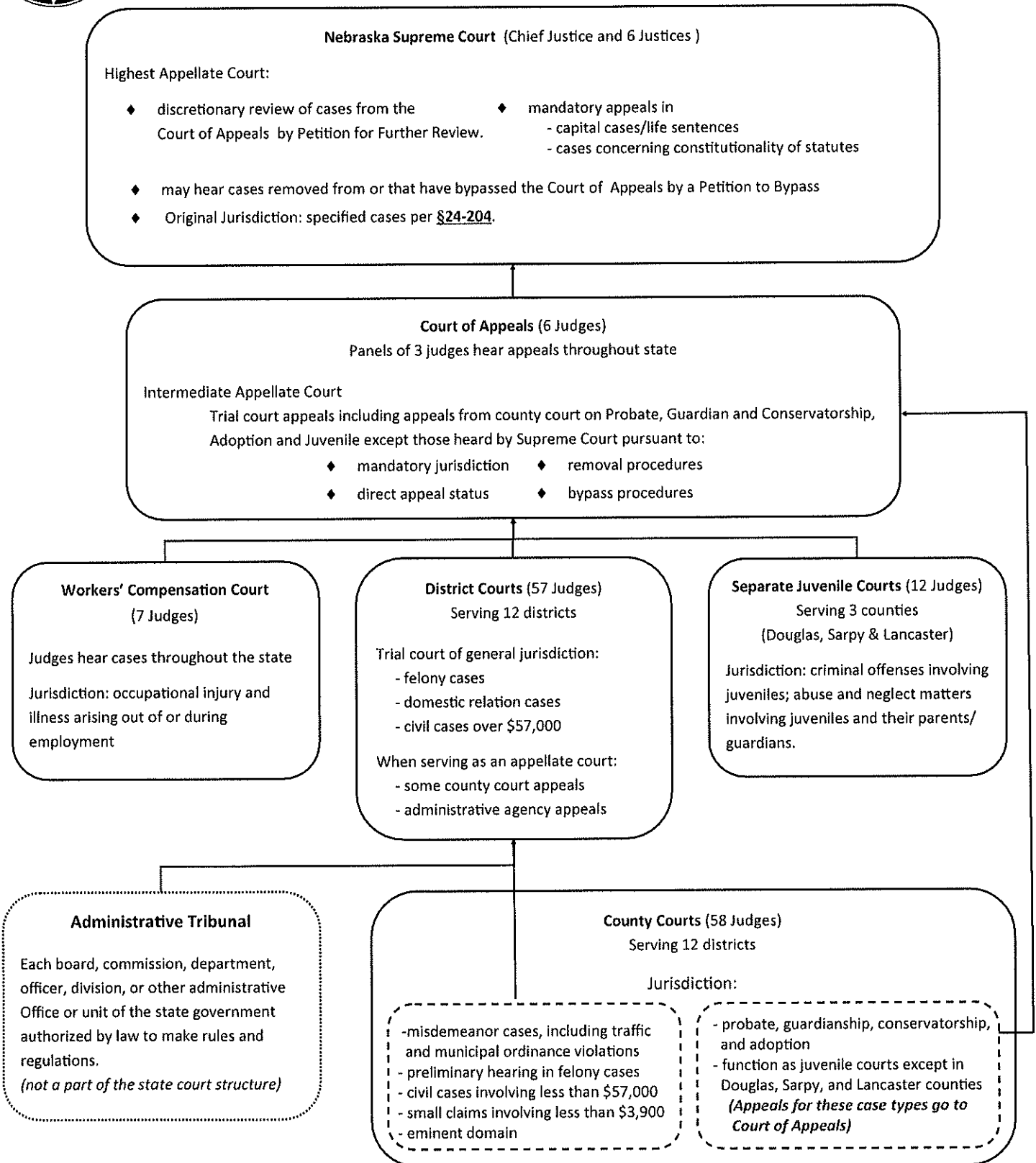
To potentially address some of these concerns, the Subcommittee considered whether it might be possible to facilitate the process by having certain appeals decided by one appellate court judge rather than the typical three-judge panel. This would be similar to the current process under Neb. Rev. Stat. § 29-824 *et seq.*, where appeals of motions to suppress are reviewed and decided by "a judge" of the Court of Appeals. Ultimately, there was no support for this concept. As discussed above, an "appeal" – as that term is generally understood – means having one's case reviewed by a *panel* of judges and not a single judge.

Finally, the Subcommittee discussed a system whereby all appeals would be filed in the Court of Appeals, and the Court of Appeals would then have the authority to assign cases to the District Court for resolution. This would be similar to 'push-down' appellate court systems (like Iowa), where cases are filed in the highest appellate court, which then reassigns select cases to the lower appellate court for resolution. There was considerable discussion about the criteria the Court of Appeals might use to determine whether to assign a case to the District Court and the amount of time involved to make such a determination on a case-by-case basis. Concerns were also raised in regard to the trial court record, excessive sentences, small claims, and routine matters.

**Discussion and Conclusion**

After considerable discussion, over a period of many months, the Subcommittee ultimately decided not to recommend changes to the current process for appeals from County to District Court. None of the proposed changes presented a strong opportunity to improve the system without creating additional concerns.

4855-9607-7184, v. 1



This chart is designed to provide a self-represented person, or "pro se litigant", with an overview of the Nebraska appellate court system. For a detailed explanation about any of the topics listed you may talk to an attorney. The [Nebraska Supreme Court Legal Resources and Information](#) page may also provide additional information on some of the topics. *Trial Court Services Rev. 7/2021 AD 2:24*



## Appendix B

### Initial Review of Other States' Appellate Processes

NSBA Appellate Working Group Meeting  
County Court Subgroup  
May 23, 2023

#### A. Introduction and overview

Including Nebraska, forty-two states have at least one separate court of limited jurisdiction that handles matters like traffic violations, misdemeanors, and small claims. Of these forty-two states, thirty-nine or forty states have procedures by which most or all cases from the court of limited jurisdiction are initially appealed to another trial court. In contrast, only two or three states require most of the cases from the court of limited jurisdiction to be heard directly by the state's first appellate court.

For an initial, general overview of each state's judicial system, I relied on the Guide to Law Online: U.S. States and Territories, prepared by the Library of Congress and available at <<https://guides.loc.gov/us-states-territories>>. Additional sources for each state, such as the state's court website, are noted below. If a state provided a helpful chart of the state's judicial system, it has been noted below and attached with this memo.

#### B. States with intermediate appeals to another trial court

##### 1. Alaska

###### *Overview*

**District Court:** court of limited jurisdiction, covering misdemeanors and small claims

**Superior Court:** trial court of general jurisdiction

**Alaska Court of Appeals:** primarily hears criminal appeals

**Alaska Supreme Court:** highest appellate court, hearing primarily civil cases

###### *Appeals from District Court*

The Superior Court serves as an appellate court for appeals from civil and criminal cases that were tried in the District Court. Under Alaska Stat. § 22.15.240, either party to a civil action may appeal the judgment of the District Court to the Superior Court, and the defendant in a criminal matter

may appeal a conviction given by the District Court to the Superior Court. Alaska also allows for “petitions for review” by the Superior Court of otherwise non-appealable District Court orders. Alaska R. App. P. 610.

*Additional source*

Alaska Court System Overview:

<https://courts.alaska.gov/main/ctinfo.htm#appellate>

## 2. Arizona

*Overview*

**Justice Courts/Municipal Courts:** courts of limited jurisdiction at the municipal level

**Superior Court:** court of general jurisdiction

**Court of Appeals:** intermediate appellate court

**Supreme Court:** highest appellate court

*Appeals from Justice Courts & Municipal Courts*

The Superior Court acts as an appellate court for the Justice Courts and Municipal Courts. Civil matters (Ariz. Super. Ct. R. App. P. Civ. 1) and criminal matters (Ariz. Super. Ct. R. App. P. Crim. 1) may be appealed from a Justice or Municipal Court to the Superior Court.

*Additional source*

Arizona Courts Overview: <https://www.azcourts.gov/AZ-Courts/Superior-Court>

## 3. Arkansas

*Overview*

**State District Courts/Local District Courts:** cases involving specific subject matter, such as traffic violations, small claims, and misdemeanors

**Arkansas Circuit Court:** trial court of general jurisdiction

**Arkansas Court of Appeals:** intermediate appellate court

**Arkansas Supreme Court:** highest court in the state

*Appeals from State District Courts & Local District Courts*

A person convicted of a criminal offense in the District Court may appeal the conviction to the Circuit Court. Ark. R. Crim. P. 36(a). “An appeal from a judgment of conviction in a district court shall be tried de novo in the circuit court as if no judgment had been rendered in the district court.” Ark. R. Crim. P. 36(g).

Civil judgments rendered by the District Court (as well as judgments rendered by the small claims division of the District Court) are also appealed to the Circuit Court. Ark. Dist. Ct. R. 9(a) & 10(e)(6). For appeals of civil judgments, the Circuit Court “establish[es] a schedule for discovery, motions, and trial[.]” Ark. Dist. Ct. R. 9(c)(3), and the Circuit Court proceeds on an appeal of a District Court judgment as if the case had originally been filed in the Circuit Court. Ark. Dist. Ct. R. 9(c)(4)

*Additional source*

Arkansas Court Rules: [https://opinions.arcourts.gov/ark/cr/en/nav\\_date.do](https://opinions.arcourts.gov/ark/cr/en/nav_date.do)

#### 4. Colorado

*Overview*

**County Courts:** limited jurisdiction over certain matters (misdemeanors, traffic infractions, protection orders, small claims, and civil matters under \$25,000)

**Water Courts:** exclusive jurisdiction over matters involving water rights

**District Courts:** hear most cases at the trial level, with Denver having a separate Probate Court and Juvenile Court

**Colorado Court of Appeals:** intermediate appellate court

**Colorado Supreme Court:** highest appellate court

*Appeals from County Courts*

Appeals from final judgments of the County Court are made to the District Court. Colo. Rev. Stat. § 13-6-310(1). The District Court reviews the case on the record, but the District Court has the discretion to direct that the case be tried de novo before the District Court. Colo. Rev. Stat. § 13-6-310(2).

*Additional source*

Colorado Courts website: <https://www.courts.state.co.us/Courts/Index.cfm>

#### 5. Connecticut

*Overview*

**Probate Court:** oversees decedents’ estates and trusts and handles sensitive issues affecting children, the elderly, and persons with intellectual or psychiatric disabilities

**Connecticut Superior Court:** trial court of general jurisdiction

**Connecticut Appellate Court:** intermediate appellate court

**Connecticut Supreme Court:** highest court in the state

### *Appeals from Probate Court*

A person aggrieved by the order, denial, or decree of the Probate Court may appeal to the Superior Court. Conn. Gen. Stat. § 45a-186(b). Certain types of appeals (generally involving psychiatric commitment/treatment, quarantine orders, conservatorships, and adult protective proceedings) are determined on the record, but with parties allowed offer limited proof of irregularities in the Probate Court's procedure. Conn. Gen. Stat. § 45a-186a(c). The Superior Court does not substitute its judgment for that of the Probate Court on the weight of evidence or questions of fact; the Superior Court only modifies the Probate Court's judgment if the Probate Court abused its discretion, clearly erred, committed an error of law, or exceeded its authority. Conn. Gen. Stat. § 45a-186b. Connecticut's discovery rules contemplate discovery in the course of probate appeals. *E.g.*, Conn. Super. Ct. R. 13-2 (setting forth the scope of discovery "[i]n any civil action, in any probate appeal, or in any administrative appeal").

#### *Additional source*

Connecticut Judicial Branch Law Libraries – Connecticut Law About Probate Appeals: <https://www.jud.ct.gov/lawlib/law/probateappeals.htm>

## **6. Delaware**

### *Overview*

Delaware has four levels of courts, with multiple courts occupying some levels:

*First level. Justice of the Peace Courts/Alderman's Courts:*

jurisdiction for cases involving certain misdemeanors, small claims, and motor vehicle cases

*Second level. Court of Common Pleas:* trial court for civil cases totaling less than \$75,000 and misdemeanors not handled by the Justice of the Peace Courts/Alderman's Courts

*Second level. Family Court:* hears specific cases regarding family and juvenile matters

*Third level. Delaware Superior Courts:* original jurisdiction in some civil and criminal cases; acts as intermediate appellate court for certain appeals from the Court of Common Pleas, Family Court, and state agency rulings

*Third level. Courts of Chancery:* jurisdiction related to equity cases

*Fourth level. Supreme Court:* highest court in the state  
*Appeals from Justice of the Peace Courts,  
Court of Common Pleas & Family Court*

Civil and criminal cases decided in the Justice of the Peace Courts are appealed to the Court of Common Pleas. Del. J.P. Ct. Civ. R. 72; Del. Ct. C.P. Crim. R. 39. Civil and criminal cases decided by the Court of Common Pleas are appealed to the Superior Court. 10 Del. C. § 1326; Del. Ct. C.P. Civ. R. 72; Del. Ct. C.P. Crim. R. 37(a).

Both the Court of Common Pleas and the Superior Court hear and decide appeals based on the record of the proceedings in the lower court, “except as may be otherwise expressly provided by statute.” Del. Ct. C.P. Civ. R. 72.1(g); Del. Ct. C.P. Crim. R. 39(c); Del. Super. Ct. R. Civ. P. 72(g); Del. Super. Ct. R. Crim. P. 39(c).

Orders and judgments in civil proceedings in the Family Court are appealed to the Supreme Court, but orders and judgments in criminal proceedings in the Family Court are first appealed to the Superior Court before further appeal to the Supreme Court. 10 Del. C. § 1051.

In addition, Delaware appears to allow intra-court appeals, such as appeals of commissioners’ orders in Family Court cases, Del. Fam. Ct. R. Civ. P. 53.1, or appeals of summary possession cases to a three-judge panel in the Justice of the Peace Courts, Del. J.P. Ct. Civ. R. 72.1.

*Additional source*

Delaware Court Rules Index:  
<https://courts.delaware.gov/rules/index.aspx#ccp>

## 7. Florida

### *Overview*

**County Court:** hears cases for civil disputes involving \$30,000 or less, traffic offenses, and misdemeanors

**Circuit Court:** original jurisdiction over civil disputes involving more than \$30,000, controversies involving estates, criminal prosecutions of felonies, and other matters

**District Courts of Appeal:** hear appeals from lower courts

**Florida Supreme Court:** highest appellate court in Florida

### *Appeals from County Court*

The Circuit Courts hear appeals, as specifically authorized by law, of decisions in certain administrative cases, noncriminal infraction cases, and other types of cases. The District Courts of Appeal have the discretion to review final orders of the County Court, even if the case is first appealable to the Circuit Court, if a County Court has certified the case to be of “great public importance.” Fla. R. App. P. 9.030(b)(4); Fla. R. App. P. 9.160.

#### *Additional source*

Florida Courts Overview: <https://www.flcourts.gov/Florida-Courts>

## 8. Georgia

### *Overview*

**Magistrate Courts:** hear cases on specific matters, including civil claims under \$15,000, certain foreclosures, ordinance violations, and certain non-jury misdemeanors

**State Courts of Counties:** hear cases including non-felony criminal cases and civil actions without regard to the amount in controversy

**Probate Court/Juvenile Court:** hear cases on specific matters

**Georgia Superior Court:** trial court of general jurisdiction

**Court of Appeals of Georgia:** intermediate appellate court

**Supreme Court of Georgia:** highest court in the state

#### *Appeals from Magistrate Court, Probate Court, Juvenile Court & State Courts of Counties*

Judgments from the Magistrate Court may be appealed to the State Court of the County or to the Superior Court. Ga. Code § 15-6-8(3); Ga. Code § 15-9-123; Ga. Code § 15-10-41. Judgments from the Probate Court and Juvenile Court are appealed to the Court of Appeals or Supreme Court. Ga. Code § 15-9-123; Ga. Code § 15-11-35. Judgments of the State Courts of Counties also *appear* to be directly appealable to the Court of Appeals or Supreme Court. Ga. Code § 15-7-43.

#### *Additional source*

Judicial Council of Georgia, Court Services: <https://georgiacourts.gov/court-services/>

## 9. Indiana

### *Overview*

**Town Courts/City Courts:** courts of limited jurisdiction that handle ordinance violations, misdemeanors, and infractions

**Small Claims Court:** Limited jurisdiction in certain civil cases where damages do not exceed \$8,000

**Circuit Courts/Superior Courts:** courts of general jurisdiction, with appellate jurisdiction over Town Courts/City Courts

**Court of Appeals of Indiana:** intermediate appellate court

**Indiana Tax Court:** intermediate appellate court with original jurisdiction

**Indiana Supreme Court:** highest court in the state

### *Appeals from Town Courts, City Courts & Small Claims Court*

The Circuit Courts and Superior Courts have jurisdiction for appeals from the Town Courts, City Courts, and Small Claims Court, with de novo review prescribed by statute. Ind. Code § 33-28-1-2; Ind. Code § 33-29-1-1.5. Some counties in Indiana have a Circuit Court and no Superior Court, and other counties have multiple Circuit Courts and Superior Courts.

### *Additional sources*

Structure of Indiana Courts: <https://www.in.gov/courts/about/>

Indiana Local Court Directory: <https://www.in.gov/courts/local/>

## 10. Kansas

### *Overview*

**Municipal Courts:** hear cases involving specific subject matter, such as traffic and minor offenses

**District Courts:** trial courts of general jurisdiction

**Court of Appeals:** intermediate appellate court

**Kansas Supreme Court:** highest court in the state

### *Appeals from Municipal Courts*

Appeals from the Municipal Court are taken to the District Court. Kan. Stat. Ann. § 12-4601. In most appeals, the appellant has a new trial either to the court or to a six-member jury in the District Court. Kan. Stat. Ann. § 22-3609.

### *Additional source*

Kansas Judicial Branch website: <https://www.kscourts.org/>

## 11. Kentucky

### *Overview*

**District Courts:** hear cases on specific subject matter, like traffic violations, small claims, and misdemeanors

**Circuit Court:** trial court of general jurisdiction

**Family Courts:** hear cases on all matters related to families and children (division of Circuit Court)

**Business Court:** hears complex commercial cases (currently pilot project as a division within one Circuit Court)

**Court of Appeals:** intermediate appellate court

**Supreme Court of Kentucky:** highest court in the state

### *Appeals from District Court*

Direct appeals from the District Court are taken to the Circuit Court. Kenn. Rev. Stat. § 23A.080(1).

