

Judicial Branch Overview

There are four levels of court in Washington State: the Supreme Court, the Court of Appeals, the superior courts, and courts of limited jurisdiction comprised of district and municipal courts.

The Supreme Court is located in the Temple of Justice on the state capitol grounds in Olympia. Courtrooms of the three divisions of the state Court of Appeals are located in Seattle, Tacoma, and Spokane. Courthouses in each of the state's 39 counties house superior court courtrooms. Each county has at least one district court and most of the state's cities and towns have municipal courts.

Types of Cases

All cases filed in the courts are either civil or criminal.

Civil

Civil cases are usually disputes between private citizens, corporations, governmental bodies, or other organizations. Examples are actions arising from landlord and tenant disputes, personal injuries, breaches of warranty on consumer goods, contract disputes, adoptions, marriage dissolutions (divorce), probates, guardianships, and professional liability suits.

Decisions are based upon a preponderance of evidence. The party suing (plaintiff) must prove his or her case by presenting evidence which is more convincing to the tier of facts (judge or jury) than the opposing evidence.

There are special court procedures for the protection of citizens threatened by harassment and domestic violence. Residents may obtain documents for requesting orders for protection by contacting the office of their county clerk.

Criminal

Criminal cases are brought by the government against individuals or corporations accused of committing crimes. The government makes the charge because a crime is considered an act against all of society. The prosecuting attorney charges a person (the defendant) with a crime and thereafter pursues the case through trial on behalf of the government (plaintiff). The prosecution must prove to the judge or jury that the defendant is guilty beyond a reasonable doubt.

The more serious crimes are called felonies and are punishable by more than a year's confinement in a state prison. Examples of such crimes are arson, assault, larceny, burglary, murder, and rape.

Lesser crimes are called misdemeanors and gross misdemeanors. Both are punishable by confinement in a city or county jail. Examples of gross misdemeanors are theft of property or services valued up to \$250 and driving while under the influence (DUI) of alcohol or drugs. Among the many types of misdemeanors are disorderly conduct, and prostitution.

Trial Process

Whether the case is civil or criminal, or tried by a judge or jury in a superior, district, or municipal court, the procedure is essentially the same. There may be some differences from court to court, however.

Jury Selection

Jurors are randomly selected from voter registration rolls and lists of those who are valid driver's license or "identocard" holders. In superior courts, 12 persons are seated on a jury. In district courts, the jury consists of six or fewer people.

In district, municipal, and superior courts, jury selection is handled in the same manner. Selection, or *voir dire*, consists of questions asked of juror candidates by the judge and attorneys to determine if they have biases that would prevent them from hearing the case. Questions can be general (directed at the whole panel) or specific (directed at specific candidates).

If an answer indicates that a prospective juror may not be qualified, that individual may be *challenged for cause* by a party, through his or her attorney. It is up to the judge to decide whether the individual should be disqualified.

After questions have been asked, peremptory challenges--those for which no reason need be given--may be exercised by an attorney and the prospective juror will be excused. Just how many challenges may be exercised depends on the type of case being tried. How they are exercised (orally or in writing) depends upon local procedure. After all challenges have been completed, the judge will announce which persons have been chosen to serve on the case. Those not chosen are excused.

After the judge or clerk administers the oath to the jurors, the case begins. Because the plaintiff always has the burden of proof, his or her attorney makes the first opening statement.

Opening Statements

An opening statement is an outline of the facts a party expects to establish during the trial. The plaintiff opens first, then the defendant. The defendant can choose to delay making an opening statement until after the plaintiff rests or presents his or her evidence.

Evidence

Evidence is testimony and exhibits presented by each side, admitted by the judge. The plaintiff presents evidence by direct examination of witnesses, who are then subject to cross examination by the defendant. After the plaintiff rests, the defendant presents witnesses who may be cross examined by the plaintiff's attorney.

After the defendant rests, the plaintiff may present rebuttal evidence. Following that, the evidentiary phase of the trial is over.

