

# THE TEXAS JUDICIAL SYSTEM



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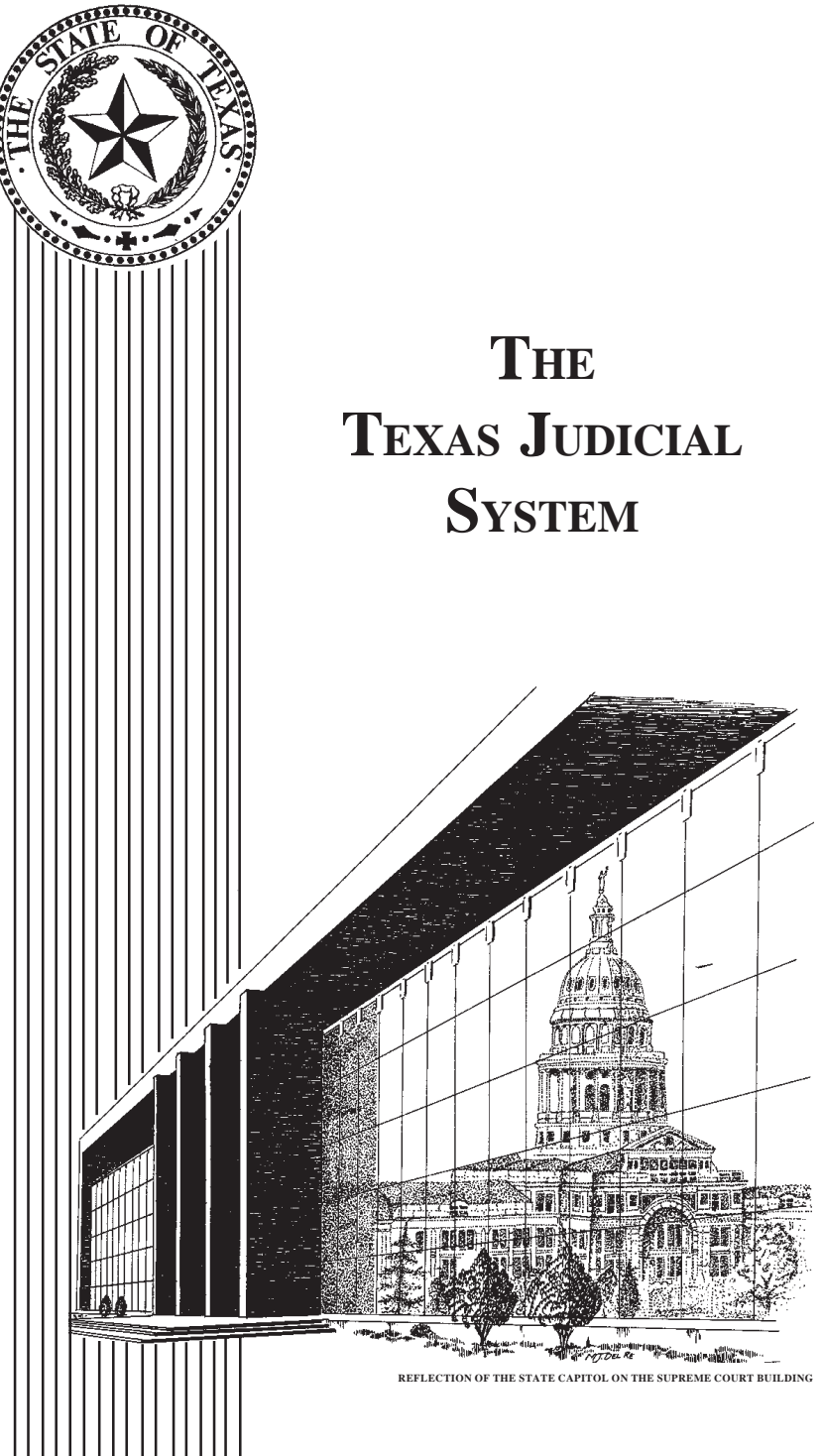
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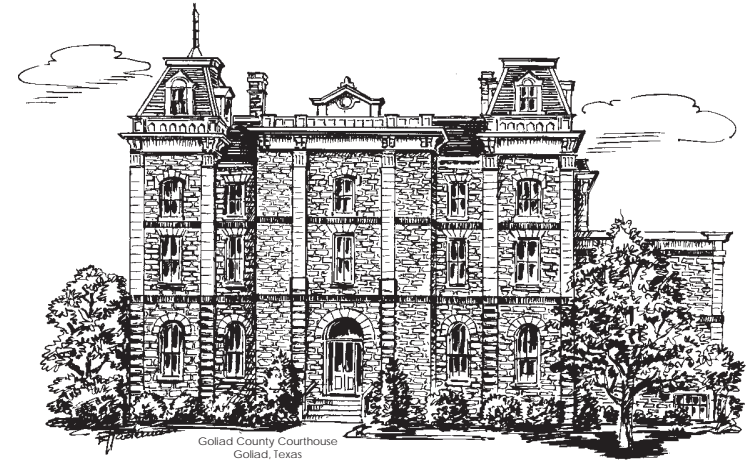
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# THE TEXAS JUDICIAL SYSTEM