### *Additional source*

Kentucky Court of Justice website: <https://kycourts.gov/Pages/index.aspx>

## 12. Louisiana

### *Overview*

**Justice of the Peace Courts:** hear claims under \$5,000, as well as evictions and other limited matters

**City Courts/Parish Courts/Family or Juvenile Courts:** courts focusing on cases involving specific subject matter, such as traffic violations, claims under \$20,000 (Parish Courts), claims under \$50,000 (City Courts), and misdemeanors

**District Courts:** trial courts of general jurisdiction, and have appellate jurisdiction over certain cases tried in the City Courts

**Louisiana Courts of Appeal:** intermediate appellate court

**Louisiana Supreme Court:** highest court in the state

### *Appeals from lower courts*

Cases appealed from the Justice of the Peace Court are taken to the Parish Court or, if there is no Parish Court, to the District Court located in the parish. La. Code Civ. Proc. art. 4924.

According to the Louisiana Supreme Court website, cases from the Parish Courts are directly appealable to the Court of Appeals. However, I did not locate support by statute or court rule for this procedure.



Louisiana also has other appellate processes. For example, the Traffic Court of New Orleans has jurisdiction over all appeals by a person aggrieved by an administrative decision on traffic violations, La. Code Civ. Proc. art. 4857.

*Additional source*

Frequently Asked Questions About Louisiana Courts:  
<https://www.lasc.org/About/FAQ>

### 13. Maryland

*Overview*

**District Courts/Orphan's Court:** hear specific subject matter, such as traffic violations, small claims, misdemeanors, and probate matters

**Circuit Court:** trial court of general jurisdiction

**Appellate Court of Maryland (formerly Court of Special Appeals):** intermediate appellate court

**Supreme Court of Maryland (formerly Court of Appeals):** highest court in the state

*Appeals from District Courts*

Appeals from the District Courts go to the Circuit Court for the county in which judgment was entered. Md. Code, Cts. & Jud. Proc. § 12-403.

*Additional source*

Maryland Courts website: <https://mdcourts.gov/>

### 14. Michigan

*Overview*

**Probate Courts/District Courts/Municipal Courts:** focus on cases involving specific subject matter, such as traffic violations, small claims, misdemeanor offenses, and probate matters

**Michigan Circuit Court:** trial court of general jurisdiction

**Michigan Court of Appeals:** intermediate appellate court, with the **Court of Claims** (a specialized court handling only claims over \$1,000 filed against the State of Michigan) as a part of this court.

**Michigan Supreme Court:** highest court in the state

*Appeals from Probate, District & Municipal Courts*

The Circuit Court has jurisdiction over appeals as a matter of right from final orders or judgments from a District or Municipal Court. Mich. Ct. R. 7.103.

Orders of the Probate Court are appealable as a matter of right directly to the Michigan Court of Appeals. Mich. Ct. R. 5.801(A).

*Additional source*

Michigan Trial Courts website: <https://www.courts.michigan.gov/courts/trial-courts/>

## 15. Minnesota

*Overview*

**Conciliation Court:** hear small claims

**Minnesota District Court:** trial court of general jurisdiction

**Minnesota Court of Appeals:** intermediate appellate court

**Minnesota Supreme Court:** highest court in the state

*Appeals from Conciliation Court*

The party aggrieved by a judgment of the Conciliation Court after a trial may remove (appeal) the cause to the District Court for a new trial. Minn. Gen. R. Prac. 521(a).

*Additional source*

Minnesota Judicial Branch: <https://www.mncourts.gov/>

## 16. Mississippi

*Overview*

**County Courts/Justice Courts:** hear cases involving specific subject matter like traffic violations, small claims, misdemeanor offenses, and juvenile matters

**Circuit Courts/Chancery Courts:** courts of general jurisdiction

**Mississippi Court of Appeals:** intermediate appellate court

**Mississippi Supreme Court:** highest court in the state

*Appeals from County Courts & Justice Courts*

If a county contains both a Justice Court and a County Court, then an appeal from the Justice Court is made to the County Court. Miss. Code Ann. § 11-51-85. Otherwise, appeals from the Justice Courts are made to Circuit Courts. *Id.* The case is tried “anew, in a summary way” in the Circuit Court. Miss. Code Ann. § 11-51-91. These same rules apply to appeals made from the Justice Court to the County Court. Miss. Code Ann. § 11-51-81. Further appeals from the County Courts are then made to the Circuit Courts.

**NB:** The portion of Miss. Code Ann. § 11-51-81 setting forth a “three-court rule” for appeals (e.g., limiting appeals from the Justice Court to the County Court, followed by the Circuit Court) has been held to be unconstitutional. *Jones v. City of Ridgeland*, 48 So.3d 530, 538–39 (Miss. 2010).

Appeals from the “law side” of the County Courts are made to the Circuit Courts, and appeals from the “equity side” are made to the Chancery Courts. Miss. Code Ann. § 11-51-79. Appeals from the County Courts are considered on the record only. *Id.* If a new trial is granted, then the new trial is heard in the Circuit/Chancery Court. *Id.*

**NB:** The portions Miss. Code Ann. § 11-51-79 involving interlocutory appeals were determined to be preempted by a Mississippi court rule setting forth a different mechanism for interlocutory appeals. *Brown v. Collections, Inc.*, 188 So.3d 1171, 1177 (Miss. 2016).

*Additional source*

Mississippi Courts Website: <https://courts.ms.gov/index.php>

## 17. Montana

*Overview*

**Justices’ Courts/Municipal Courts:** hear cases involving specific subject matter such as traffic violations, small claims, and misdemeanors

**District Courts:** courts of general jurisdiction (but **Water Court** and **Workers’ Compensation Court** have jurisdiction over limited matters)

**Montana Supreme Court:** highest court in the state

*Appeals from Justices’ Courts & Municipal Courts*

The District Courts have appellate jurisdiction over cases arising in the courts with limited jurisdiction in their respective districts, as prescribed by law. Mont. Code Ann. § 3-5-303. Appeals from the Municipal Courts and Justice’s Courts to the District Courts are confined to review of the record and questions of law. Mont. Code Ann. § 3-6-110; Mont. Code Ann. § 3-10-115.

*Additional sources*

Montana District Courts website: <https://courts.mt.gov/courts/dcourt/>

Montana Judicial Branch website: <https://courts.mt.gov/>

## 18. Nevada

### *Overview*

**Municipal Courts/Justice Courts:** hear specific subject matter like traffic violations, small claims, and misdemeanors

**District Court:** trial court of general jurisdiction

**Nevada Court of Appeals:** intermediate appellate court

**Nevada Supreme Court:** highest court in the state

### *Appeals from Municipal Courts & Justice Courts*

In criminal cases, a final judgment of the Justice Court can be appealed to the District Court, Nev. Rev. Stat. § 177.015, and the District Court considers the appeal on the record. Nev. Rev. Stat. § 189.050. A civil judgement of the Justice Court is also subject to appeal to the District Court, Nev. Justice Ct. R. Civ. P. 72A, but the District Court cannot retry the appealed civil case. Nev. Justice Ct. R. Civ. P. 76A.

Municipal Court judgments are appealed to the District Court and are treated as a transfer to the District Court for a new trial. Nev. Rev. Stat. § 5.073. The Municipal Court can, by local ordinance, be treated as a “court of record,” with the appeal then treated as an appeal from a Justice Court (with the appeal decided on the record rather than through a new trial). Nev. Rev. Stat. §§ 5.010 & 5.073; *Sparks v. Bare*, 373 P.3d 864, 867 (Nev. 2016).

### *Additional source*

Nevada Courts website: <https://nvcourts.gov/>

## 19. New Jersey

### *Overview*

**Municipal Courts/Tax Courts:** hear specific subject matter like traffic violations, small claims, and tax matters

**New Jersey Superior Court (with Law Division and Chancery Division):** trial court of general jurisdiction

**New Jersey Superior Court, Appellate Division:** intermediate appellate court

**New Jersey Supreme Court:** highest court in the state

### *Appeals from Municipal Court & Tax Court*

Appeals in criminal cases before the Municipal Courts are made to the Superior Court, Law Division. N.J. Ct. R. 3:24 & 7:13-1. Appeals from judgments in the Municipal Courts for civil actions, imposition of penalties

and confiscation or forfeiture of chattels are likewise made to the Superior Court, Law Division. N.J. R. 4:74-2 & 7:13-1. The Law Division is different from the Appellate Division. *O'Neill v. Vreeland*, 77 A.2d 899, 902 (N.J. 1951).

Judgments of the tax court may be appealed as of right to the Appellate Division of the Superior Court. N.J.S. 2B:13-4.

## 20. New Mexico

### *Overview*

**Probate Court/Municipal Court/Magistrate Court/Metropolitan Court:** hear specific subject matter like traffic violations, small claims, misdemeanors, and probate

**New Mexico District Court:** trial court of general jurisdiction

**New Mexico Court of Appeals:** intermediate appellate court

**New Mexico Supreme Court:** highest court in the state

### *Appeals from Magistrate Courts, Metropolitan Courts & Municipal Courts*

Appeals from the Magistrate Courts, Metropolitan Courts, and Municipal Courts are made to the District Court of the county in which the municipal court is located. N.M. Magis. Ct. R. Civ. P. 2-705; N.M. Magis. Ct. R. Crim. P. 6-703; N.M. Metro. Ct. R. Civ. P. 3-706; N.M. Metro. Ct. R. Crim. P. 7-703; N.M. Mun. C. R.P. 8-703.

**NB:** New Mexico's court rules were substantially revised in 2022, and these changes are not fully incorporated in the electronically-available court rules. The above discussion of appeals from New Mexico's lower courts *may* reflect the rules prior to the 2022 revisions.

### *Additional source*

New Mexico Courts website: <https://www.nmcourts.gov/>

## 21. New York

### *General overview*

**County Court/Court of Claims/Family Court/Surrogate's Court/Local (City, Town, and Village) Courts:** hear specific subject matter like traffic violations, small claims, misdemeanors, probate matters, family matters, and monetary claims against the state government

**Supreme Court:** trial court of general jurisdiction

**Appellate Division of the Supreme Court:** intermediate appellate court

**New York Court of Appeals:** highest state court

### *Appeals in New York*

The best explanation of the complex New York court system is by means of the chart from the New York State Unified Court System, available at: <<https://www.nycourts.gov/courts/structure.shtml>>. This chart shows which courts hear appeals *and* trials.

#### *Additional source*

New York State Unified Court System website:  
<https://www.nycourts.gov/index.shtml>

## **22. North Carolina**

### *Overview*

**State District Court:** hears specific subject matter like traffic violations, small claims, and misdemeanors

**Superior Court:** trial court of general jurisdiction

**Court of Appeals:** intermediate appellate court

**Supreme Court:** highest court in the state

### *Appeals from District Court*

In general, the Superior Courts hear appeals from the District Courts. Reference is made to the “Routes of Appeal” diagram available on the North Carolina court website for more detailed information about the particular cases appealed to the Superior Court, as well as appeals of right and appeals of discretion: <<https://www.nccourts.gov/learn/routes-of-appeal>>.

#### *Additional source*

Overview of North Carolina court system:  
<https://www.nccourts.gov/learn/types-of-courts>

## **23. North Dakota**

### *Overview*

**Municipal Courts:** hear specific subject matter like traffic violations, small claims, and misdemeanors

**District Court:** trial court of general jurisdiction

**North Dakota Supreme Court:** highest court in the state

### *Appeals from Municipal Court*

The District Court has jurisdiction of appeals from all final judgments from the Municipal Court. N.D. Cent. Code § 27-05-06.

#### *Additional source*

North Dakota Courts website: <https://www.ndcourts.gov/>

## 24. Oklahoma

### *Overview*

**Municipal Courts:** focus on violations of the ordinances of the municipality where the court is established

**District Court:** trial court of general jurisdiction

**Court of Civil Appeals:** intermediate appellate court for civil matters

**Court of Criminal Appeals:** highest appellate court for criminal matters

**Oklahoma Supreme Court:** highest appellate court for civil matters

### *Appeals from Municipal Courts*

Municipalities are entitled to create a Municipal Court, but it is not a court of record. Okla. Stat. tit. 11, § 27-101. As indicated above, the Municipal Court's jurisdiction extends only to violations of the municipality's ordinances. Okla. Stat. tit. 11, § 27-103. Appeals from the Municipal Court are taken to the District Court, where the defendant is entitled to a new trial. Okla. Stat. tit. 11, § 27-129. The defendant may then make a further appeal to the Court of Criminal Appeals. Okla. Stat. tit. 11, § 27-132.

### *Additional source*

Oklahoma State Courts Network website: <https://www.oscn.net/v4/>

## 25. Oregon

### *Overview*

**County Courts/Justice Courts/Municipal Courts/Tax Courts:** focus on specific subject matter like traffic violations, small claims, and misdemeanors (with the Tax Court hearing matters involving tax issues)

**Oregon Circuit Court:** trial court of general jurisdiction

**Oregon Court of Appeals:** intermediate appellate court

**Oregon Supreme Court:** highest court in the state

### *Appeals from County Courts, Justice Courts & Municipal Courts*

"Justice Courts" are created by the county, and "Municipal Courts" are created by the city. Or. Rev. Stat. § 1.855. Municipal Courts have jurisdiction over misdemeanors committed or triable in the city, as well as traffic crimes. Or. Rev. Stat. § 221.339. Many counties in Oregon no longer have County Courts, and the powers of the County Courts have been transferred to the Circuit Courts.

Judgments in the County Courts are appealable to the Circuit Courts. Or. Rev. Stat. § 5.120. The Circuit Court's determination is then appealable to

the Court of Appeals. *Id.* Civil and criminal appeals of the Justice Courts are made to the Circuit Courts. Or. Rev. Stat. §§ 53.020 & 157.010.

As a general matter, judgments in the Municipal Courts are appealable to the Circuit Courts. Or. Rev. Stat. § 221.359. A convicted person's appeal to a Circuit Court results in a new trial in the Circuit Court. Or. Rev. Stat. § 221.390. However, a city may pass an ordinance making the Municipal Court a court of record, in which case it *appears* that the judgment of the Municipal Court (as a court of record) would then be appealable to the Oregon Court of Appeals. Or. Rev. Stat. §§ 138.015 & 221.359.

*Additional sources*

Oregon Judicial Department website:

<https://www.courts.oregon.gov/Pages/default.aspx>

Oregon "Blue Book" section on Judicial Branch: <https://sos.oregon.gov/blue-book/Pages/state-judicial.aspx>

## 26. Pennsylvania

*Overview*

**Minor Courts:** limited jurisdiction, hearing arraignments in most cases (presided over by non-lawyer magistrates in some instances)

**Court of Common Pleas:** trial court of general jurisdiction

**Superior Court:** intermediate appellate court with jurisdiction over most civil and criminal matters

**Commonwealth Court:** intermediate appellate court hearing matters involving government regulations

**Pennsylvania Supreme Court:** highest court in the state

*Appeals in Pennsylvania*

Reference is made to the "technical flowchart" available from the Pennsylvania courts website:

<[https://www.pacourts.us/Storage/media/pdfs/20210224/025847-](https://www.pacourts.us/Storage/media/pdfs/20210224/025847-howthecourtsoperateamoretechnicalflowchart-005611.pdf)

[howthecourtsoperateamoretechnicalflowchart-005611.pdf](https://www.pacourts.us/Storage/media/pdfs/20210224/025847-howthecourtsoperateamoretechnicalflowchart-005611.pdf)>. Generally speaking, the Court of Common Pleas has appellate jurisdiction over several other lower courts.

*Additional source*

Unified Judicial System of Pennsylvania website: <https://www.pacourts.us/>



## 27. Rhode Island

### *Overview*

**Traffic Tribunal:** cases involving non-criminal traffic offenses

**Workers' Compensation Court/District Court/Family Court:** courts of limited jurisdiction hearing matters involving workers' compensation, lesser criminal and civil matters, and family matters

**Superior Court:** trial court of general jurisdiction

**Rhode Island Supreme Court:** highest court in the state

### *Appeals from District Court*

The Superior Court has jurisdiction to hear appeals from the District Court, which result in trials de novo. The Superior Court also hears appeals from the Probate Court.

### *Additional sources*

Rhode Island Judiciary website: <https://www.courts.ri.gov/Pages/default.aspx>

Superior Court information:

<https://www.courts.ri.gov/Courts/SuperiorCourt/Pages/default.aspx>

## 28. South Carolina

### *Overview*

**Magistrate Courts/Municipal Courts/Probate Courts:** courts of limited jurisdiction hearing cases involving misdemeanors, traffic offenses, and probate matters

**Circuit Court:** trial court of general jurisdiction

**Family Court/Master-in-Equity:** hear specific cases

**Court of Appeals:** intermediate appellate court

**South Carolina Supreme Court:** highest court in the state

### *Appeals from Probate Court, Magistrate's Court & Municipal Court*

The Circuit Court has limited appellate jurisdiction over appeals from the Probate Court, Magistrate's Court, and Municipal Court. S.C. Code Ann. §§ 14-5-340 & 62-1-308; S.C. R. Civ. P. 74.

Appeals from the Master-in-Equity apparently were previously heard before the Circuit Court, but they are now heard by the Court of Appeals or Supreme Court. S.C. R. Civ. P. 53(e)

### *Additional source*

South Carolina Judicial Department website: <https://www.sccourts.org/>

## 29. South Dakota

### *Overview*

**Magistrate Courts:** focus on specific subject matter like traffic violations, small claims, and misdemeanors

**South Dakota Circuit Court:** trial court of general jurisdiction

**South Dakota Supreme Court:** highest court in the state

### *Appeals from Magistrate Courts*

Circuit Courts have jurisdiction over appeals from Magistrate Court decisions. S.D. Codified Laws §§ 16-6-10 & 16-12A-27.1.

### *Additional sources*

South Dakota Unified Judicial System: <https://uj.s.sd.gov/>

Overview of South Dakota Unified Judicial System:  
<https://uj.s.sd.gov/uploads/general/UJSOverview.pdf>

## 30. Tennessee

### *Overview*

**General Sessions Court/Juvenile Court/Municipal Court:** hear cases on specific subject matter like traffic violations, small claims, misdemeanors, and juvenile matters

**State Trial Courts (separated into Circuit Courts, Chancery Courts, Criminal Courts, and Probate Courts):** trial courts of general jurisdiction

**Appeals Court/Criminal Appeals Court:** intermediate appellate courts

**Supreme Court:** highest court in the state

### *Appeals from lower courts*

By statute, Circuit Courts have broad appellate jurisdiction: “The circuit court has an appellate jurisdiction of all suits and actions, of whatsoever nature, unless otherwise provided, instituted before any inferior jurisdiction, whether brought by appeal, certiorari, or in any other manner prescribed by law.” Tenn. Code Ann. § 16-10-112. According to the Tennessee Courts website, misdemeanor appeals are heard by the Criminal Courts in judicial districts that have established such courts.