Jury Instructions

The judge then instructs the jury on how the law must be applied to that case. Jurors may be given written copies of the instructions.

Closing Arguments

When the judge has instructed the jury, attorneys for each party make closing arguments. As with opening statements, the plaintiff speaks first. After the defendant presents closing arguments, the plaintiff is allowed time for rebuttal.

Jury Deliberations

After closing arguments, the bailiff or other court-designated person escorts the jury to the jury room to begin deliberations. While deliberating, jurors are not allowed to have contact with anyone, except as designated by the court.

Criminal Sentencing

In Washington, superior court judges make sentencing decisions under a determinate sentencing system.

Under the determinate sentencing system, offenders convicted of felony crimes are sentenced according to a uniform set of guidelines. The guidelines structure, but do not eliminate, a sentencing judge's discretion. The purpose of the system is to assure that those sentenced for similar crimes, and who have comparable criminal backgrounds, receive similar treatment.

The guidelines are based on...

....seriousness of the offender's crime(s)

....the offender's criminal history

A judge can depart from these guidelines but only if compelling circumstances exist. Only sentences imposed outside of the guidelines can be appealed.

All convictions, adult or juvenile, include mandatory penalty assessments which are deposited in the state's victim compensation fund. A judge may also order the offender

to make restitution to victims for damages, loss of property, and for actual expenses for treatment of injuries or lost wages.

Those convicted of misdemeanors may be given probation and/or time in a local jail. Violating the terms of probation can result in a longer jail term.

Crime Victims and Witnesses

State law "ensure(s) that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity; and that rights extended (to them) are honored and protected...in a manner no less vigorous than the protection afforded criminal defendants."

The law lists the rights of crime victims and witnesses and, in some cases, their families. These include the right to be told about the outcome of a case in which they were involved, and to be notified in advance if a court proceeding at which they were to appear has been canceled.

If threatened with harm, victims and witnesses have the right to protection. They also have the right to prompt medical attention if injured during the commission of a crime. While waiting to testify, they must be provided with a waiting area away from the defendant and the defendant's family and friends.

Stolen property is to be returned quickly. Criminal justice system personnel are expected to help victims and witnesses work out employment-related problems that might arise during the periods of time they are involved in the trial.

Alternate Dispute Resolution

Many disputes do not need to be resolved in an open public court setting. "Alternative dispute resolution" (ADR) offers a variety of ways to resolve disputes in lieu of an official trial. ADR can be conducted in any manner to which the parties agree--it can be as casual as a discussion around a conference table, or as structured and discreet as a private court trial.

Advantages to solving conflicts through ADR include decreased litigation costs and an expedited outcome. The most commonly used techniques are mediation and arbitration.

Mediation

Mediation is a confidential, voluntary, non-binding process which uses a neutral third party to guide parties towards a mutually beneficial resolution of their disagreement. Resolutions are created to suit both parties, and may include an agreement not available via the court system.

The mediator does not impose his or her will or judgment on the parties, but helps them decide for themselves whether to settle, and on what terms. The mediator is a catalyst, helping parties reach agreement by identifying issues, exploring possible bases for agreement, and weighing the consequences of not settling.

Mediation works well in one-on-one disputes and in large, multi-group conflicts. It is effective in all types of civil matters, and may occur before or after the filing of a lawsuit. Although attorneys may be present during the mediation process, they are not essential to the process.

Arbitration

In arbitration, a neutral third party is chosen to hear both sides of the case, and then resolves it by rendering a specific decision or award. Arbitration is a common way of solving disputes with insurance companies on specific claims.

An arbitration proceeding is similar to a regular court trial. The main difference is that arbitration can be either binding or non-binding, as agreed in advance by the disputing parties. If binding arbitration has been chosen, the decision or award is final.

In Washington counties with a population of 100,000 or more, the superior court may require mandatory arbitration of some civil actions, usually those in which the sole relief sought is a money judgment. Unlike voluntary arbitration, mandatory arbitration operates under the authority of the court system. By law, it can only be used to settle disputes of \$50,000 or less.