REFLECTION OF THE STATE CAPITOL ON THE SUPREME COURT BUILDING



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## FINANCING THE COURT SYSTEM

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Over the past decade, the state appropriation provided for the operation of the judicial branch of the government has averaged about one-third of one percent of the total state budget.

Most of the money used to operate the courts within the Texas Judicial System is provided by the counties or cities, with a more limited amount of funds provided by the State.

The State provides full funding only for the operation of the Supreme Court, the Court of Criminal Appeals, the Third Court of Appeals located in Austin, and certain statewide agencies of the judicial branch. It provides a basic appropriation for the operation of the remaining 13 Courts of Appeals.

State appropriations provide the entire salaries of the justices of the Supreme Court and judges of the Court of Criminal Appeals; they also provide a basic salary for the justices of the Courts of Appeals and the judges of the District Courts, which by statute may be supplemented by local governments.

The 254 counties of the State provide funds for operation of the district courts, and provide the entire costs, including salaries of the judges, of all constitutional county courts, county courts at law, and justice of the peace courts. In most instances, the counties also provide supplemental pay to the judges of the Courts of Appeals and District Courts serving their areas. City governments provide the entire funding for the operations of their own municipal courts.

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## JUDICIAL ADMINISTRATION

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The Supreme Court of Texas has general responsibility for the efficient administration of the Texas Judicial System, and the authority to make rules of administration applicable to the courts. Aiding the Supreme Court in carrying out its administrative duties is the state Office of Court Administration, which operates under the direction of the Chief Justice.

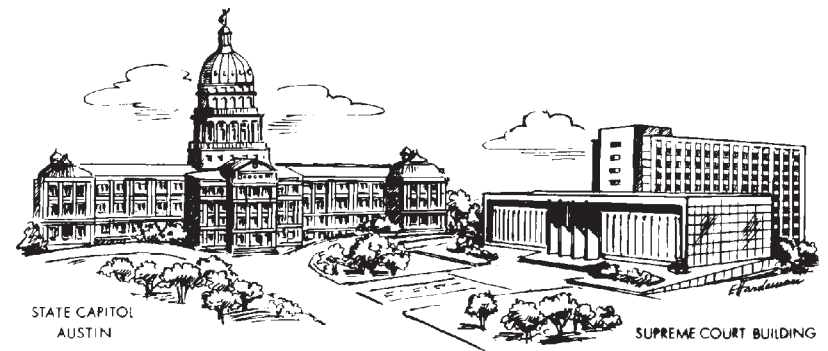
The Supreme Court and the Legislature receive recommendations on long-range planning and improvements in the administration of justice from the Texas Judicial Council, a 22-member advisory board composed of appointees of the judicial, executive, and legislative branches of government.

The state Office of Court Administration, established in 1977, provides administrative support and technical assistance to all of the courts in the State. It publishes the Annual Report on the Texas Judicial System and provides the Legislature with requested information on the functioning of the judicial system. The office also supports the research and operations of the Judicial Committee on Information Technology, a 15-member board charged with developing and overseeing the design and implementation of a coordinated statewide computer communication network and comprehensive justice information system.