### *Additional source*

Tennessee Courts website: <https://tncourts.gov/>

“About the Trial Courts” page: <https://tncourts.gov/courts/circuit-criminal-chancery-courts/about>

## 31. Texas

### *Overview*

**Justice Courts/Municipal Courts:** focus on specific subject matter like traffic violations, small claims, evictions, and truancy

**County Courts:** also hear cases with specific subject matter like misdemeanors, probate, and juvenile matters

**District Court:** trial court of general jurisdiction

**Texas Court of Appeals:** intermediate appellate court

**Texas Supreme Court:** highest court in the state

### *Appeals from lower courts*

Texas has prepared a helpful chart describing the structure of the courts: <http://www.txcourts.gov/media/1455946/court-structure-chart-january-2023.pdf>.

### *Additional source*

Texas Judicial Branch website: <http://www.txcourts.gov/>

## 32. Utah

### *Overview*

**Juvenile Courts/Justice Courts:** hear cases involving specific subject matter like traffic violations, small claims, misdemeanors, and juvenile matters

**Utah District Court:** trial court of general jurisdiction

**Utah Court of Appeals:** intermediate appellate court

**Utah Supreme Court:** highest court in the state

### *Appeals from Justice Court*

Appeals from the Justice Courts are made to the District Courts. Utah has prepared a helpful chart for navigating the court system, available at: [https://www.utcourts.gov/content/dam/knowcts/docs/Navigating\\_the\\_Court\\_System.pdf](https://www.utcourts.gov/content/dam/knowcts/docs/Navigating_the_Court_System.pdf).

### *Additional source*

Utah State Courts website: <https://www.utcourts.gov/>

## 33. Vermont

### *Overview*

**Judicial Bureau:** court of limited jurisdiction hearing cases on low-level civil violations

**Vermont Superior Court:** trial court of general jurisdiction, divided into five divisions: civil, criminal, environmental, family, and probate

**Vermont Supreme Court:** highest court in the state

*Appeals from Judicial Bureau*

Decisions of the hearing officer of the Judicial Bureau are appealable to the Criminal Division of the Superior Court. Vt. Stat. Ann. tit. 4, § 1107. The proceedings are on the record or, at the option of the defendant, de novo (with a right to trial by jury). *Id.* Any further appeal to the Vermont Supreme Court is by discretion. *Id.*

*Additional source*

Vermont Judiciary website: <https://www.vermontjudiciary.org/>

### 34. Virginia

*Overview*

**General District Courts/Juvenile & Domestic Relations District Courts:** hear specific subject matter such as traffic violations, small claims, misdemeanors, and family law matters

**Virginia Circuit Court:** trial court of general jurisdiction

**Court of Appeals:** intermediate appellate court

**Supreme Court of Virginia:** highest court in the state

*Appeals from District Courts*

The Circuit Courts hear appeals from the General District Courts and Juvenile & Domestic Relations District Courts. Va. Code Ann. §§ 16.1-106, 16.1-132, 16.1-296 & 17.1-513. Appeals to the Circuit Court are heard de novo. Va. Code Ann. §§ 16.1-106, 16.1-114.1 & 16.1-136.

*Additional sources*

Virginia's Judicial System website: <https://www.vacourts.gov/main.htm>  
"Virginia Courts in Brief," a detailed discussion of Virginia's court system: <https://www.vacourts.gov/courts/cib.pdf>

### 35. Washington

*Overview*

**District Courts/Municipal Courts:** hear specific subject matter like traffic violations, small claims, and misdemeanors

**Superior Court:** trial court of general jurisdiction

**Washington Court of Appeals:** intermediate appellate court

**Washington Supreme Court:** highest court in the state

### *Appeals from courts of limited jurisdiction*

According to the online Guide to Washington Courts, appeals from courts of limited jurisdiction (the District Courts, Municipal Courts, and others) function as follows:

Cases are appealed from “the record” made in the lower court. In courts of limited jurisdiction, the record is made from an electronic recording of the original proceedings and court documents. The cases are appealed to superior court where only legal errors from the proceeding below are argued.

There is no additional evidence or testimony presented on appeal. The one exception is an appeal from a small claims case. Small claims cases are heard *de novo* (or anew) in superior court on the record from the court of limited jurisdiction.

#### *Additional sources*

Washington Courts website: <https://www.courts.wa.gov/>

Guide to Washington Courts, Section on Courts of Limited Jurisdiction: [https://www.courts.wa.gov/newsinfo/resources/index.cfm?fa=newsinfo\\_jury.display&altMenu=Citi&folderID=jury\\_guide&fileID=limited](https://www.courts.wa.gov/newsinfo/resources/index.cfm?fa=newsinfo_jury.display&altMenu=Citi&folderID=jury_guide&fileID=limited)

## **36. West Virginia**

### *Overview*

**West Virginia Family Courts/Magistrate Courts/Municipal Courts:** hear specific subject matter like traffic violations, small claims, misdemeanors, and family matters

**West Virginia Circuit Court:** trial court of general jurisdiction

**Supreme Court of Appeals of West Virginia:** highest court in the state

#### *Appeals from Magistrate Courts and Municipal Courts*

Civil and criminal appeals from the Magistrate Courts are made to the Circuit Courts; jury trials are reviewed on the record, but bench trials are tried *de novo* to the Circuit Court (without a jury). W. Va. Code §§ 50-5-12 & 50-5-13.

Cities may provide by ordinance for the creation of a municipal court. W. Va. Code § 8-10-2. Appeals from the Municipal Courts are also made to the Circuit Courts, with jury trials reviewed on the record and bench trials receiving a new trial (without a jury). W. Va. Code § 8-34-1.

*Additional source*

West Virginia Judiciary website: <http://www.courtswv.gov/>

**37. Wisconsin**

*Overview*

**Municipal Courts:** hear specific subject matter like traffic violations, small claims, and misdemeanors

**Circuit Court:** trial court of general jurisdiction

**Court of Appeals:** intermediate appellate court

**Supreme Court:** highest court in the state

*Appeals from Municipal Courts*

Appeals from the Municipal Courts are taken to the Circuit Courts. Wis. Stat. § 800.14. The appeal is on the record unless one of the parties requests a new trial. *Id.* The new trial is conducted without a jury unless one of the parties meets certain conditions (such as timely requesting the jury and posting a jury fee). *Id.*

*Additional sources*

Wisconsin Court System website: <https://www.wicourts.gov/>

Online guide to Municipal Courts:

<https://www.wicourts.gov/courts/municipal/index.htm>

**38. Wyoming**

*Overview*

**Municipal Courts:** courts with jurisdiction only over a municipality's ordinances

**Circuit Courts:** courts hearing cases involving misdemeanors, cases where damages do not exceed \$50,000, as well as cases for family violence and forcible entry and detainer

**District Courts:** trial court of general jurisdiction

**Chancery Court:** trial court for streamlined resolution of commercial, business, and trust cases

**Supreme Court:** highest court in the state

*Appeals from Municipal Courts & Circuit Courts*

Appeals from the Circuit Courts are made to the District Courts and are reviewed on the record. Wyo. Stat. Ann. § 5-9-141. Appeals from the judgment or sentence of a Municipal Court may be taken to the District

Court. Wyo. Stat. Ann. § 5-6-107. Appeals from Municipal Courts are treated in the same manner as criminal appeals from Circuit Courts. *Id.*

*Additional sources*

Wyoming Judicial Branch website: <https://www.courts.state.wy.us/>

“About the Courts” page: <https://www.courts.state.wy.us/about-the-courts/>

**C. States with limited appeals to another trial court**

**1. Maine**

*Overview*

**State District Courts/Probate Courts:** hear cases involving specific subject matter, such as lesser criminal offenses, civil actions, and family law matters

**Superior Court:** trial court of general jurisdiction

**Supreme Judicial Court:** appellate court with jurisdiction to consider other matters; called the “**Law Court**” when performing appellate review

*Appeals from State District Courts*

The Superior Court has jurisdiction over only three types of appeals from the District Court:

- Residential landlord and tenant claims for possession under Me. Stat. tit. 14, § 6008;
- Small claims cases under Me. Stat. tit. 14, § 7476–7487; and
- Commitments to psychiatric hospitals under Me. Stat. tit. 34-B, § 3864(11).

Me. Stat. tit. 4, § 105(3)(B). The Superior Court cannot otherwise exercise the authority of the Supreme Judicial Court sitting as the Law Court. Me. Stat. tit. 4, § 105(4); Me. Stat. tit. 15, § 1.

*Additional source*

Maine Judicial Branch website: <https://www.courts.maine.gov/index.html>

**2. Massachusetts**

*Overview*

**District Court/Juvenile Court/Probate & Family Court:** hear specific subject matter like misdemeanors, small claims, juvenile matters, and probate matters

**Superior Court:** trial court of general jurisdiction (At the same level, the Boston Municipal Court, Housing Court, and Land Court also hear specific cases)

**Massachusetts Appeals Court:** intermediate appellate court

**Supreme Judicial Court:** highest court in the state

*Appeals from lower courts*

By statute, the Superior Court has jurisdiction of civil actions brought before it by appeal. M.G.L.A. 212 § 5. That said, I did not locate supporting authority identifying what specific cases would be brought before the Superior Court by appeal.

*Additional source*

Massachusetts Court System organization chart, which is **not helpful**:  
<https://www.mass.gov/doc/court-system-organization-chart/download>

### 3. New Hampshire

*Overview*

**Circuit Court (District, Family, and Probate divisions):** hear specific subject matter like probate, small claims, misdemeanors, and family matters

**New Hampshire Superior Court:** trial court of general jurisdiction

**New Hampshire Supreme Court:** highest court in the state

*Appeals from Circuit Court, District Division*

The Circuit Court has three divisions: district, probate, and family. N.H. Rev. Stat. § 490-F:3. The district division of the Circuit Court is also called the “District Court” throughout New Hampshire’s rules and statutes.

The District Court has original jurisdiction over criminal cases punishable by fines of \$2,000 or less or imprisonment for one year or less. N.H. Rev. Stat. § 502-A:11. The District Court also has exclusive jurisdiction on civil cases where the amount in controversy is \$1,500 or less and concurrent jurisdiction with the Superior Court on civil cases where the amount in controversy is \$25,000 or less. N.H. Rev. Stat. § 502-A:14.

Criminal convictions in the District Court are appealed to the Superior Court, which will have a de novo jury trial. N.H. Rev. Stat. §§ 502-A:12 & 599:1. If the Superior Court also finds the defendant guilty, then the defendant may appeal questions of law to the New Hampshire Supreme Court. N.H. Rev. Stat. § 599:1. The defendant appears to have the option to waive the de novo jury trial, in which case the questions of law in the case are



simply appealed to the New Hampshire Supreme Court. N.H. Rev. Stat. §§ 502-A:12 & 599:1.

Judgments (and other interlocutory orders) in civil matters in the District Court are subject to appeal to the New Hampshire Supreme Court. N.H. Dist. Ct. R. 3.46.

In both civil and criminal cases before the District Court, the district court justice may transfer questions of law to the New Hampshire Supreme Court. N.H. Rev. Stat. § 502-A:17-a. (The Superior Court also has the ability to transfer questions of law to the New Hampshire Supreme Court. N.H. Rev. Stat. § 491:17.)

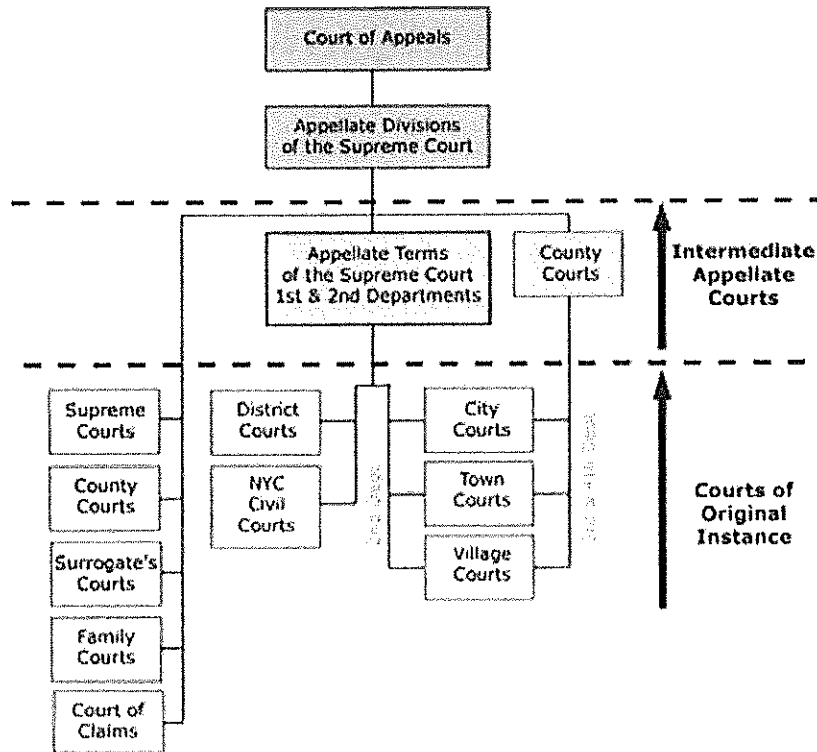
*Additional sources*

New Hampshire Judicial Branch website: <https://www.courts.nh.gov/>

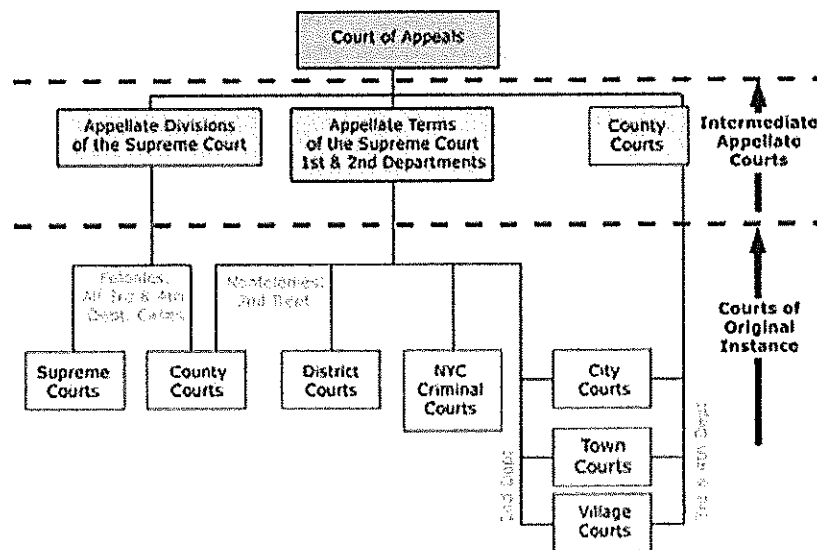
# New York Unified Court System: Structure of the Courts