Court Organization

Courts of Limited Jurisdiction

Jurisdiction

Courts of limited jurisdiction include district and municipal courts. District courts are county courts and serve defined territories, both incorporated and unincorporated, within the counties. Municipal courts are those created by cities and towns.

More than two million cases are filed annually in district and municipal courts. Excluding parking infractions, four out of every five cases filed in all state courts are filed at this level. This is due primarily to the broad jurisdiction these courts have over traffic violations and misdemeanors.

District Courts

District courts have jurisdiction over both criminal and civil cases. They have criminal jurisdiction over misdemeanors and gross misdemeanor cases that involve traffic or non-traffic offenses. Examples include: Driving while under the influence of intoxicating liquor or drugs (DUI), reckless driving, driving with a suspended driver's license, and assault in the fourth degree. Preliminary hearings for felony cases are also within the

jurisdiction of the district courts. The maximum penalty for gross misdemeanors is one year in jail and a \$5,000 fine. The maximum penalty for misdemeanors is 90 days in jail and a \$1,000 fine. A defendant is entitled to a jury trial for these offenses. Juries in courts of limited jurisdiction are composed of six people as opposed to superior court juries, which have 12 people.

Jurisdiction in civil cases includes damages for injury to individuals or personal property as well as penalty and contract disputes in amounts of up to \$100,000. District courts also have jurisdiction over traffic and non-traffic infractions, a civil proceeding for which a monetary penalty--but no jail sentence--may be imposed. District courts may also issue domestic violence and anti-harassment protection orders. They also have jurisdiction to hear change-of-name petitions and certain lien foreclosures. More information on these procedures can be obtained by contacting your local district court.

Small claims are limited to money claims of up to \$5,000. These are filed and heard in the Small Claims Department of the district court. Generally, each party is self-represented--attorneys are not permitted except with the permission of the judge. Witnesses may not be subpoenaed, but may be allowed to voluntarily testify for a party. Examples of cases heard: neighborhood disputes, consumer problems, landlord/tenant matters and small collections. The district court clerk can provide specific information about filing a claim.

Municipal Courts

Violations of municipal or city ordinances are heard in municipal courts. A municipal court's authority over these ordinance violations is similar to the authority that district courts have over state law violations. The ordinance violation must have occurred within the boundaries of the municipality. Like district courts, municipal courts only have jurisdiction over gross misdemeanors, misdemeanors, and infractions. Municipal courts do not accept civil or small claims cases. As with district courts, municipal courts can issue domestic violence protection orders and no-contact orders. A municipal court can issue anti-harassment protection orders upon adoption of a local court rule establishing that process.

Traffic Violation Bureaus (TVB)

In addition to a municipal court, cities can establish traffic violation bureaus or TVBs. TVBs handle traffic violations of municipal ordinances that involve no possible incarceration. The primary purpose of a traffic violation bureau is to expedite the handling of traffic cases that do not require any judicial involvement. The TVB is under the supervision of the municipal court, and the supervising court designates those traffic law violations that a TVB may process.

Domestic Violence and Anti-harassment Orders

District and municipal courts are confronted daily with domestic violence issues. Besides adjudicating criminal domestic violence and anti-harassment cases, courts of limited

jurisdiction may also enter protection orders. These are no-contact orders, orders of protection, and anti-harassment orders. No-contact orders and orders of protection can be obtained in either a municipal or district court. Anti-harassment orders can be obtained in district courts, as well as in municipal courts that have adopted local court rules establishing the process. Court personnel are knowledgeable about domestic violence issues and can assist a victim in completing domestic violence or anti-harassment forms. However, court personnel cannot give legal advice.

Appeals from Courts of Limited Jurisdiction

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 in a lower court 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.