The Chief Justice of the Supreme Court, the Presiding Judge of the Court of Criminal Appeals, the Chief Justices of each of the 14 Courts of Appeals, and the judges of each of the trial courts are generally responsible for the administration of their respective courts.

To aid in the administration of justice in the trial courts, the State is divided into nine Administrative Judicial Regions. The Governor designates one of the active or retired district judges residing in each Administrative Judicial Region as the Presiding Judge. The Presiding Judge of an Administrative Judicial Region may temporarily assign an active or retired judge to serve on a district court or county court at law in the Administrative Judicial Region whenever the need arises. The Chief Justice of the Supreme Court convenes periodic conferences of the nine Presiding Judges to ensure the efficient administration of justice in the trial courts of the State.

## THE TEXAS JUDICIAL SYSTEM



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## JUDICIAL AUTHORITY

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The judicial power of the State of Texas is derived from Article 5, Section 1 of the Texas Constitution, which provides:

*The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.*

*The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.*

*(As amended November 4, 1980, effective September 1, 1981.)*

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## INTRODUCTION TO THE TEXAS JUDICIAL SYSTEM

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### THE TEXAS CONSTITUTION

The basic law of the State of Texas is set out in the *Constitution of the State of Texas*, a document adopted by the voters of the State in 1876 and amended by them many times since then. The fundamental legal rights which all residents of the State possess—such as the right to trial by a jury—are set out in the Constitution in what is called the *Bill of Rights*.

The Constitution also contains basic principles for the operation of the state government and legal system. It separates the powers of the government by dividing it into three distinct branches or departments: legislative, executive, and judicial.

### THE LEGISLATIVE AND EXECUTIVE BRANCHES

The *legislative branch* includes the Texas House of Representatives and the Texas Senate, which together make up the *Legislature*. The function of the Legislature is to make laws, which are called *statutes*. Statutes, written and passed by the Legislature, include such things as the law which makes it illegal to drive while intoxicated and the law which makes the Fourth of July a state holiday. The Constitution, adopted by the voters themselves, is superior to the statutes passed by the elected members of the Legislature. For this reason, if there is a conflict between a provision of the Constitution and that of a statute, the statute is said to be "*unconstitutional*" and may not be enforced.

The role of the *executive branch* is to carry out and enforce the laws of the State. The executive branch includes the Office of the Governor and most administrative agencies of the State, such as the Department of Public Safety, the Texas Education Agency, and the Department of State Health Services. The majority of state employees work in this branch.

There are no constitutional or statutory qualifications to serve as a justice of the peace, and very few are lawyers. While judges of municipal courts of record must be attorneys, no statutory qualifications are required of other municipal judges, most of whom are not lawyers.

### SELECTION AND TERMS

All judges, with the exception of most municipal judges, are elected in partisan elections by the qualified voters of the geographical areas they serve. Most municipal judges are appointed by the governing body of the municipality, although a few are elected.

Appellate judges serve six-year terms. District judges, county-level judges, and justices of the peace serve four-year terms. Municipal judges usually serve two-year terms.

Judicial vacancies in appellate and district courts are filled by appointment of the Governor. Vacancies in county-level and justice courts are filled by commissioners courts. Vacancies in municipal courts are filled by the mayor or governing body of the city.

### JUDICIAL CONDUCT AND DISCIPLINE

All persons who serve as judges in this State must be knowledgeable in the law, and dispense justice in a fair and impartial manner. To aid in the attainment of these goals, the Legislature has provided for the mandatory continuing professional education of judges, and the Supreme Court has promulgated the Code of Judicial Conduct. The Code establishes professional standards which the State Constitution makes mandatory for judges, masters, and magistrates.

In addition, the Constitution establishes a special commission to consider citizen complaints concerning the conduct of judges which is clearly inconsistent with the proper performance of their duties, or which casts public discredit upon the judiciary or the administration of justice. This Commission on Judicial Conduct may reprimand or censure a judge, or recommend to a review tribunal that the judge be retired or removed from office. The Commission may also suspend from office judges who are indicted for felony offenses or charged with official misconduct. It does not, however, review the legal results of a trial as this is within the jurisdiction of the appellate courts.