<https://www.nycourts.gov/courts/structure.shtml>

## CIVIL COURT STRUCTURE

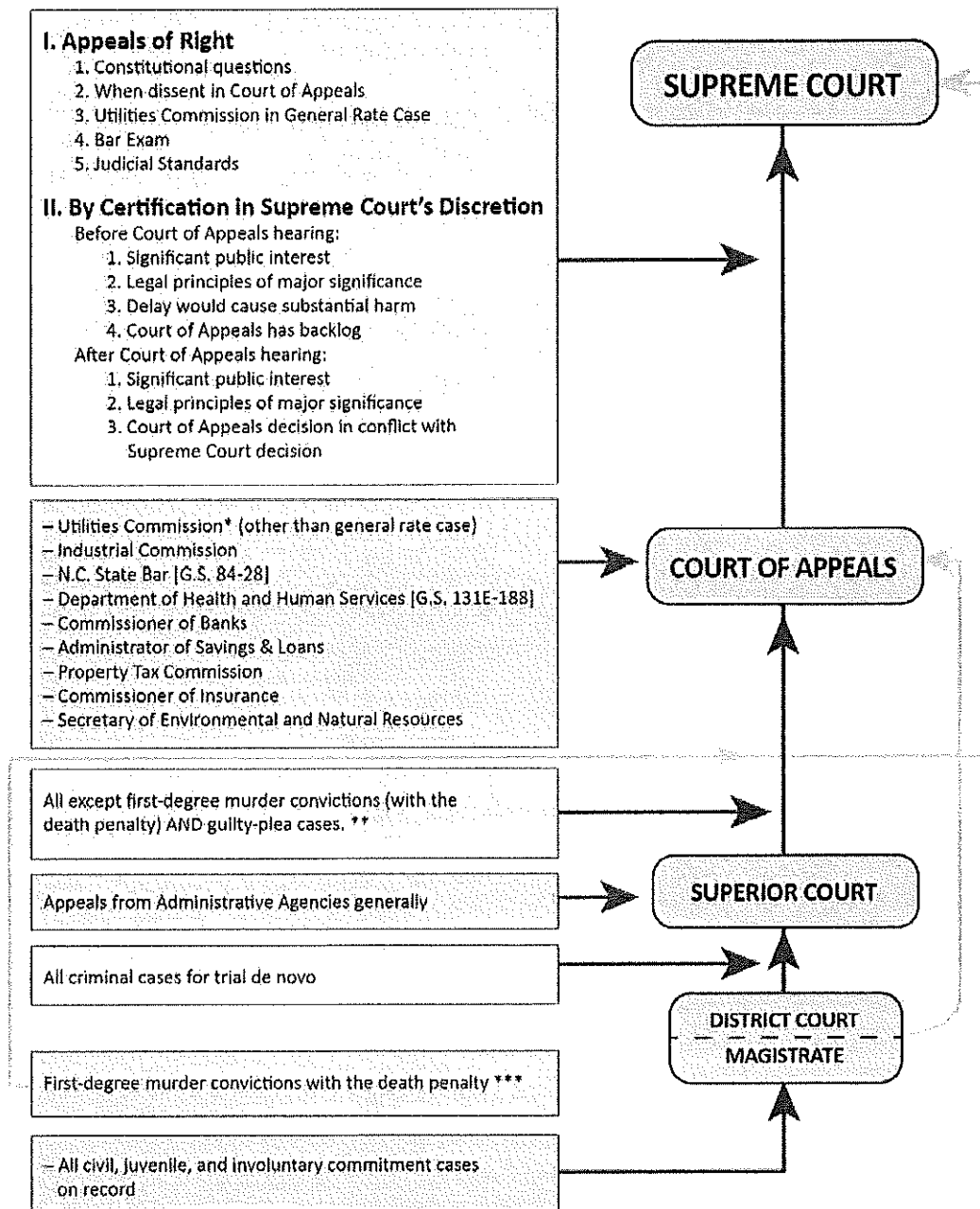


## CRIMINAL COURT STRUCTURE



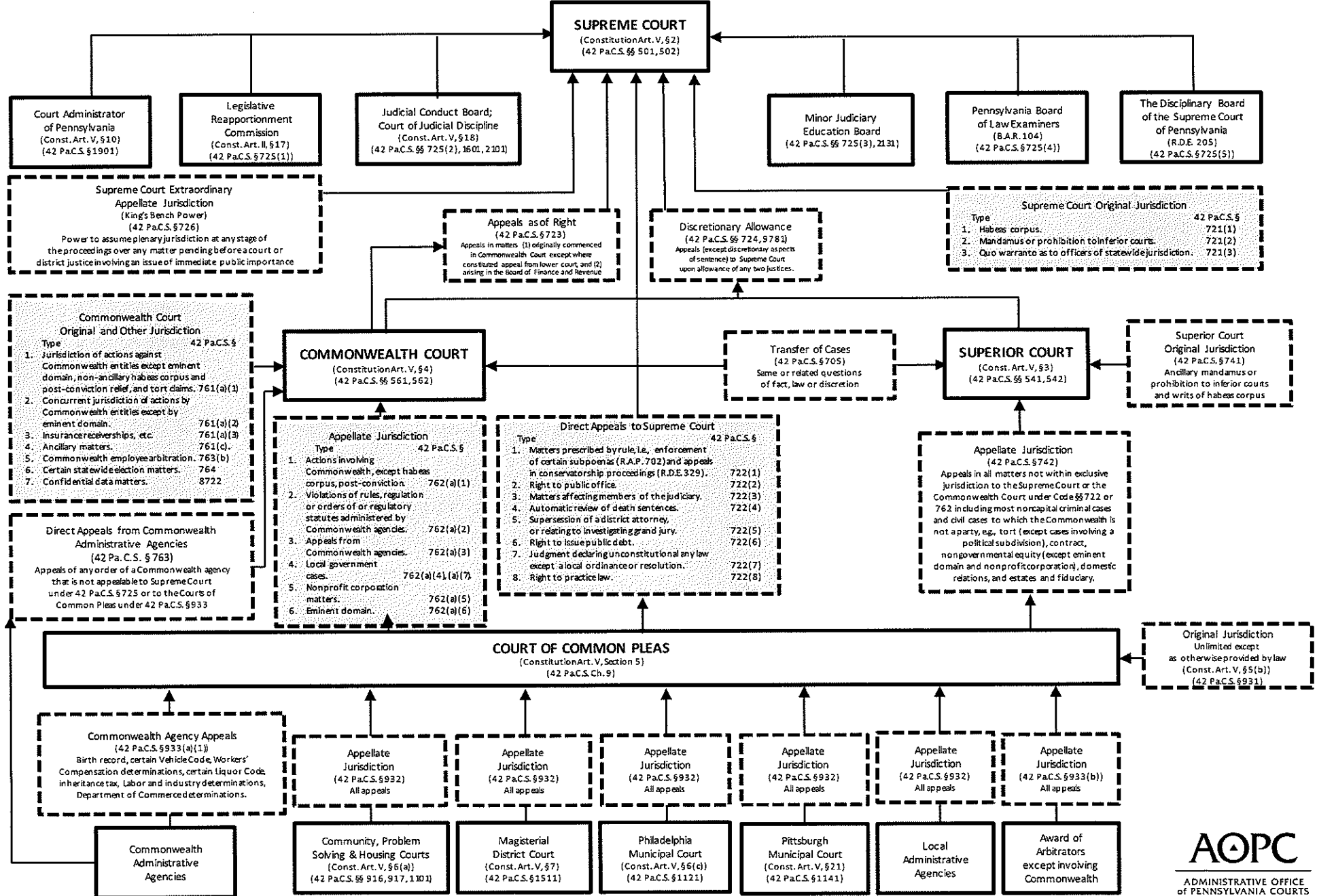
# North Carolina Judicial Branch: Routes of Appeal Chart

<https://www.nccourts.gov/learn/routes-of-appeal>



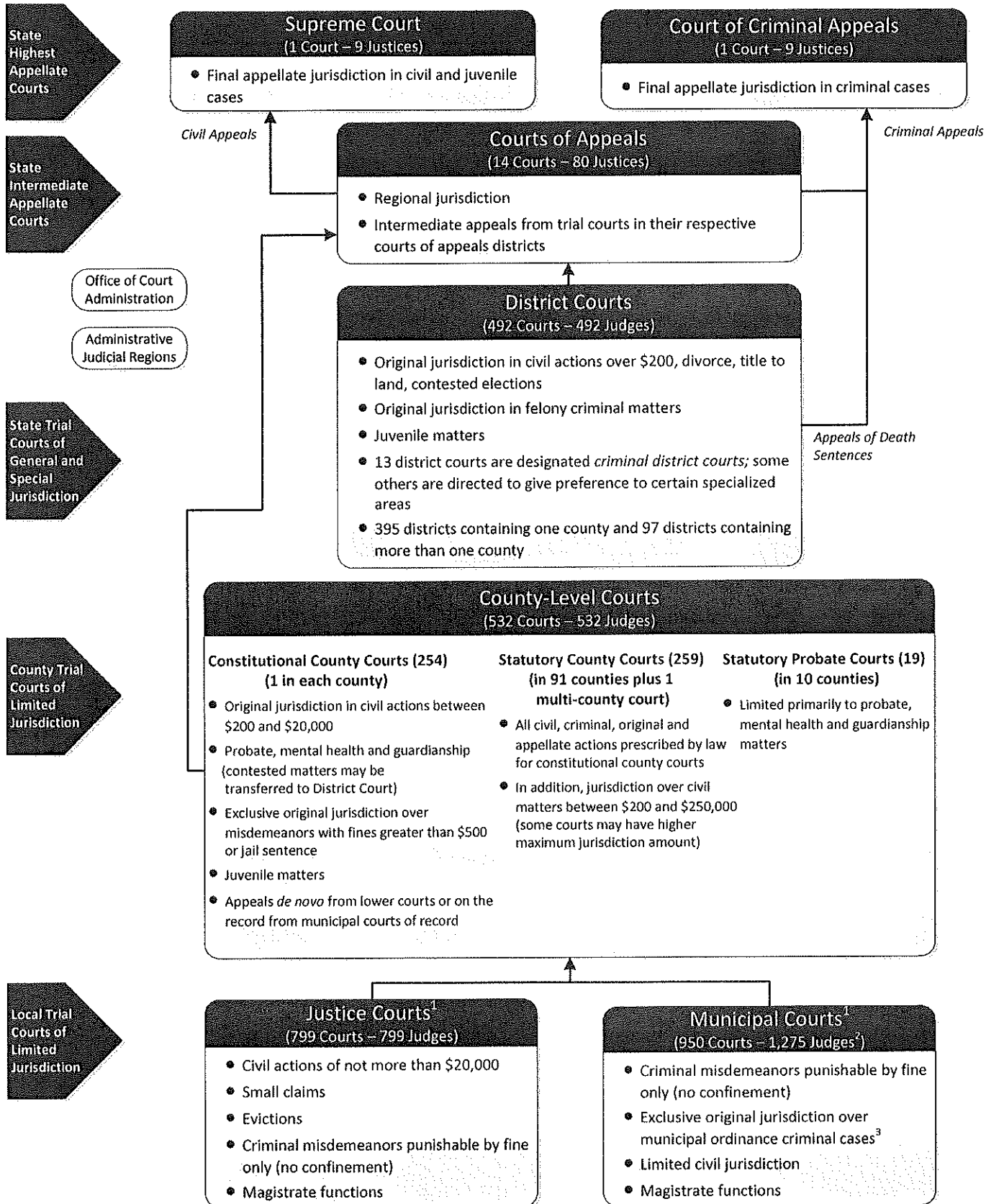
# COMMONWEALTH OF PENNSYLVANIA – UNIFIED JUDICIAL SYSTEM

Current as of October 31, 2016



# Court Structure of Texas

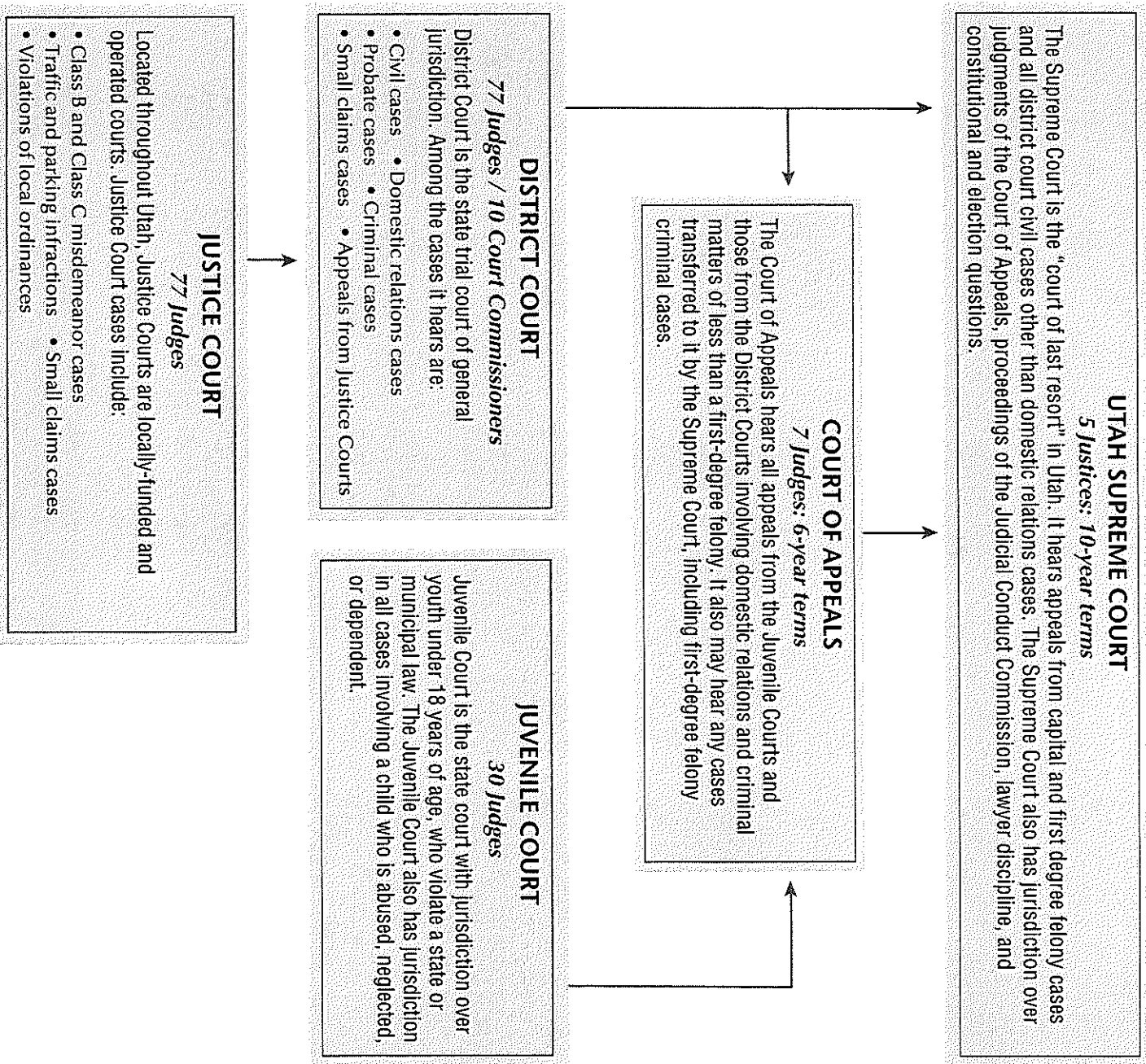
January 2023



1. All justice courts and most municipal courts are not courts of record. Appeals from these courts are by trial *de novo* in the county-level courts, and in some instances in the district courts.  
 2. Some municipal courts are courts of record—appeals from the courts are taken on the record to the county-level courts. As of April 2020, 188 courts indicated that they were a court of record; a list is posted at <http://www.txcourts.gov/about-texas-courts.aspx>.  
 3. An offense that arises under a municipal ordinance is punishable by a fine not to exceed: (1) \$2,000 for ordinances that govern fire safety, zoning, and public health, (2) \$4,000 for dumping of refuse or (3) \$500 for all others.

# Navigating the Court System

Last Updated: January 2022



# Nebraska County Judges Association

December 12, 2023

Judicial Resources Commission  
c/o Dawn Mussmann  
Via email to: [dawn.mussmann@nebraska.gov](mailto:dawn.mussmann@nebraska.gov)

Dear Members of the Judicial Resources Commission,

We write to you on behalf of the Nebraska County Judges Association (NCJA) and its member judges to express our thanks for your hard work and dedication to ensuring that the judicial resources of the county courts across the state are sufficient to serve Nebraska's citizens.

This past year, your decisions guaranteed that the citizens in the 4th & 6th judicial districts continue to have adequate access to justice in the county courts. The impact of filling those vacancies on the county court bench is not limited to those judicial districts. Filling judicial vacancies when necessary also has a positive impact on surrounding judicial districts.

As you consider the factors set forth in Neb. Rev. Stat. § 24-1205 at your annual meeting, the NCJA requests that you maintain the current allocation and assignment of judges in each judicial district, as well as the boundaries of each district. The current number of county judges in each judicial district is appropriate. There is no present need to add or reduce the number of county judges. There is also no present need to change the current number of county court judicial districts or the boundaries of those districts.

Nebraska's county courts are effective and efficient. The NCJA appreciates your help in maintaining the county courts' ability to serve the people of Nebraska.

Sincerely,

Judge Jeffrey M. Wightman  
President

Judge Kale B. Burdick  
Chair  
Caseload & Redistricting Committee





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President

ANGELA M. LENNON  
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KENNETH W. WENTZ III  
Immediate Past President

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December 12, 2023

Judicial Resources Commission  
c/o Dawn Mussmann  
Via email to: [Dawn.Mussmann@nejudicial.gov](mailto:Dawn.Mussmann@nejudicial.gov)

RE: Nebraska Judicial Resources Commission Hearing on December 14, 2023

Members of the Nebraska Judicial Resources Commission:

On behalf of the Omaha Bar Association, thank you for the work you do to assess the needs of our state's judiciary. I write today in follow-up to my letter to the Commission dated September 12, 2023 (see attached copy), to expound upon and reiterate a few important points.

Testimony at the September 15<sup>th</sup> hearing reiterated: the workload in Douglas County courts is great, and more judges and staff are needed to keep up with the current caseload. This Commission heard that feedback and ultimately determined to declare a judicial vacancy created by Judge Vaughn's move to a seat in Douglas County District Court. We thank the Commission for making that determination – it is vital for the effective administration of justice in Douglas County Court by our judiciary.

Further, it is imperative to continue to properly assessing the judicial vacancies and needs in the entire state. Therefore we strongly encourage the Commission to request improved assessments by the Administrative Office of Courts (AOC) in the following areas:

- (1) Implementation of a transparent Quality Adjustment Process (“QAP”) in their determination of Weighted Caseload Reports. Use of this QAP appears to be standard by the National Center for State Courts<sup>1</sup> in their establishment of Judicial Workload

<sup>1</sup> See The Book of the States, 2013 Edition, Vol. 45, by Matthew Kleiman, Cynthia G. Lee and Brian J. Ostrom. The Council of State Governments. p. 244. Accessible at [https://issuu.com/csg\\_publications/docs/bos2013](https://issuu.com/csg_publications/docs/bos2013). The NCSC authors state “The preliminary case weights generated from the time study measure the amount of time judges currently spend handling various types of cases, but do not necessarily indicate whether this is the amount of time judges *should* spend. To ensure that the final weighted caseload model incorporates sufficient time for effective case processing, the workload assessment should include a systematic process for reviewing and adjusting the case weights. Quality adjustments are typically made by a panel of experienced judges using a variant on the Delphi process, a structured method for decision-making by a group of experts. The panel's decisions may also be informed by data gathered from a larger group of judges through interviews, focus groups and/or surveys.” See also Quality Adjustment Process used by NCSC State Judicial Workload Assessments in Maine in 2023 (accessible at





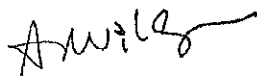
Assessments in at least 11 other states. A QAP is absent from Nebraska's Assessment,<sup>2</sup> and creates a confirmation bias that skews toward lesser judicial need (read: less judges per District) in Weighted Caseload Reports.

- (2) Commissioning and utilizing a Sufficiency of Time Survey for court staff in the Assessment/Weighted Caseload Reports.<sup>3</sup> Including court staff information and feedback would increase in assessing judicial efficiency and need. When judges do their work with less court staff than needed, their processes slows down and more time is required to do tasks.
- (3) Requesting more transparency and better reporting in Weighted Caseload Studies on whether or not reopened cases are included in the assessment (i.e. Guardian Ad Litem cases, Modifications, Contempt Actions, etc. where there is an existing case ID).

I understand that use of "Delphi Groups" was mentioned at the September meeting of the Commission, and we appreciate the hard work of the Commission in getting feedback from members of the judiciary on what case types need more time. This appears to show the Commission is trying to include a Quality Adjustment Process in its work to determine judicial vacancies. Nevertheless, we submit that QAP should be included earlier in the process, in Nebraska's Judicial Workload Assessment and its direction in determining Nebraska's Weighted Caseload Reports. These Reports' impact to the judiciary and bar matter. Accuracy is key.

On behalf of the Omaha Bar Association and our 1450 members, I want to thank you again for critically important work done by this Commission. Your effort does not go unnoticed, and is greatly appreciated.

Sincerely,



Andrew J. Wilson  
President, Omaha Bar Association

---

<https://www.courts.maine.gov/news/article.html?id=11144596>) and Georgia in 2020 (accessible at <https://research.georgiacourts.gov/wp-content/uploads/sites/3/2022/07/Workload-and-Caseload-Policy-4.22.22v2-final.pdf>).