Judges

District court judges are elected to four-year terms. Municipal court judges may be elected or appointed to a four-year term, depending on state law provisions. All judges are required to attend 45 hours of judicial training every three years.

Judges of courts of limited jurisdiction belong to the District and Municipal Court Judges' Association. The association was created by state statute to study and make recommendations concerning the operation of courts served by its members.

Court Support Personnel

Courts of limited jurisdiction are served by administrative support staff. Under the direction of the presiding judge, the staff is responsible for maintaining the court's fiscal, administrative, and court records.

Probation

Courts of limited jurisdiction have authority to order probation for up to two years, except in DUI convictions where a court can order probation for up to five years. A probation counselor administers programs that provide pre-sentence investigations, supervision, and probationary treatment for misdemeanor offenders in a district or municipal court.

Probation counselors can make sentencing recommendations to the court, including appropriate treatment (i.e. drug and alcohol counseling) that an offender should receive. The probation counselor periodically advises the district/municipal court judges of an offender's progress while the offender is under supervision.

Superior Courts

Jurisdiction

Because there is no limit on the types of civil and criminal cases heard, superior courts are called general jurisdiction courts. Superior courts also have authority to hear cases appealed from courts of limited jurisdiction.

Most superior court proceedings are recorded, so a written record is available if a case is appealed. Appellate courts can then properly review cases appealed to them. Some superior courts use video recordings instead of the customary written transcripts prepared by court reporters.

Appeals

Appeals may be made to the Court of Appeals. In some cases, they go directly to the Supreme Court.

Juvenile

Juvenile court is a division of the superior court, established by law to deal with youths under the age of 18 who commit offenses (offenders) or who are abused or neglected (dependents). Like adults, juvenile offenders are sentenced according to a uniform set of guidelines. Taking into account the seriousness of the offenses committed and the history of the subject's prior offenses, the guidelines establish a range of sentences and sentence conditions.

A juvenile sentence or disposition outside the standard range is possible if the court finds the standard disposition would amount to a "manifest injustice," to the juvenile or to the community. Dispositions within the standard range are not appealable; manifest injustice dispositions are.

Dependent children are usually placed under the care of the state's Department of Social and Health Services (DSHS). Courts frequently place such children outside the home for varying periods of time.

Districts

All superior courts are grouped into single or multi-county districts. There are 30 such districts in Washington State. Counties with large populations usually comprise one district, while in less-populated areas, a district may consist of two or more counties. A superior courthouse is located in each of Washington's 39 counties. In rural districts, judges rotate between their counties as needed. Each county courthouse has its own courtroom and staff.

Judges

Superior court judges are elected to four-year terms. Vacancies between elections are filled by appointment of the Governor, and the newly-appointed judge serves until the

next general election. To qualify for the position, a person must be an attorney admitted to practice in Washington.

There is a presiding judge in each county or judicial district who handles specific administrative functions and acts as spokesperson for the court.

Superior court judges belong to an organization, established by law, called the Superior Court Judges' Association. Specific committees of the association work throughout the year to improve the court system and to communicate with other court levels, the Legislature, bar associations, the media, and the public.

Officers of the organization are elected each year at the association's annual spring conference.

Court Support Personnel

Bailiff -- Responsibilities and designation of a court bailiff vary from one court to another, depending upon the needs of the court served. The bailiff's primary duties are to call the court to order, maintain order in the courtroom, and attend to the needs of jurors. In some counties, bailiffs with legal training serve as legal assistants to the judge.

County Clerk -- The county clerk is an elected or appointed official who maintains the court's official records and oversees all record-keeping matters pertaining to the operation of the courts. Among other things, the county clerk may be responsible for notification of jurors, maintenance of all papers and exhibits filed in cases before the court, and filing cases for the superior court.

Commissioner -- Most courts employ court commissioners to ease the judges' caseload. Court commissioners are usually attorneys licensed to practice in Washington. Working under the direction of a judge, court commissioners assume many of the same powers and duties of a superior court judge. Matters heard by the court commissioner include probate, uncontested marriage dissolutions, the signing of court orders for uncontested matters, and other judicial duties as required by the judge. The state constitution limits each county to no more than three court commissioners, but additional commissioners may be appointed for family law and mental health matters.