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## QUALIFICATION, SELECTION AND DISCIPLINE OF JUDGES

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### QUALIFICATIONS

The basic qualifications for most of the judges in the State are established by the Constitution of the State of Texas. By those provisions, all appellate judges must have been licensed to practice law for at least ten years, be citizens of the United States and of Texas, and be at least 35 years old. District judges must have been licensed to practice law in this State for at least four years, be residents of the judicial district for at least two years, and be citizens.

Qualifications for county court at law and statutory probate court judges vary according to the statute creating the court. All are required to be licensed to practice law; most are required to be county residents and have experience as practicing attorneys. Judges of the constitutional county courts must be "well informed in the law of the State" but are not required to be lawyers. Most of the 254 county judges are not licensed to practice law.

### THE JUDICIAL BRANCH

The *judicial branch* of Texas government includes the court system of the State and the judicial agencies, such as the Office of Court Administration. Its role is to interpret the law and to resolve legal disputes. It is the smallest branch of state government.

The meaning of a constitutional provision is not always obvious; the intent of a statute is not always clear; the actions of an executive agency are not always correct. The function of the courts is to resolve these issues, as well as to resolve disputes arising between citizens of the State.

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#### TYPES OF CASES

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Two basic types of cases are heard in Texas courts: criminal and civil.

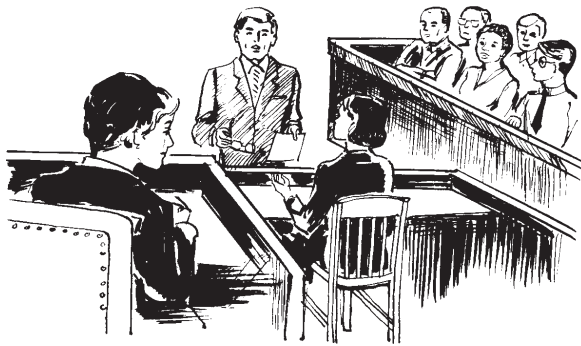
##### Criminal Cases

*Criminal cases* are those in which someone is charged in court with having violated certain laws called *criminal* or *penal statutes*. A person who violates one of these statutes is said to have committed a *crime*. In Texas, an act is not a crime unless, before the act occurred, the Legislature has passed a statute making the act unlawful.

Serious crimes are called *felonies* and include such offenses as murder and robbery. If a person (the *defendant*) is found guilty of committing a felony, he or she may be sentenced to serve a number of years in a state prison operated by the Institutional Division of the Texas Department of Criminal Justice. If the crime is a capital offense, the defendant may be sentenced to death.

Crimes which are not as serious as felonies are called *misdemeanors*. These include such offenses as disorderly conduct or driving without a license. If a defendant is found guilty of a misdemeanor, he or she may be fined, may be sentenced to serve up to one year in the local jail (if the law allows it for the particular offense), or both. However, someone convicted of a misdemeanor cannot be sentenced to a state prison.

The Legislature establishes a range of specific *penalties* from which to punish a convicted defendant. Depending upon the severity of the crime, the punishment ranges from the death penalty, incarceration for a specific number of years, a fine, or both imprisonment and a fine.



A convicted defendant may be placed on *community supervision* in lieu of serving the imposed sentence in prison or jail. Usually a person placed in this status is ordered to follow some very strict rules and to report regularly to a *supervision officer*. If the crime caused injury to an innocent person, the offender may be required to pay compensation to the victim of the crime as *restitution* for his actions. The offender may be ordered to perform certain prescribed community service activities.

Additional information about criminal cases is contained in the sections of this booklet dealing with the specific types of courts in Texas.

### **Civil Cases**

*Civil cases* are another basic type of cases which are tried in the courts of Texas. Most simply stated, civil cases are cases which involve disputes between two or more *parties* (usually persons or businesses) and which are not criminal in nature, such as divorce cases and suits to collect debts.

More specifically, civil cases usually involve private parties where one party (the *plaintiff*) brings suit against another (the *defendant*) and asks the court to enforce a private right or to require the defendant to pay for some civil wrong done to the plaintiff.

### **Special Types of Cases**

One special type of civil case is called a *probate case*. These cases frequently involve the distribution of the property of a person who has died, whether or not the deceased person has left a written will.