<sup>2</sup> Since NCSC uses a template for their Judicial Workload Assessment reports in various states, just compare the Part IVs of Georgia's 2020 Assessment, Michigan's 2019 Assessment (accessible at <https://www.courts.michigan.gov/4a659f/siteassets/reports/statistics/judicial-resources/judicialworkloadassessment2019.pdf>), and Florida's 2016 Assessment (accessible at <https://www.flcourts.gov/content/download/216629/file/Final-Florida-Judicial-Workload-Assessment-Final-report.pdf>) to Nebraska's 2020 Assessment (accessible at [https://supremecourt.nebraska.gov/sites/default/files/Nebraska\\_Judicial\\_Workload\\_Assessment\\_Final\\_Report\\_with\\_Addendum\\_12-8-2020.pdf](https://supremecourt.nebraska.gov/sites/default/files/Nebraska_Judicial_Workload_Assessment_Final_Report_with_Addendum_12-8-2020.pdf)).

<sup>3</sup> As seen in the 2023 Maine Judicial Workload Assessment, p. 9, 17 (accessible at <https://www.courts.maine.gov/news/article.html?id=11144596>), and as identified as Recommendation 4 in *Nebraska Judicial Workload Assessment Final Report* (2020), p. 3.

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September 12, 2023

**VIA EMAIL ONLY:** [dawn.mussmann@nebraska.gov](mailto:dawn.mussmann@nebraska.gov)  
Judicial Resources Commission  
c/o Dawn Mussmann

RE: Judicial Vacancies in 4<sup>th</sup> Judicial District

Members of the Nebraska Judicial Resources Commission:

On behalf of the Omaha Bar Association, I write today in support of taking the necessary actions to fill any and all vacant judicial seats in the 4<sup>th</sup> Judicial District.

In sustained feedback received from OBA members, both judges and attorneys, the message has been constant and sincere: we need more judges in Douglas County (both County and District Court) to keep up with the current caseload. We have heard from our members that the judicial needs (both in number of judges and numbers of judicial support staff) in the 4<sup>th</sup> District significantly outweigh current levels. This is not a new concern as case levels have been growing for years resulting in judicial needs increasing compared to allotted levels.

The consequences of the growing caseloads are serious. Overwhelmed courts are taking longer to schedule hearings and trials due to lack of availability of court dates. Many times, the attention required for a particular case is not given due to the overloaded calendars. These delays not only frustrate the members of the practicing bar, but more importantly, frustrate those clients our OBA members serve.

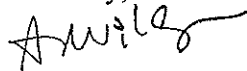
The OBA is encouraged to see so many letters submitted, along with attorneys and judges scheduled to testify at this Judicial Resources hearing, echoing what we have heard. There is a need to quickly fill any judicial seats that are available in the 4<sup>th</sup> District.

Additionally, and more broadly as it relates to accurately determining the annual weighted caseload calculation for judicial resources, the OBA supports any effort by the Nebraska Judicial Resources Commission and associated entities to better assess state court judicial needs. This includes, but is not limited to:

- (1) Requesting the AOC (Administrative Office of Courts) implement a Quality Adjustment Process (as outlined and recommended by the National Center for State Courts)<sup>1</sup> when determining annual weighted caseloads reports for county and district courts;
- (2) Requesting the commission of a Sufficiency of Time Survey of state court staff/clerks, to assist in the Quality Adjustment Process;<sup>2</sup>
- (3) Requesting an examination and possible adjustment of methodology used to count number of open and active case files for the annual Nebraska Judicial Branch's weighted caseload reports, including counting cases that are re-opened;<sup>3</sup>
- (4) Requesting the judges' Sufficiency of Time Survey from the 2020 Nebraska Judicial Workload Assessment be redone to require judges to answer all questions.<sup>4</sup>

On behalf of the Omaha Bar Association and our 1450 members, I want to thank the Nebraska Judicial Resources Commission for its hard work on these important issues. Having the necessary amount of judicial resources helps ensure a robust, diverse, and engaged bench, and most importantly, ensures the public's access to justice is of the highest quality. In the end, that high quality level accurately reflects what we all strive to deliver and achieve.

Sincerely,



Andrew J. Wilson  
President, Omaha Bar Association

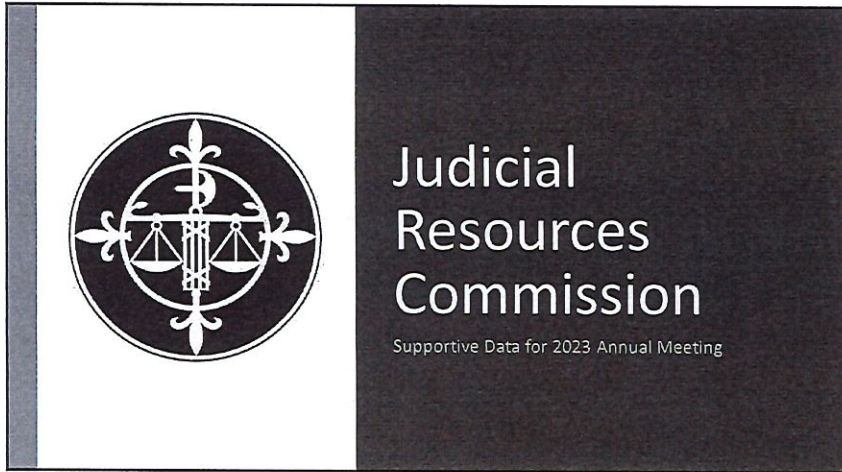
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<sup>1</sup> See The Book of the States, 2013 Edition, Vol. 45, by Matthew Kleiman, Cynthia G. Lee and Brian J. Ostrom. The Council of State Governments. p. 244. Accessible at [https://issuu.com/csg\\_publications/docs/bos2013](https://issuu.com/csg_publications/docs/bos2013). See also Quality Adjustment Process used by NCSC State Judicial Workload Assessments in Maine in 2023 (accessible at <https://www.courts.maine.gov/news/article.html?id=11144596>) and Georgia in 2020 (accessible at <https://research.georgiacourts.gov/wp-content/uploads/sites/3/2022/07/Workload-and-Caseload-Policy-4.22.22v2-final.pdf>).

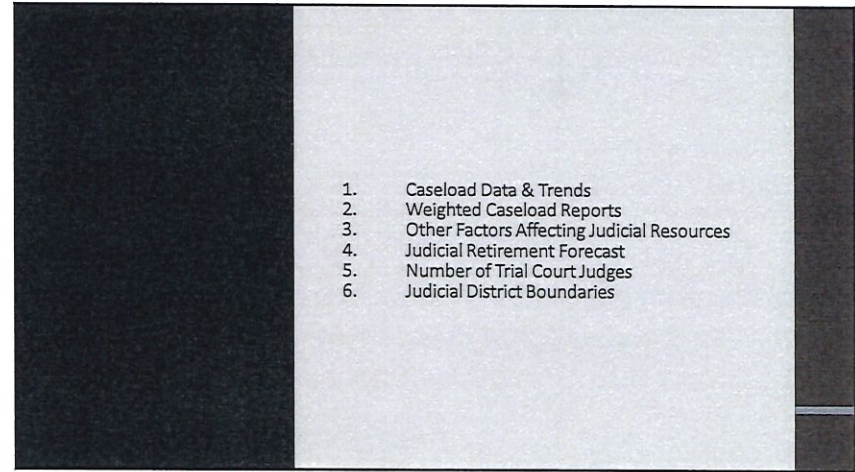
<sup>2</sup> As done in the 2023 Maine Judicial Workload Assessment, p. 9, 17 (accessible at <https://www.courts.maine.gov/news/article.html?id=11144596>), and as identified as Recommendation 4 in the Nebraska Judicial Workload Assessment, p. 3.

<sup>3</sup> See Letter to Nebraska Judicial Resources Commission written by Hon. Marcela Keim, September 2023.

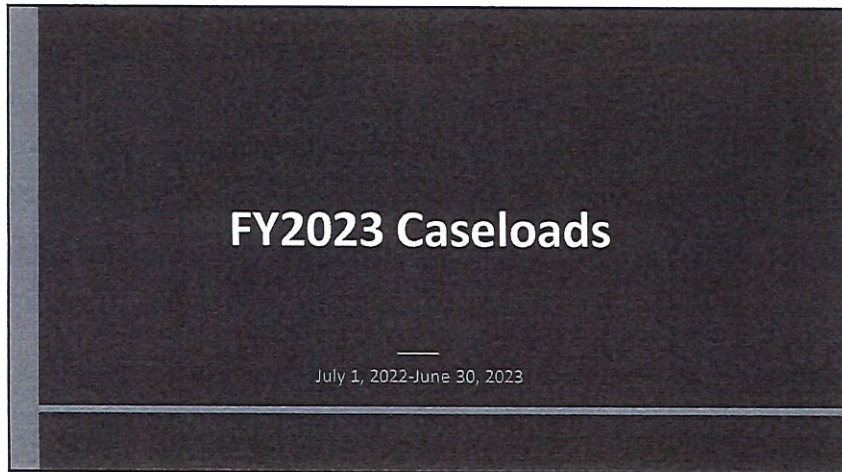
<sup>4</sup> This inference comes from an examination of 2020 Nebraska Judicial Workload Assessment. Page 13 states that 85% of District Court judges completed the Survey, but results on pp. 31-32 show number of responses as variable and at most 29 responses to any one question (29 replies being just over 50% of District Court judges in Nebraska in 2019-20 when the survey was completed). A similar gap exists with the Sufficiency of Time Survey exists in County Court, with Page 13 stating 67% of judges completed, but in the results (pp. 33-34) the most answered question received just 22 responses, well under half the County Court judges in Nebraska in 2019-20. Contrast with mandatory responses required in 2023 Maine Judicial Workload Assessment (accessible at <https://www.courts.maine.gov/news/article.html?id=11144596>), p. 4, 30-34, where 80% of state judges answered every question of Survey.



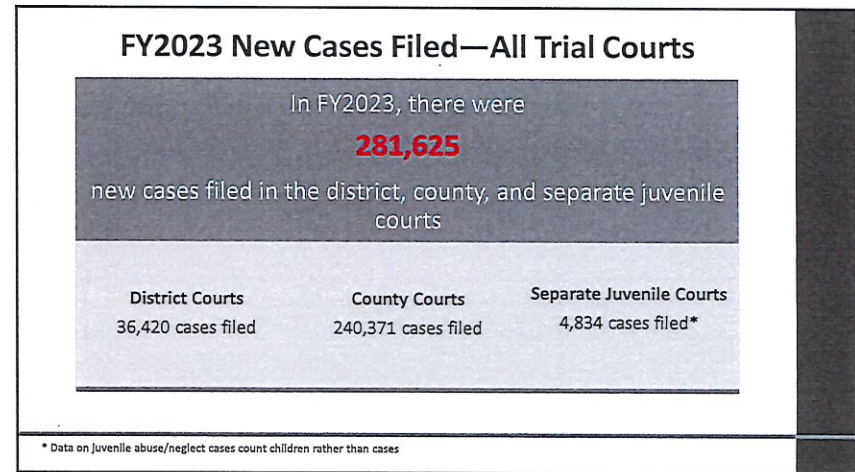
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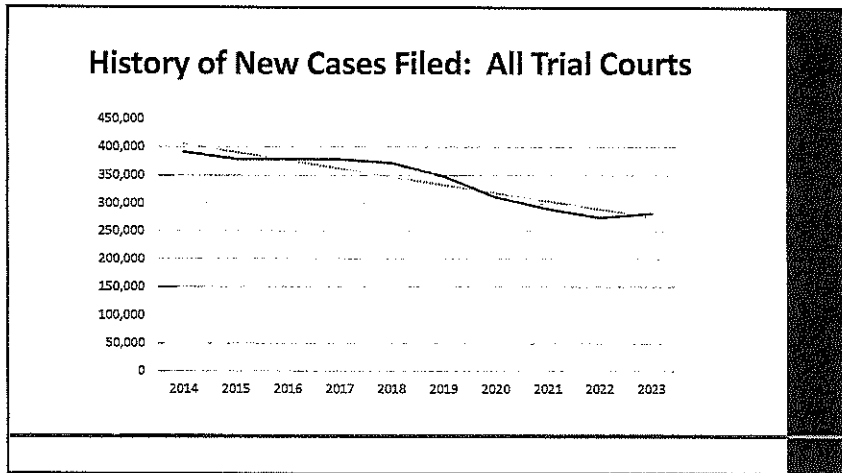
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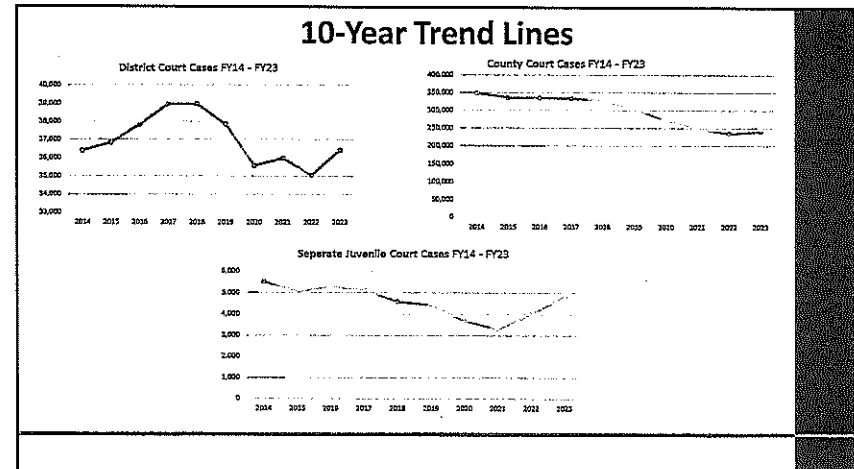
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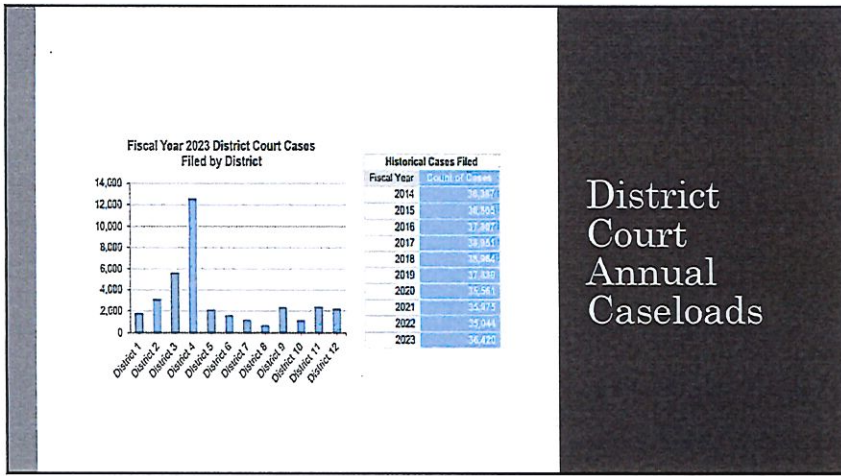
# A Closer Look at Caseload Trends