*Juvenile* cases, involving children between the ages of 10 and 17, may resemble criminal cases in many ways, but are normally considered to be civil in nature. Without specific authorization by the court in a

conduct as defined by the Texas Family Code. This statute labels conduct subject to its provisions as either *delinquent conduct* or *conduct indicating a need for supervision*. Generally, delinquent conduct is defined as conduct by a child which, if committed by an adult, would be a serious criminal offense. Conduct indicating a need for supervision includes such matters as truancy, running away, and activity which would be considered a minor criminal violation if committed by an adult. Under certain circumstances and after a hearing, the juvenile court judge may certify a juvenile for trial as an adult if the juvenile was at least 14 years of age at the time of the offense.

## **THE JUSTICE COURTS**

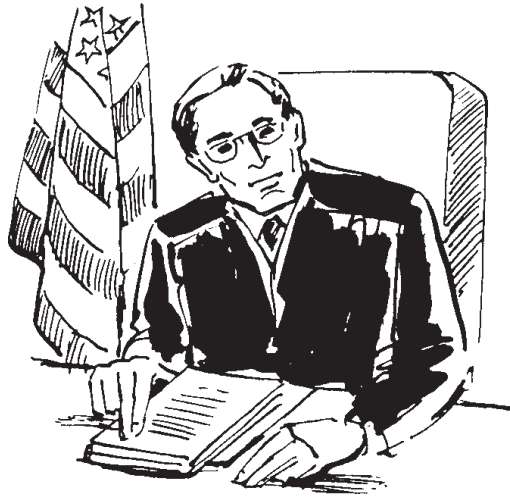
The Texas Constitution requires that each county in the State establish between one and eight justice of the peace precincts, depending upon the population of the county. Also, depending on the population of the precinct, either one or two justice courts are to be established in each precinct.

Justice of the peace courts have original jurisdiction in Class C misdemeanor criminal cases, which are less serious minor offenses. These courts also have jurisdiction over minor civil matters. A justice of the peace may issue search or arrest warrants and may serve as the coroner in counties where there is no provision for a medical examiner. These courts also function as small claims courts.

## **THE MUNICIPAL COURTS**

Under its authority to create such other courts as may be necessary, the Texas Legislature has created municipal courts in each of the incorporated cities of the State.

These courts have original and exclusive jurisdiction over violations of city ordinances and, within the city limits, have concurrent jurisdiction with justice of the peace courts over Class C misdemeanor criminal cases where the punishment upon conviction is by small fine only. When city ordinances relating to fire safety, zoning, public health, or sanitation are violated, fines of up to \$2,000 may be charged, when authorized by the governing body of the city. Municipal judges may issue search or arrest warrants. These courts do not have jurisdiction in most civil cases but do have limited civil jurisdiction in cases which involve owners of dangerous dogs.



## THE PROBATE COURTS

The Texas Constitution grants jurisdiction over probate matters to either the constitutional county court or to the district court. Probate matters include the administration of estates of deceased persons, will contests, the guardianship of minors and incapacitated persons, and mental illness matters. In some counties, the Legislature has granted the county court at law concurrent jurisdiction in probate matters with the constitutional county court. In other counties, the Legislature has granted the county court at law concurrent jurisdiction in probate matters with the district court. In the more populated counties, the Legislature has created specialized probate courts (entitled *statutory probate courts*) to hear probate matters exclusively.

Thus, probate matters might be heard in the county court, county court at law, statutory probate court, or district court of a particular county.

## THE JUVENILE COURTS

Except in the most populous counties, Texas has no separate system of juvenile courts. Rather, one or more of the regular district or county judges in each county is designated to hear juvenile cases. However, it is sometimes the custom to refer to a court which is hearing juvenile cases as the "Juvenile Court."

Juvenile cases include proceedings brought against persons between the ages of 10 and 17 who are alleged to have engaged in unlawful

special hearing, a child under 17 may not be tried for a crime as an adult. Except in the most serious cases, the records of offenses committed by a person as a child are *sealed* and may not be considered as a prior criminal record if that person is later tried as an adult for a criminal offense.

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## TYPES OF COURTS

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The two basic types of courts which make up the Texas Judicial System are the trial and the appellate (or appeals) courts.

### Trial Courts

*Trial courts* are courts in which witnesses are heard, exhibits are offered into evidence, and a *verdict* (in a jury trial) or a *decision* (in a case tried by a judge alone) is reached based on the facts of the case. In a civil case, the decision or verdict determines which party wins the lawsuit; in a criminal case, it determines whether the defendant is guilty or not guilty of the crime alleged.

Trial courts have *original jurisdiction* which means that all evidence is presented and all testimony is heard in these courts.

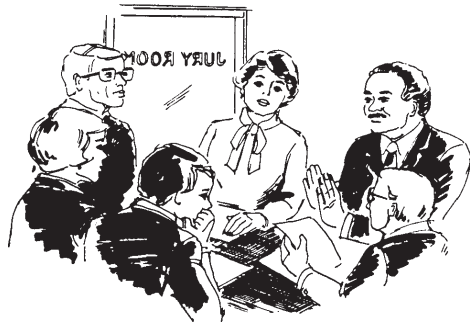
A more detailed discussion of the specific trial courts of Texas is included in a later section of this booklet.

### Appellate Courts

*Appellate courts* hear appeals in cases which have been previously tried in the trial courts. No new evidence is presented and no witnesses are heard on the appeal of a case. The facts of the case have been determined at the trial, and all testimony and evidence are contained in the *record* which was made in the trial court and sent to the appellate court when the appeal was made. The appellate court makes its decision on the appeal based on a review of the record and the arguments of the attorneys for both sides. The decision is based solely upon the evidence contained in the record and the law which pertains to the facts of the case.

Certain trial courts, usually county courts, hear appeals from justice of the peace courts and from those municipal courts where no written record of the proceedings is made. In those situations the appeal takes the form of a *trial de novo*, which means that an entirely new trial is held since no record of the proceedings is made in the lower court. Some municipal courts are *courts of record* and appeals from them are based on the written record of the trial.

A more detailed discussion of the specific appellate courts of Texas is included in a later section of this booklet.



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## TRIAL BY JURY

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The concept of trial by a jury of ordinary citizens is almost as old as civilization itself. Groups of private individuals were involved in deciding disputes in ancient Egypt, Greece, Rome, and medieval England. The jury system as we know it in the United States is derived from the Magna Charta, signed by King John of England in 1215, which states: "No freeman shall be taken or imprisoned...unless by the lawful judgment of his peers, or by the law of the land."

In a democracy such as ours, in which individual liberties are cherished and the powers of government are derived from the people, the jury system is considered to be a fundamental safeguard of constitutional rights. The Texas Constitution, in Section 15 of the Bill of Rights, guarantees to all persons the right of trial by jury. Defendants in criminal cases or the parties in civil lawsuits have the right to a trial by either six or twelve local citizens. Except in capital murder cases, this right to a trial by jury may be *waived (given up)*. In that event, the judge hearing the case will make the decision. In a jury trial, the judge will rule on any questions of law which arise during the trial, while the jury will rule on the facts presented to them during the trial and on the credibility of the witnesses who testify during the trial.

Most citizens will, at one time or another, be summoned to report for jury service. It is necessary to have a large number of people from which to select a fair, impartial, and unprejudiced jury. The reasons why any person is chosen or not chosen to serve on a particular jury are different in every case. If a person is summoned but not chosen to serve on a particular jury it is not because someone thought badly of that person, nor does it mean that person will not be picked the next time he or she is summoned. The pay for jury service is small, but the rewards in terms of personal satisfaction can be great, and the value of such service to our legal system is immeasurable.

## THE CONSTITUTIONAL COUNTY COURTS

As provided in the Texas Constitution, each of the 254 counties of the State has a single *county court* presided over by a county judge.

These courts have *concurrent jurisdiction* with justice of the peace and district courts in civil cases in which the amount in controversy is small. Jurisdiction is said to be concurrent when two levels of courts have authority to try the same type of case.

The constitutional county courts generally hear the probate cases filed in the county. They have original jurisdiction over all Class A and Class B misdemeanor criminal cases, which are the more serious minor offenses. These courts usually have appellate jurisdiction in cases appealed from justice of the peace and municipal courts, except in counties where county courts at law have been established. Unless the appeal is one from a designated *municipal court of record* (trial proceedings are recorded by a court reporter), the appeal takes the form of a *trial de novo* (a completely new trial).