7

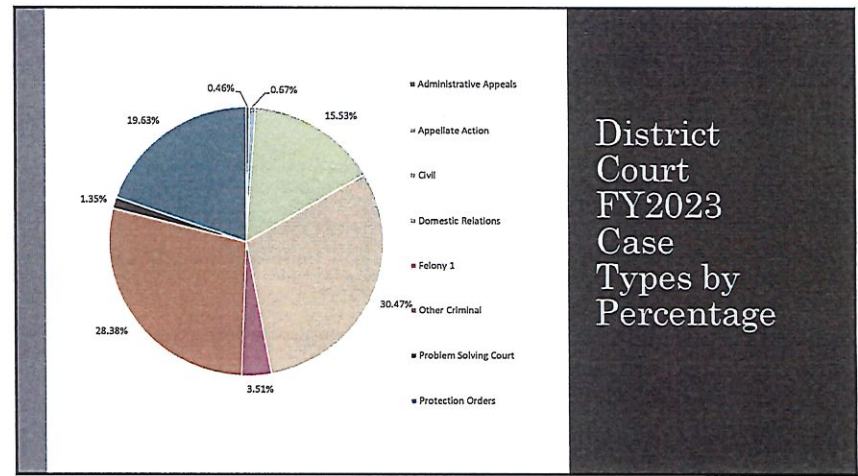
# DISTRICT COURTS

8

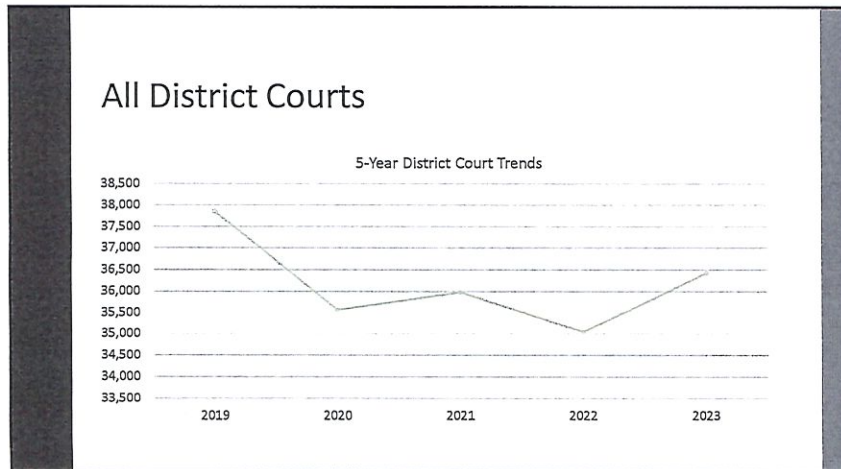




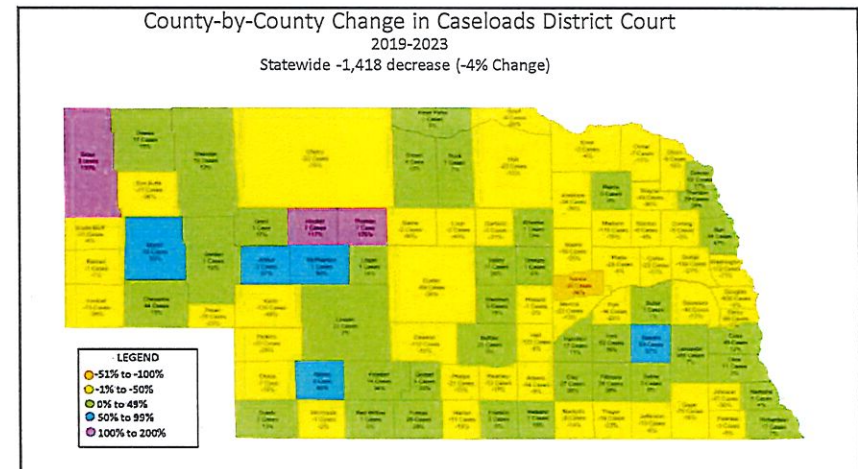
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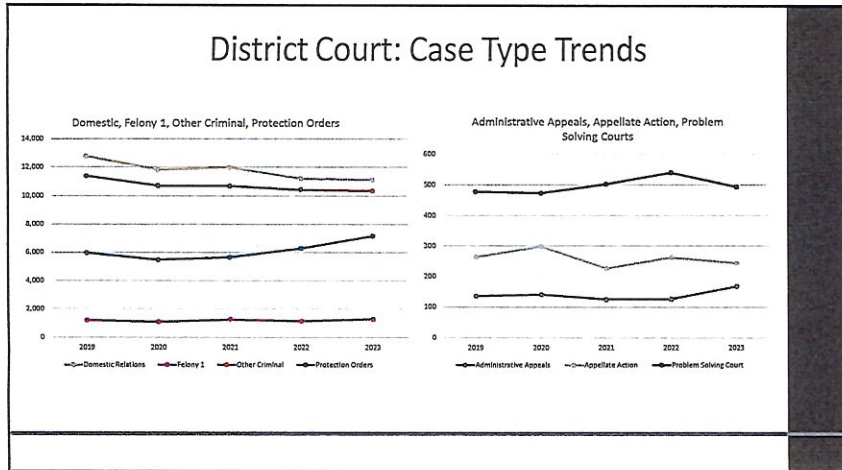
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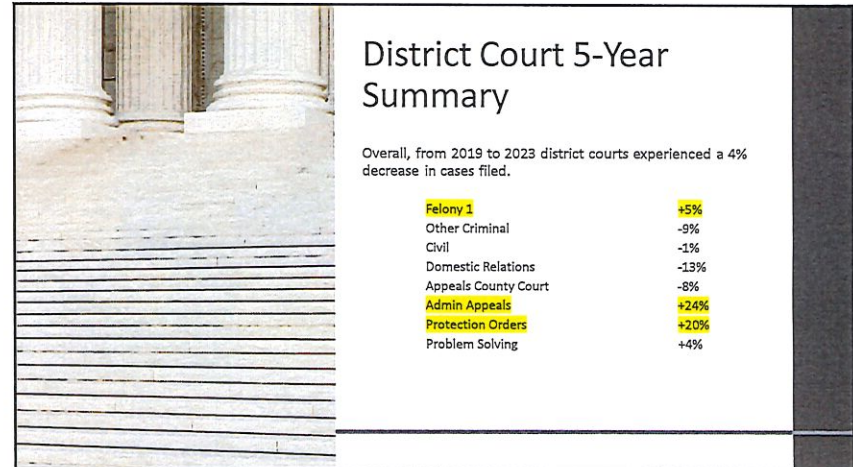
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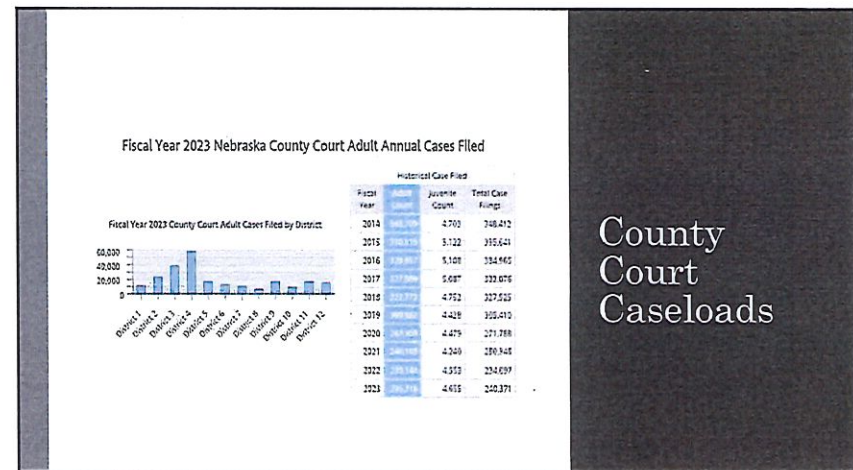
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# COUNTY COURTS

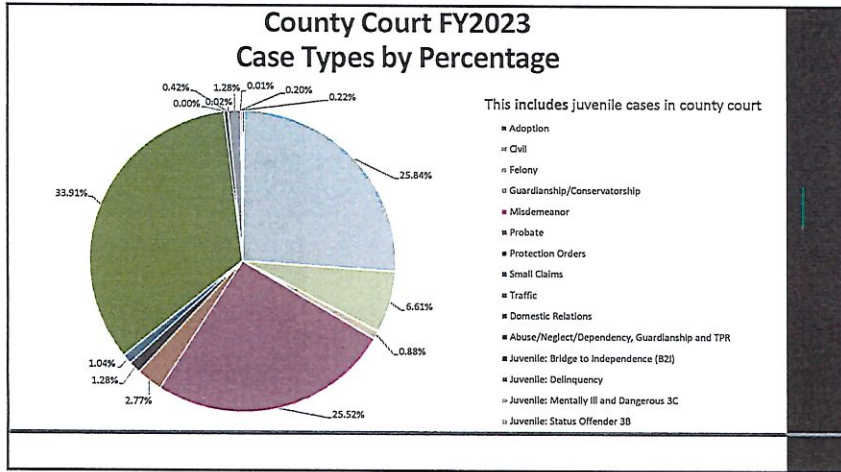
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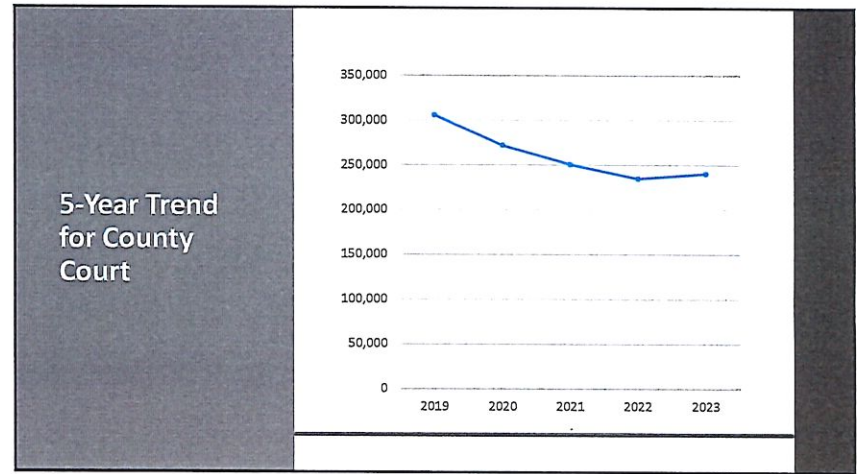
16

County Court Caseloads

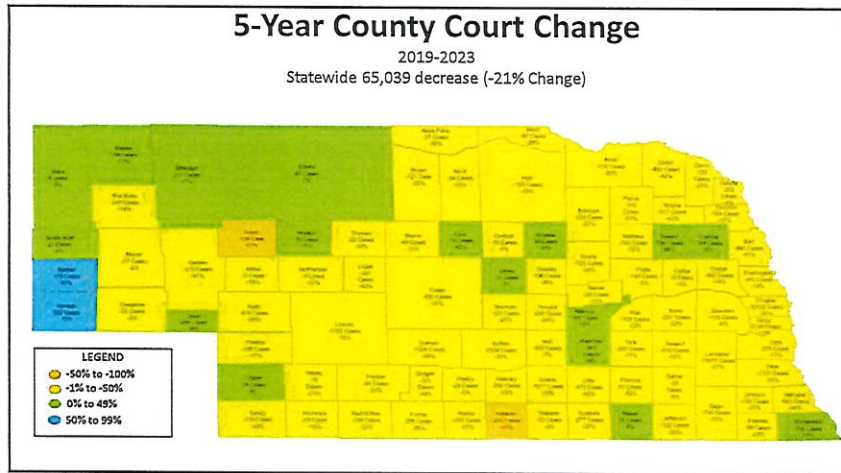




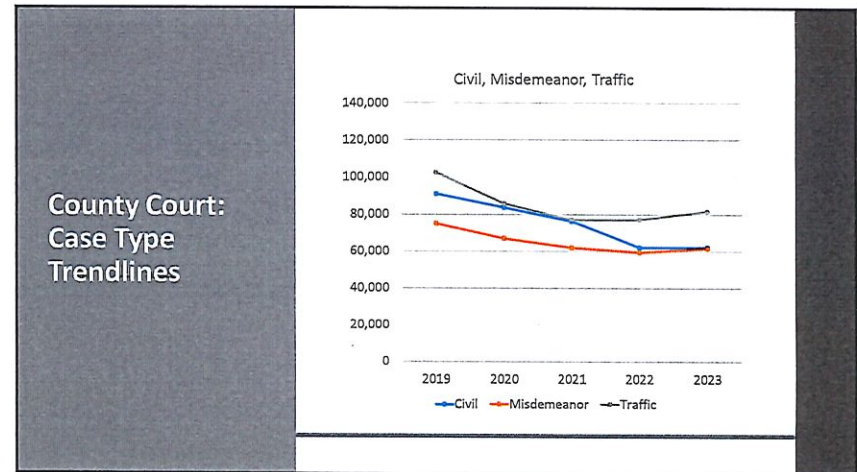
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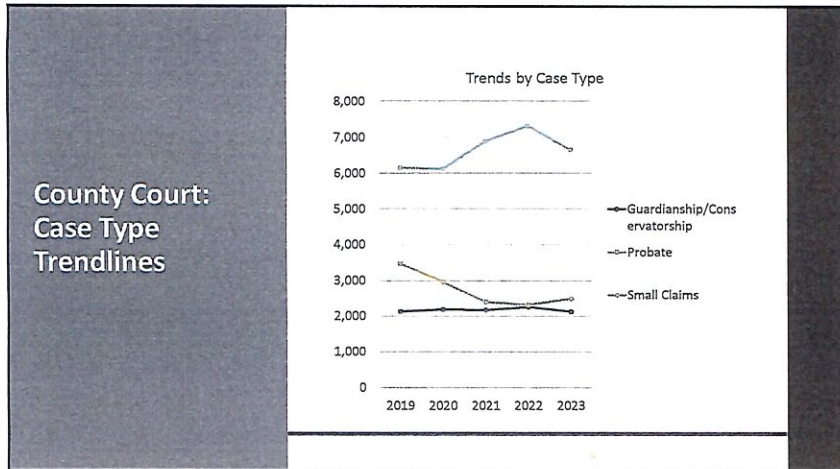


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21

### County Court: Case Type Trendlines

#### COUNTY COURT JUVENILE DOCKET

From FY2022 to FY2023, the county court juvenile docket experienced:

- 7% increase in juvenile delinquency cases (+189 cases)
- 22% increase in bridge to independence cases (+10 cases)
- 33% increase in mentally ill and dangerous (3C) cases (+6 cases)
- 5% decrease in abuse/neglect (3A Children) (-53 cases)
- 14% decrease in adoption cases (-87 cases)
- 9% decrease in status offense (3B) cases (-51 cases)

22

### County Court 5-Year Summary

Overall, from 2019 to 2023, county courts experienced a 21% decrease in cases filed

Misdemeanors	-18%
Traffic	-20%
Felony	-9%
Civil	-32%
Probate	+8%
Guardian/Conserv	0%
Adoption	-21%
Small Claims	-28%
Protection Orders	+3%
Juv. Delinquency	+8%
Juv. B2I	+2%
3A Children	-1%

23

# SEPARATE JUVENILE COURTS

24

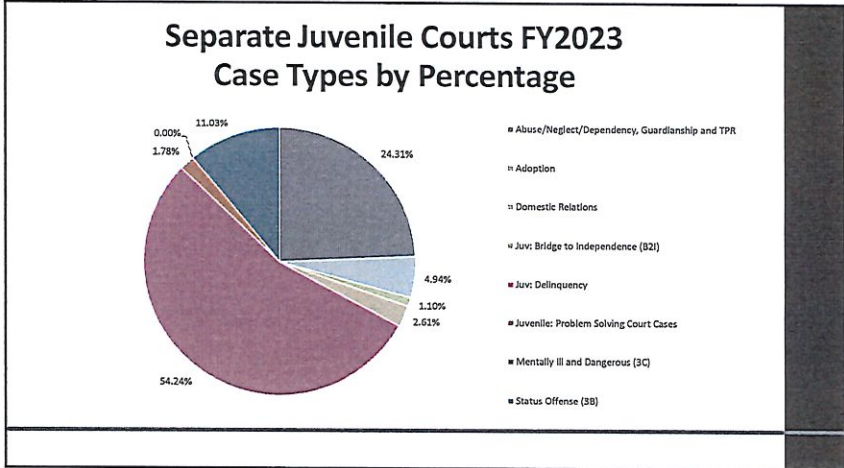
### 2023 County Separate Juvenile Court

Separate Juvenile Courts Cases Filed - 10 Year History

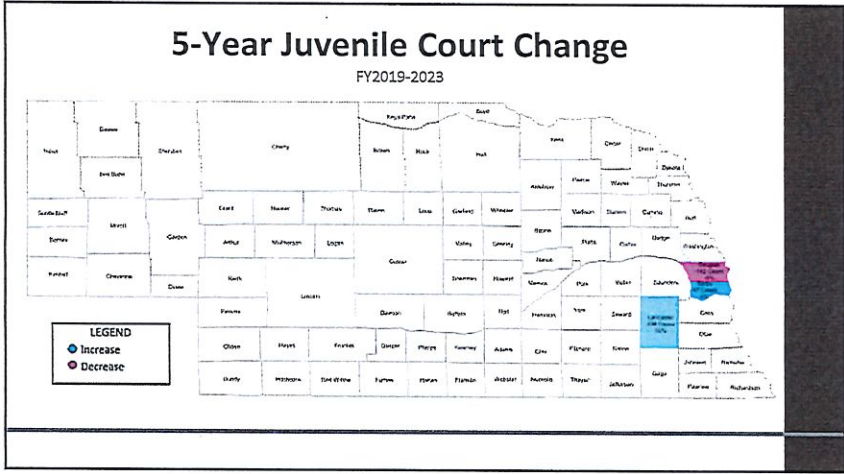
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Sarpy	948	933	912	962	936	844	754	578	741	891
Lancaster	1,653	1,302	1,464	1,305	941	980	827	942	1,463	1,474
Douglas	2,929	2,810	2,912	2,858	2,723	2,611	2,124	1,796	1,819	2,469
<b>Total</b>	<b>5,530</b>	<b>5,045</b>	<b>5,288</b>	<b>5,125</b>	<b>4,600</b>	<b>4,435</b>	<b>3,705</b>	<b>3,316</b>	<b>4,023</b>	<b>4,834</b>

## Separate Juvenile Court Caseloads

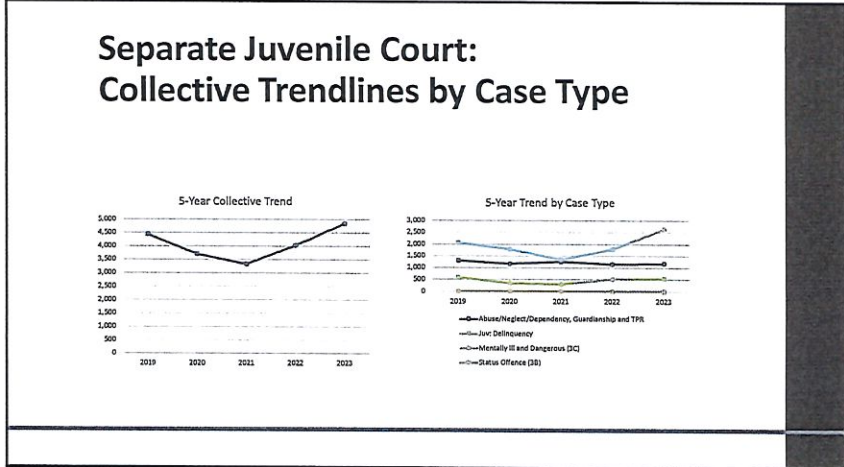
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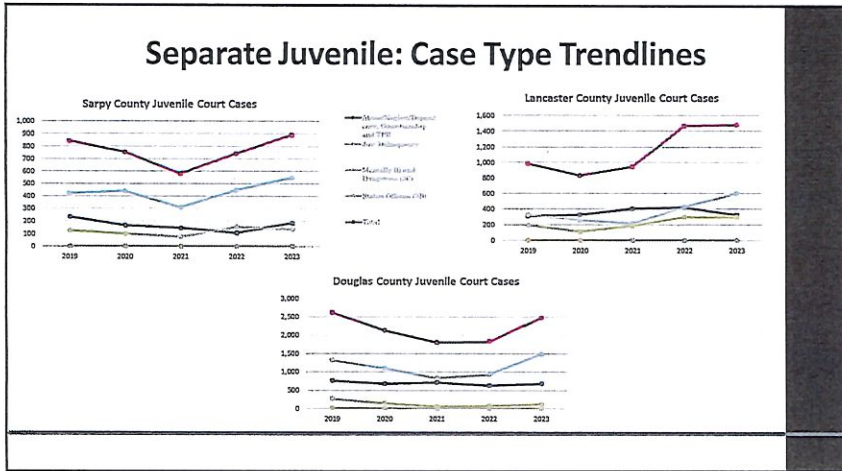


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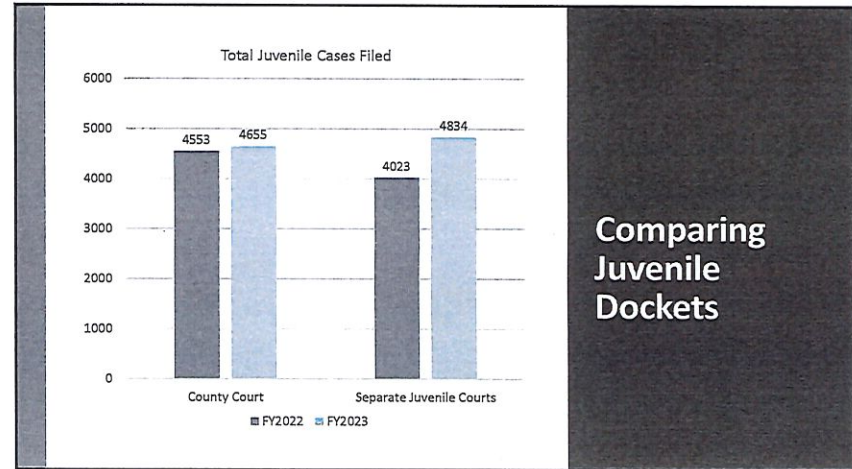


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Comparing Juvenile Dockets

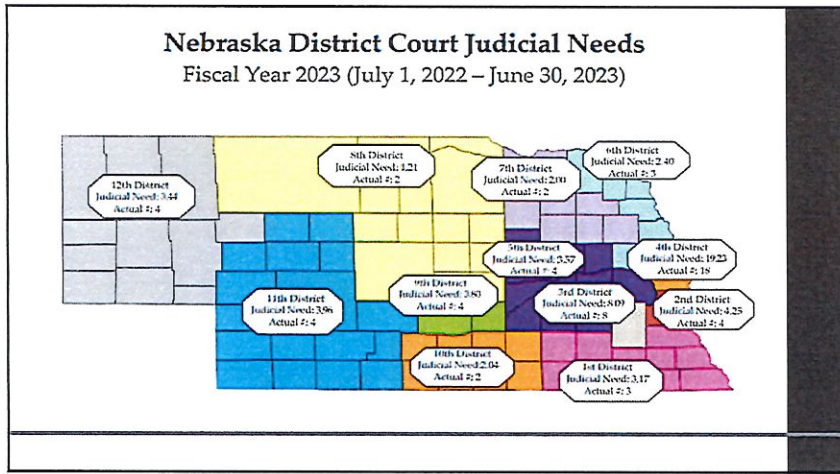
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# 2023 Weighted Caseload Reports

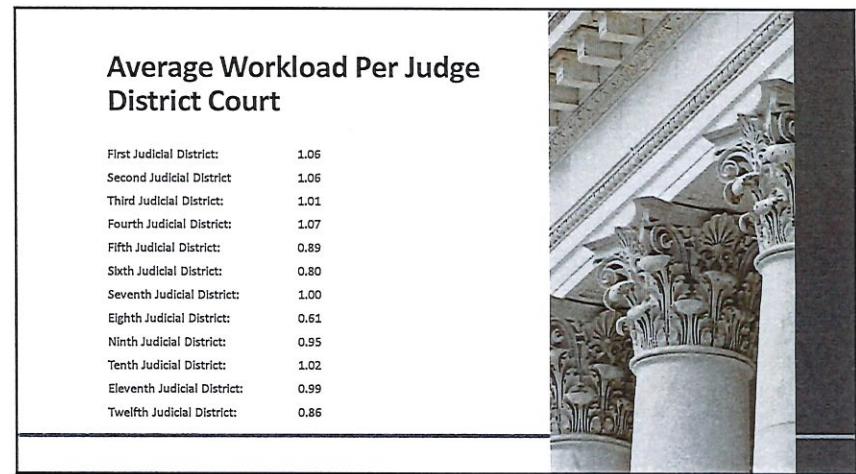
31

# District Courts Weighted Caseload Data

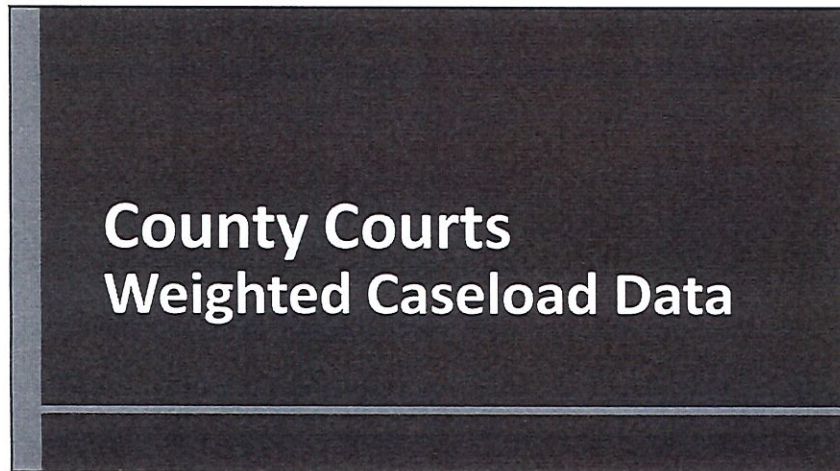
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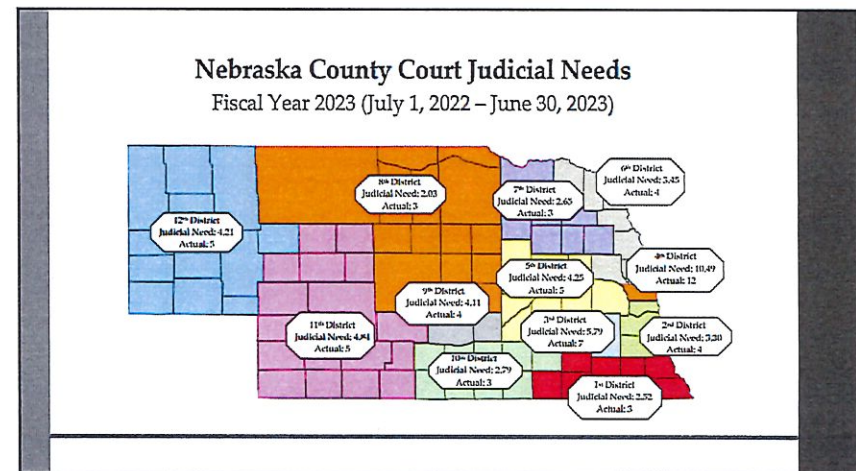
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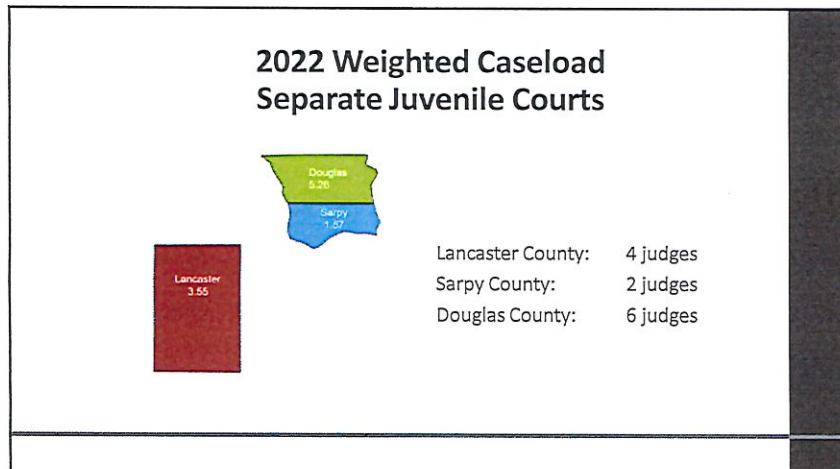


Average Workload Per Judge County Court	
First Judicial District:	0.84
Second Judicial District:	0.83
Third Judicial District:	0.83
Fourth Judicial District:	0.87
Fifth Judicial District:	0.85
Sixth Judicial District:	0.86
Seventh Judicial District:	0.88
Eighth Judicial District:	0.68
Ninth Judicial District:	1.03 *
Tenth Judicial District:	0.93
Eleventh Judicial District:	0.97
Twelfth Judicial District:	0.84

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## Separate Juvenile Courts Weighted Caseload Data

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Lancaster County	0.89	Average Workload Per Judge Separate Juvenile Court
Sarpy County	0.79	
Douglas County	0.88	

40

# Nebraska Problem Solving Courts

41

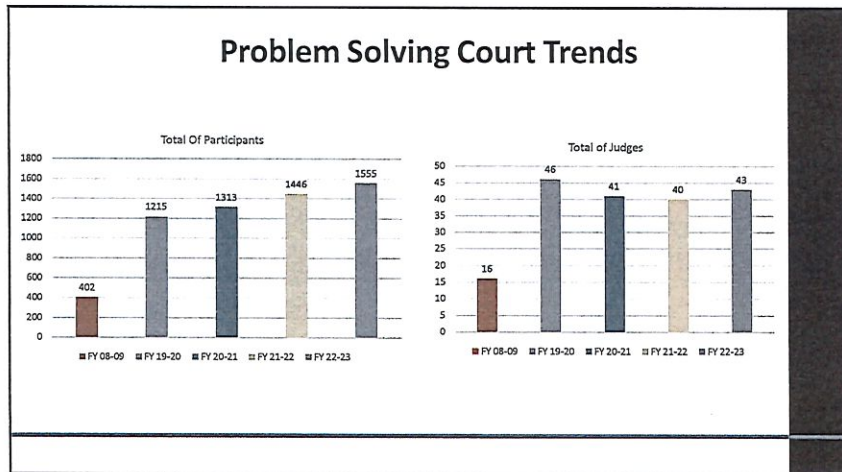
## Problem Solving Courts

Nebraska currently has 33 problem solving courts

- 20 Adult Drug Courts
- 1 Juvenile Drug Courts
- 2 DUI Courts
- 1 Young Adult Court
- 1 Mental Health Court
- 4 Veterans Treatment Courts
- 2 Reentry Courts
- 2 Family Treatment Courts

43 Judges currently preside over a Problem Solving Court (some preside over more than 1 such court)

42



43

## Other Factors Affecting Judicial Resources

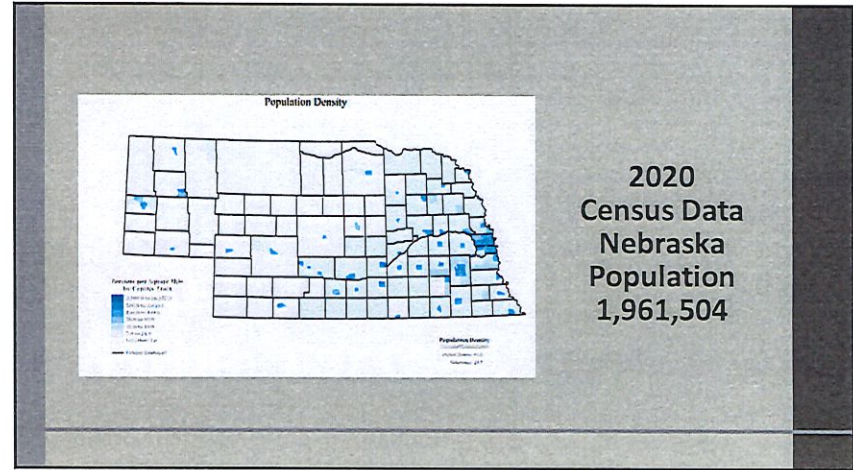
shifting populations / changing court users / availability & use of technology

44



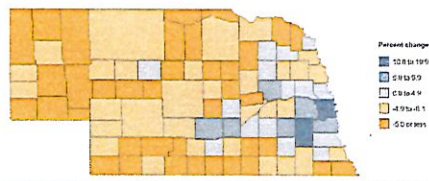
# POPULATION DATA

45



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Percent Change in Population for Nebraska Counties:  
2010-2020



## 10-Year Percentage Change

47

## The Impact of Changing Court Users

Self-Represented Litigants, Distribution of Attorneys, Language Access & Courtroom Technology

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# Self-Represented Litigants

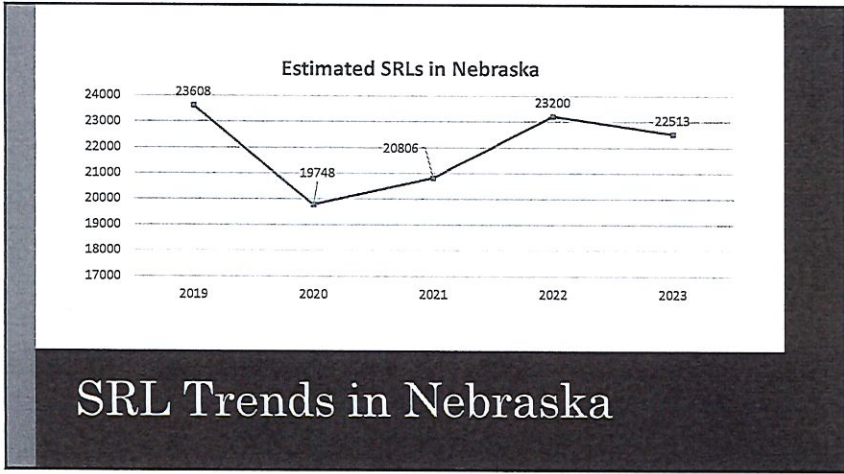
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## National Increase in Self-Represented Litigants

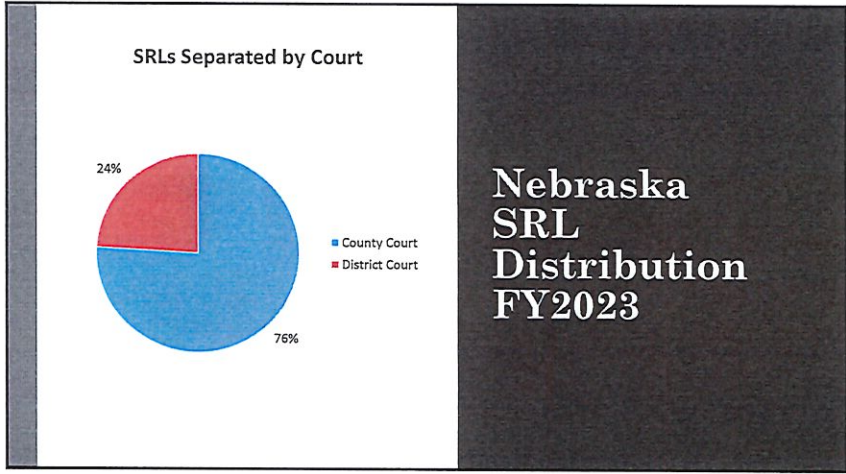
- Nationally, an estimated 75% of all civil and domestic relations cases involve at least one SRL
- Steady rise in the number of SRLs represents a fundamental demographic shift in court users that is here to stay

■ Civil cases with at least one SRL  
■ Civil cases where all parties have attorney

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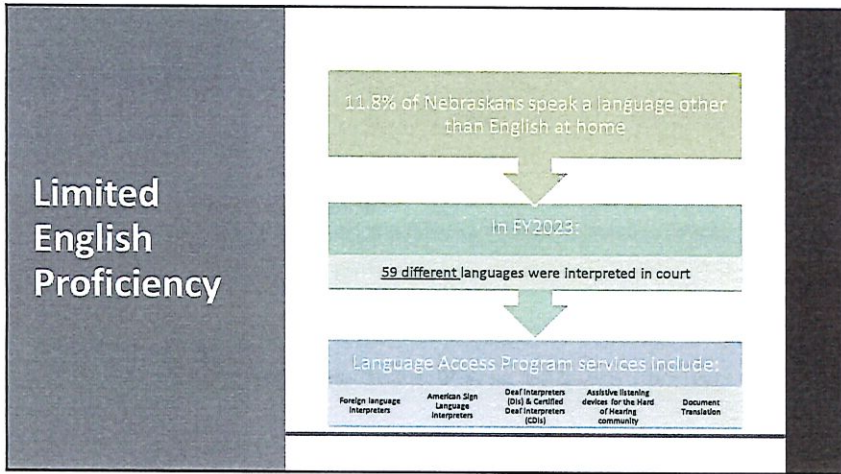
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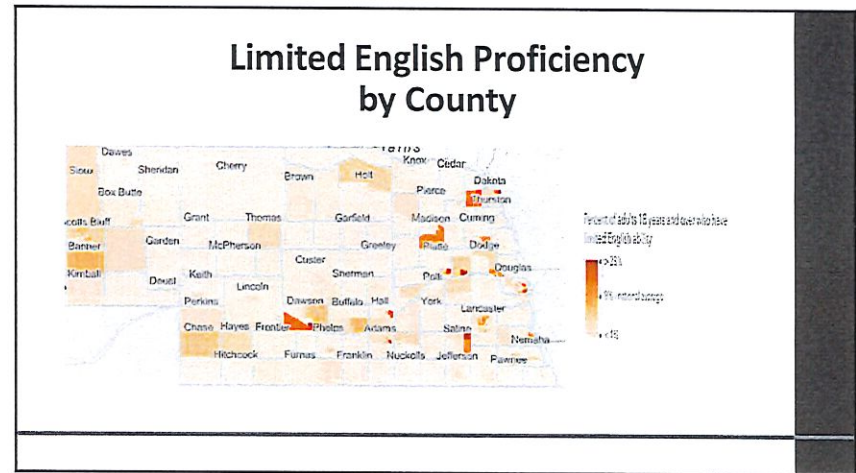
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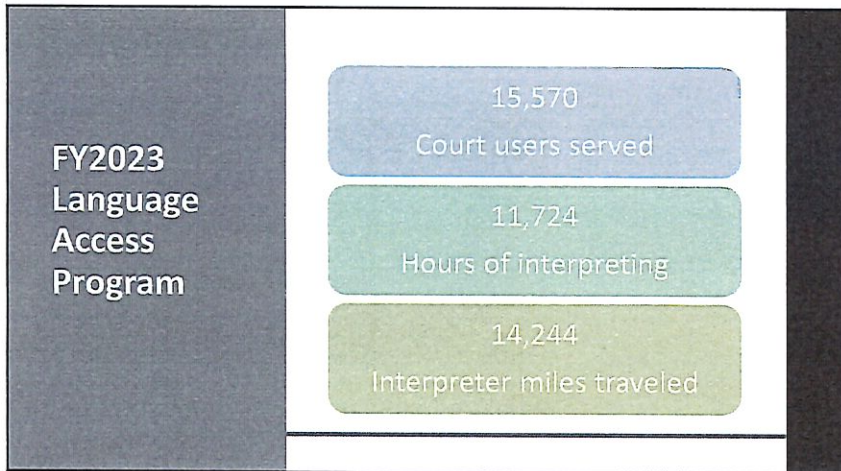