In addition to performing judicial functions, the county judge serves as the administrative head of the county government. In the more populated counties, the administrative duties occupy most of the time of the county judge, and the Legislature has created county courts at law and statutory probate courts to relieve the county judge of most, and in some cases all, of the judicial duties usually performed by that office.

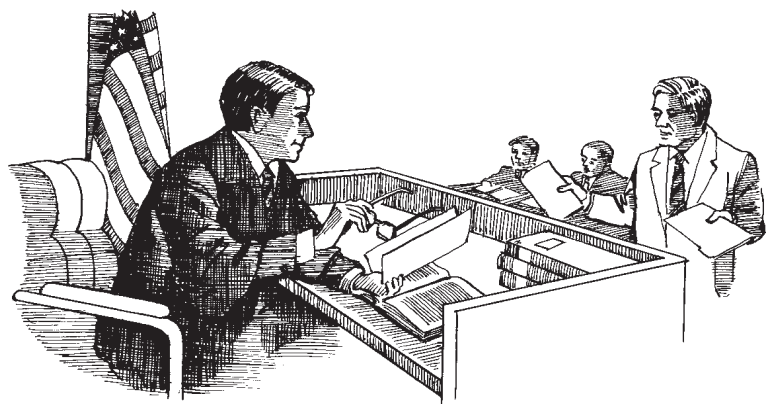
## THE COUNTY COURTS AT LAW

Because the Constitution limits each county to a single county court, the Legislature has created statutory *county courts at law* in the larger counties to aid the single county court in its judicial functions.

The legal jurisdiction of the special county-level trial courts varies considerably and is established by the statute which creates the particular court. The jurisdiction of statutorily-created county courts at law is usually concurrent with the jurisdiction of the county and district courts in the county.

The civil jurisdiction of most county courts at law varies, but is usually more than that of the justice of the peace courts and less than that of the district courts. County courts at law usually have appellate jurisdiction in cases appealed from justice of the peace and municipal courts.





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## THE TRIAL COURTS

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The Texas trial court system consists of several different types of courts, each handling different categories of cases. These courts include the district courts, county courts, county courts of law, probate courts, justice courts, and municipal courts.

### THE DISTRICT COURTS

The district courts are the trial courts of general jurisdiction of Texas. The geographical area served by each court is established by the Legislature, but each county must be served by at least one district court. In sparsely populated areas of the State, several counties may be served by a single district court, while an urban county may be served by many district courts. District courts have original jurisdiction in all felony criminal cases, divorce cases, cases involving title to land, election contest cases, civil matters in which the *amount in controversy* (the amount of money or damages involved) is \$200 or more, and any matters in which jurisdiction is not placed in another trial court. While most district courts try both criminal and civil cases, in the more densely populated counties the courts may specialize in civil, criminal, juvenile, or family law matters.

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## TEXAS COURTS: AN OVERVIEW

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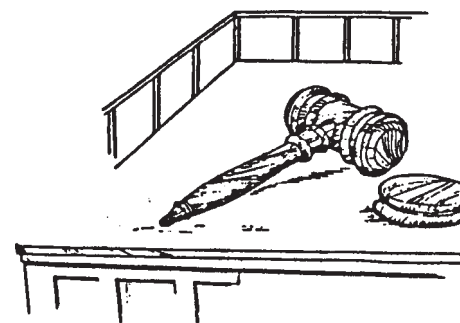
The Texas court system consists of a Supreme Court, which is the highest state appellate court for *civil* matters; a Court of Criminal Appeals, which is the highest state appellate court for *criminal* matters; 14 Courts of Appeals, which have intermediate appellate jurisdiction in both civil and criminal cases; and four levels of trial courts.