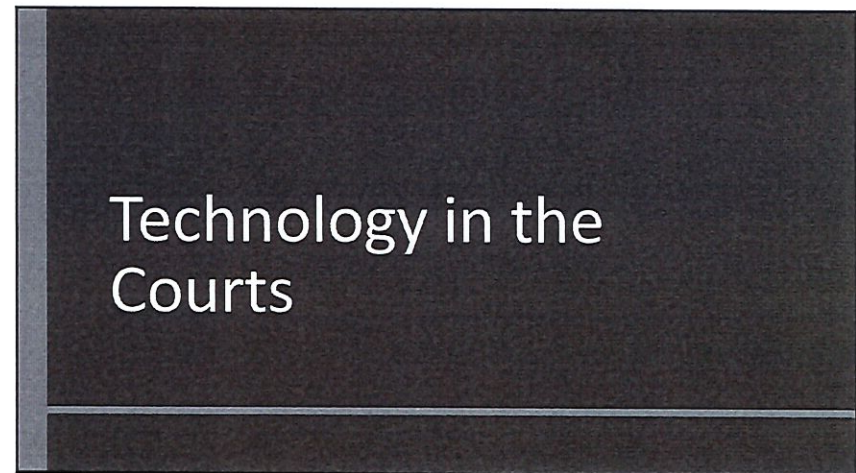
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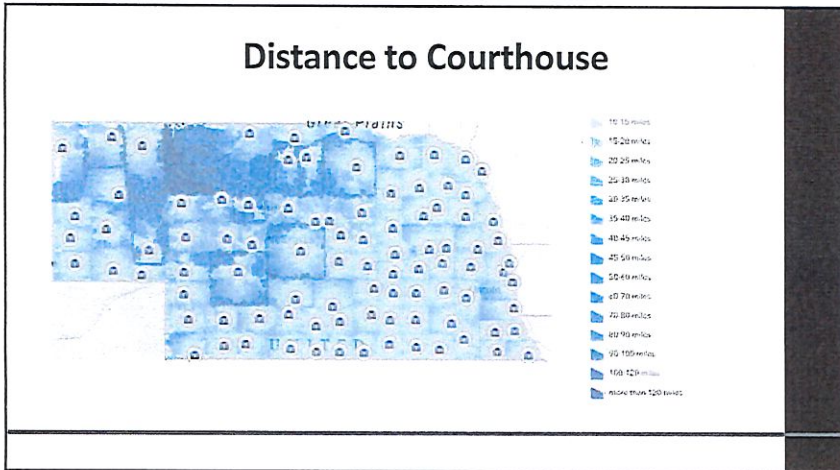


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### The Digital Divide in Nebraska Courthouses

**Historically, courthouse technology has differed across Nebraska's 93 counties**

- Because county government is responsible for providing a courthouse and supplying equipment for courthouses

**Historically, internet bandwidth has differed across counties**

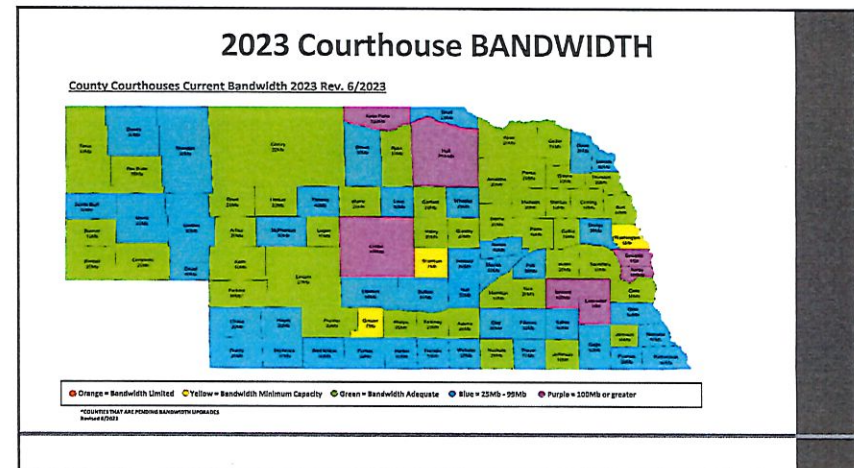
- Because initial (necessary) infrastructure is expensive and service providers have been reluctant to invest in sparsely populated areas

62

### Addressing the Digital Divide

- 1. Improving Bandwidth to Every Courthouse**  
For several years, the AOCJ has been actively working to increase available internet bandwidth to courthouses
- 2. Installing New Audio-Visual Equipment in Every Courtroom**  
In 2021, AOCJ launched a state-wide initiative to upgrade the AV equipment in every courtroom

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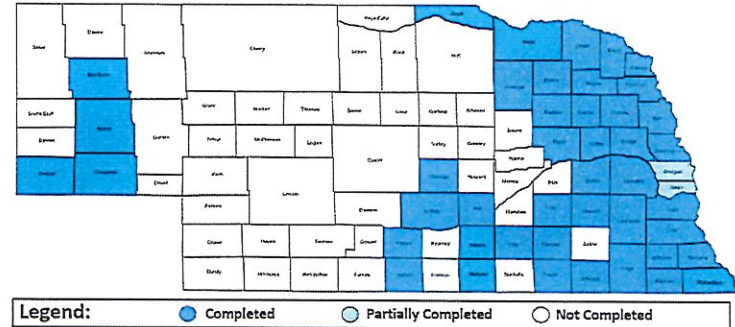
## Statewide Technology Upgrades

### Goals of Courtroom Technology Upgrades

- ✓ Statewide uniformity in essential courtroom audio-visual systems
- ✓ Provide every courtroom with high-quality audio amplification so participants and observers can hear proceedings and accurate record can be made
- ✓ Provide all courtrooms with cameras and display screens to facilitate remote and hybrid hearings
- ✓ Provide all courtrooms with technology necessary to manage and present digital evidence
- ✓ Improve hearing access by installing assistive listening systems in every courtroom

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### Courtroom A/V upgrade map



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### Percentage of Households Without Internet Access

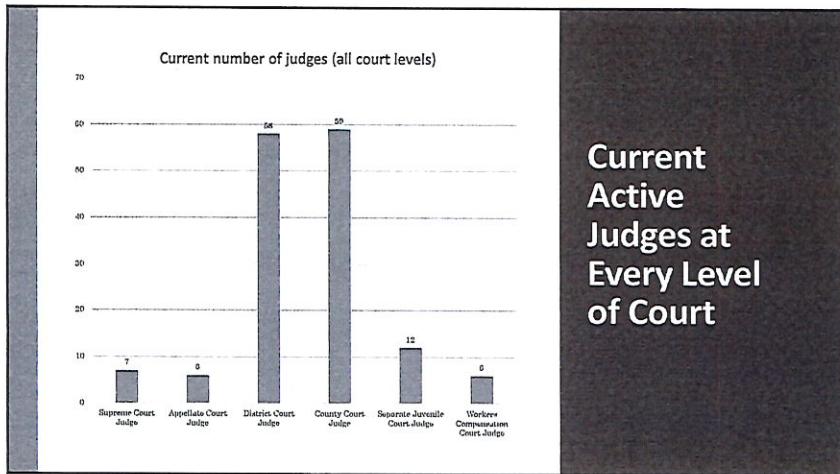


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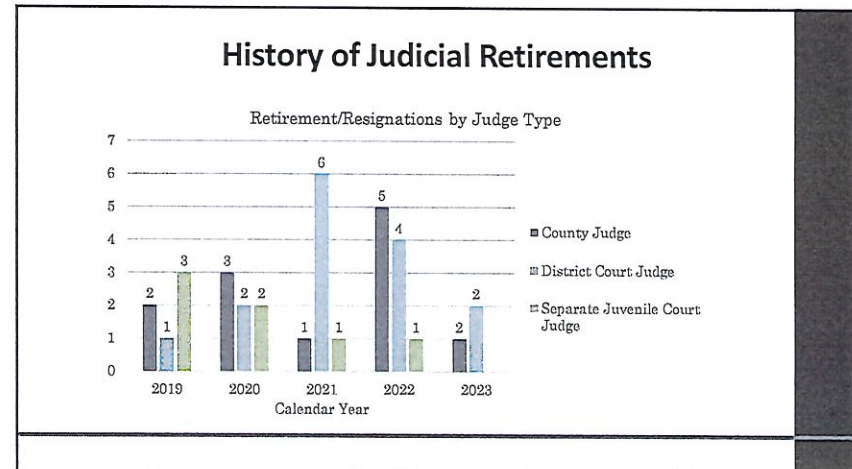
## Judicial Retirement Forecast

68

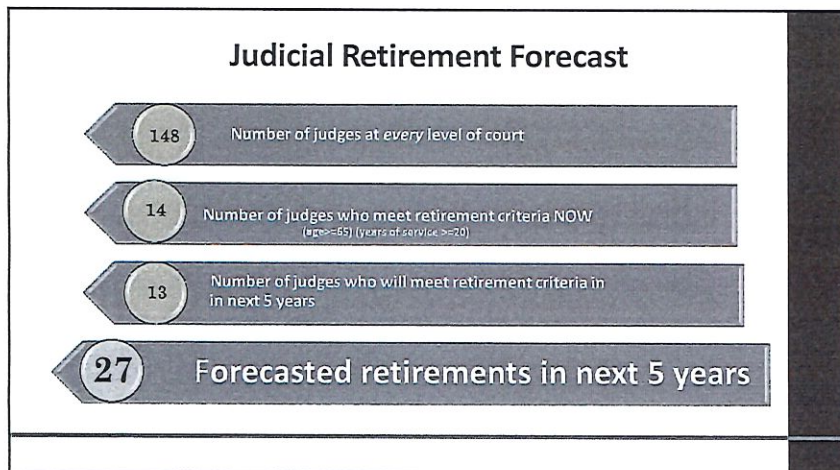




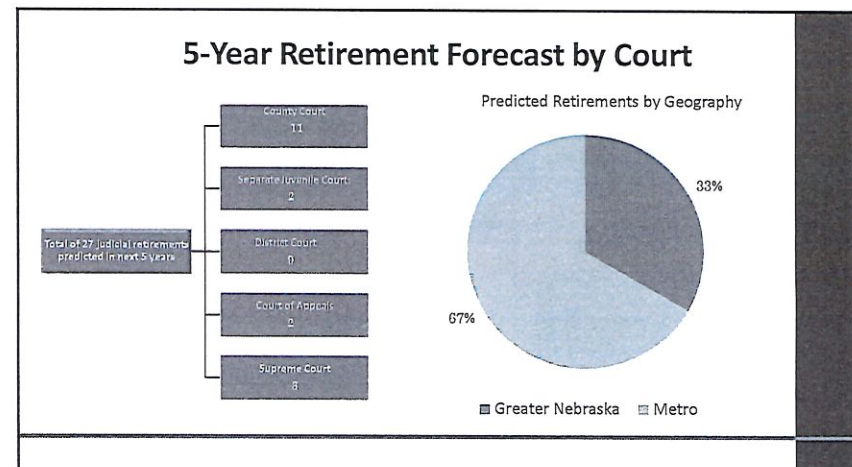
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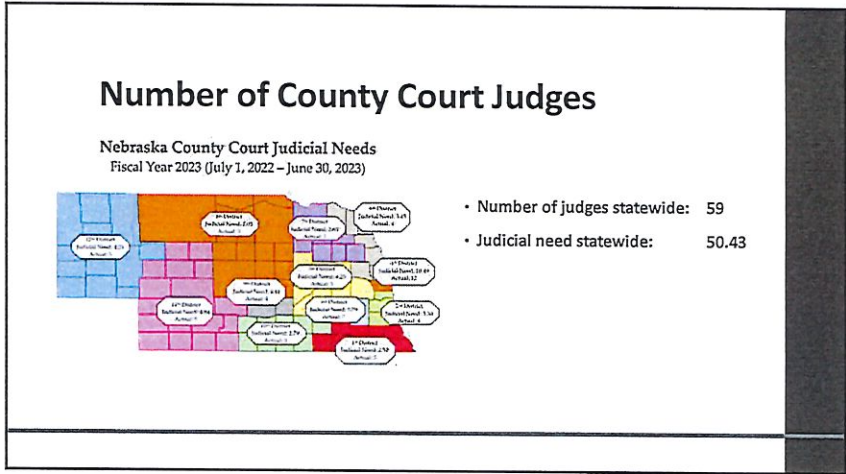
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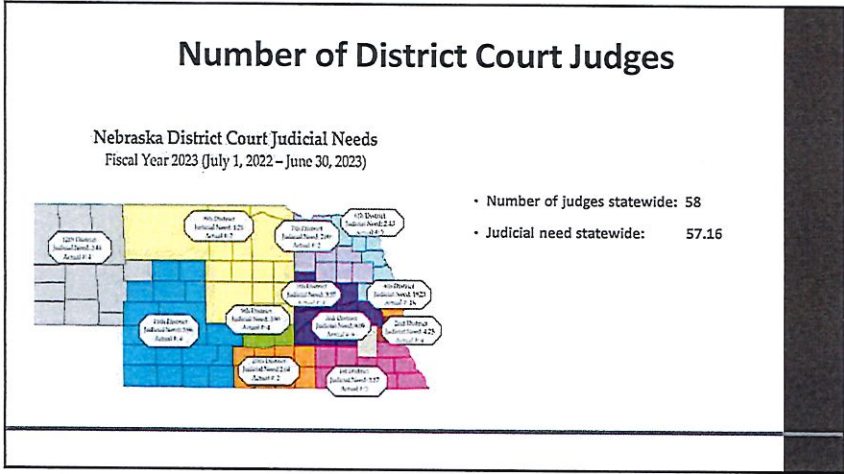
72

# Number of Judges

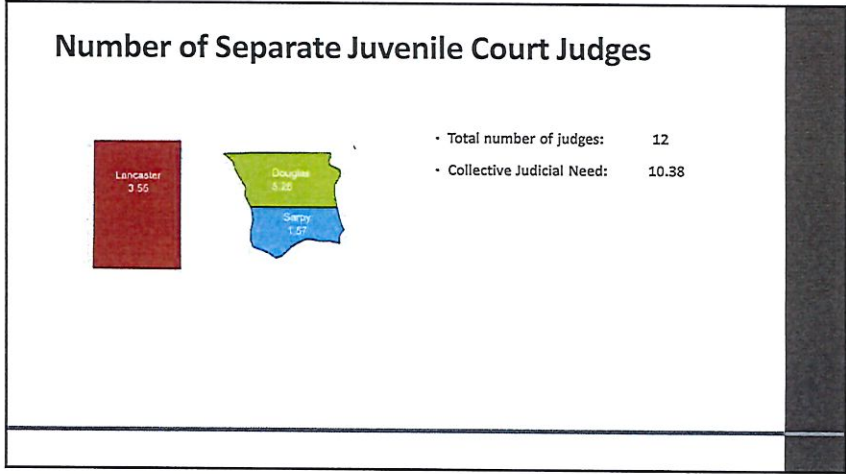
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## Number of Judges in Separate Juvenile Court

When a separate juvenile court is established in a county, the number of judges is based on county population, *not* judicial workload (Neb. Rev. Stat. § 43-2,119)

- Counties with at least 75,000 but fewer than 200,00 inhabitants "shall have 2 judges"
- Counties with at least 200,000 but less than 400,000 "shall have 4 judges"
- Counties with more than 400,000 "shall have 6 judges"
  - Amended in 2017 to increase # of judges from 5 to 6

Populations in Lancaster and Sarpy Counties are nearing the statutory threshold for adding judges

- § 43-2,119 appears to require additional judges as the statutory population thresholds are met
- As of July 1, 2022 the US Census estimated population
  - In Sarpy County is 196,553
  - In Lancaster County is 324,756
- The current weighted caseload statistics do not support the need for additional separate juvenile court judges in either Sarpy or Lancaster county

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## Number of Judges in Separate Juvenile Court

- At last year's annual meeting, the JRC voted unanimously to bring this issue to the Legislature's attention now, before the statutory population thresholds are met in Sarpy and Lancaster Counties, so possible statutory solutions can be considered

- The JRC's written report to the Legislature highlighted this issue but did not recommend a specific solution
- The statute has not been amended and AOCF is not aware of any proposed legislation to address issue

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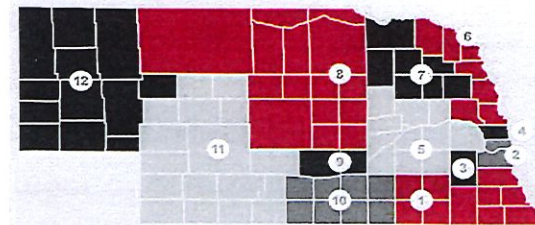
## Number and Configuration of Judicial Districts

### Current Trial Court Judicial Districts

Fillmore County: County Court #10  
District Court #1

Gioe County: County Court #12  
District Court #1

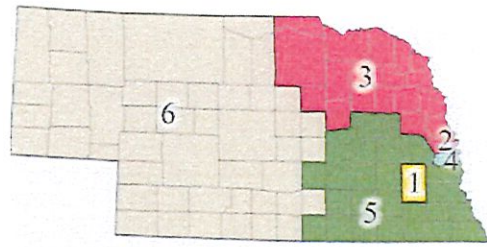
Effective: 7/15/22



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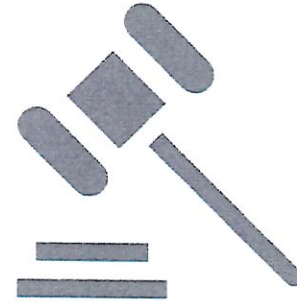
### Current Supreme Court Judicial Districts



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### Judges Working Group

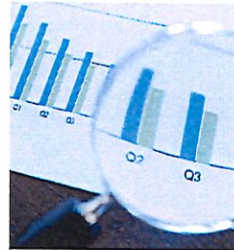
- In June 2023, the Chief Justice advised the Commission he was planning to task a working group of judges with studying judicial workloads and recommending possible solutions for moving the court system toward a more optimal distribution of judicial resources
- This summer a Judges Working Group was formed with judges from all court levels in all judicial districts
- The working group has met several times, and is studying the issues carefully



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### Judges Working Group

- No statewide consensus yet around any particular recommendation(s), but there is ongoing discussion of:
  - Judicial support staff disparities
  - How weighted caseloads would be impacted if county court judges assumed handling of certain district court case types
  - How to understand the weighted caseload methodology and interpret the data
  - Whether "Delphi Studies" might be useful to adjust certain case weights in response to changes in judicial handling practices



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# Questions?

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