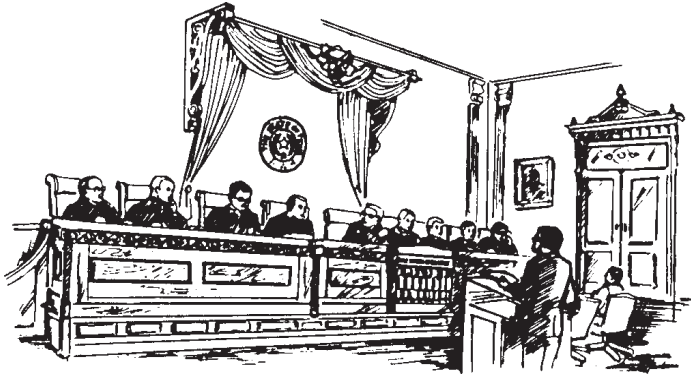
The state trial courts of general jurisdiction are the district courts, which, in some metropolitan areas, specialize in civil, criminal, family law, or juvenile cases. The geographical area served by each individual district court is established by the specific statute creating that court. Each district court has one judge.

Each of the 254 counties in Texas has a county court presided over by a county judge. To relieve the docket congestion of this single "constitutional" county court, the Legislature has established county courts at law and statutory probate courts in many counties with large populations.

In addition, each county is required to have at least one justice court. The most populous counties may have as many as 16 courts. These courts also serve as small claims courts.

The Legislature has created municipal courts in each incorporated city within the State. Within the city limits, these courts have concurrent criminal jurisdiction with the justice courts. Trial in the justice courts and most municipal courts is not of record, and appeals from these courts are by way of new trial in the county court or county court at law.





## THE APPELLATE COURTS

The appellate courts of the Texas Judicial System include the Supreme Court and the Court of Criminal Appeals located in Austin, and the 14 Courts of Appeals which are located in 13 cities throughout the State.

### THE SUPREME COURT OF TEXAS

The Supreme Court of Texas is composed of a Chief Justice and eight justices. It has statewide, final appellate jurisdiction in all civil and juvenile cases. Most of the cases heard by this Court are appeals from an appellate ruling by one of the intermediate Courts of Appeals. The Supreme Court also has the authority to determine certain legal matters over which no other court has jurisdiction and to issue such orders as may be necessary to enforce its jurisdiction and to carry out the responsibilities of the Court.

In addition to its adjudicative functions, the Supreme Court has many administrative duties. It is responsible for the efficient operation of the Texas Judicial System. The Court makes the rules of practice and procedure governing trials and appeals in civil and juvenile cases in the State, the rules of administration for the Texas Judicial System, and the rules for the operation of the state Office of Court Administration, the Commission on Judicial Conduct, the State Bar of Texas, and other state agencies in the judicial branch of government. An important administrative function of the Supreme Court is the transfer of cases between the 14 Courts of Appeals to obtain a more equal distribution of workload in those courts.

### THE COURT OF CRIMINAL APPEALS

The Court of Criminal Appeals is composed of a Presiding Judge and eight judges. This Court has statewide, final appellate jurisdiction of criminal cases and makes rules of post-trial and appellate procedure for criminal cases. Most of the cases heard by this Court are appeals from one of the 14 intermediate Courts of Appeals. An important exception is that appeals in all criminal cases in which the death penalty has been imposed are made directly from the trial court to the Court of Criminal Appeals. This Court has the authority to issue such orders as may be necessary to enforce its jurisdiction and judgments.

### THE COURTS OF APPEALS

The 14 Courts of Appeals have intermediate appellate jurisdiction in both civil and criminal cases appealed from district or county courts. Each Court of Appeals has jurisdiction in a specific geographical region of the State. Each Court is presided over by a chief justice and has at least two other justices. The specific number of justices on each Court is set by statute and ranges from three to 13. Presently there are 80 justices authorized for these Courts. Appeals in the Courts of Appeals are usually heard by a panel of three justices, unless in a particular case an *en banc* hearing is ordered, in which instance all the justices of that Court hear and consider the case.

#### COURTS OF APPEALS DISTRICTS

- |                   |                                |
|-------------------|--------------------------------|
| 1 st - Houston    | 8th - El Paso                  |
| 2nd - Fort Worth  | 9th - Beaumont                 |
| 3rd - Austin      | 10th - Waco                    |
| 4th - San Antonio | 11th - Eastland                |
| 5th - Dallas      | 12th - Tyler                   |
| 6th - Texarkana   | 13th - Corpus Christi/Edinburg |
| 7th - Amarillo    | 14th - Houston                 |