Court Administrator -- Many superior courts employ court administrators. Their functions vary, depending upon the policies of the court served. Generally, the court administrator is responsible for notification of jurors, supervision of court staff, assisting the presiding judge in budget planning for the court, assignment of cases, and implementation of general court policies.

Juvenile Court Administrator -- The juvenile court administrator directs the local juvenile court probation program and provides general administrative support to the juvenile division of superior court. Each of the state's juvenile courts is unique in the

range and diversity of programs and services it offers, though all offer some type of diagnostic and diversion services. A number of juvenile court administrators direct county-level detention programs. The administrator is generally appointed by judges of the superior court; however, in a few counties, judges have transferred this responsibility to the county legislative authority.

Court Reporter -- Stenographic notes are taken in court by a court reporter as the record of the proceeding. Some court reporters assume additional duties as secretary to one or more judges.

Court of Appeals

Jurisdiction

Court of Appeals serves as the intermediary appellate court for the state of Washington. Statutes give the Court exclusive appellate jurisdiction in almost all appeals from a lower court decision and court rules require the Court to accept review of a final judgment entered in any action in Superior Court.

The purpose of the Court of Appeals is to review cases and to render written opinions that state the grounds for the decision. The Court's objective is to provide this review in a timely manner.

Organization

There are 22 Court of Appeals judges on the Court who serve six-year staggered terms to ensure that all judges are not up for reelection at the same time. Each division is divided into three geographic districts (Division I – central Puget Sound and northwest Washington, Division II – Pierce County south through all of western Washington and the Olympic Peninsula, Division III – eastern Washington).

Supreme Court

Jurisdiction

As the highest court in the State of Washington, the mission of the Supreme Court is to uphold the constitution and when called upon through cases, interpret laws passed by the legislature and enforced by the executive branches of government.

Organization

Justices

The nine Supreme Court justices are elected to six-year terms. Terms are staggered to maintain continuity of the court. The only requirement for the office is that the prospective justice be admitted to the practice of law in Washington State. Vacancies are filled by appointment of the governor until the next general election.

Court Support Personnel

Bailiff -- A court-appointed official, the bailiff announces the opening of each session of the Court and performs a variety of other duties as required by the Court.

Clerk -- Appointed by the Court, the clerk of the Supreme Court maintains the Court's records, files, and documents. The clerk is also responsible for managing the Court's case flow (including the preparation of its calendars), arranging for *pro tem* (temporary) judges, and docketing all cases and papers filed.

The clerk supplies attorneys, opposing counsel, and other appropriate counsel with copies of Supreme Court briefs, and records attorney admissions to the practice of law in Washington State. The clerk also rules on costs in each case decided by the Court, and may also rule on various other procedural motions. The clerk is assisted by a deputy clerk and supporting staff.

Commissioner -- The commissioner, also appointed by the Court, decides those types of motions which are not required by court rule to be decided by the justices. Called *rulings*, these decisions are subject to review by the Court. The commissioner also heads the Court's central staff. The commissioner and other attorneys on the central staff assist the Court in screening cases to determine which ones should be accepted for full hearing. The Court is asked to hear more than 1,000 cases each year, though only a small portion of these can be accepted.

Court Administrator -- Washington State's Court Administrator is appointed by the Supreme Court and is responsible for the execution of administrative policies and rules in Washington's judicial system. With the assistance of a support staff, the administrator compiles court statistics; develops and promotes modern management procedures to accommodate the needs of the state's courts; studies and evaluates information relating to the operations and administrative methods of the judicial system; and provides pertinent information to the members of the judicial community, the other branches of government, and the general public. The administrator's staff also prepares and submits budget and accounting estimates relating to state appropriations for the judicial system.

Reporter of Decisions -- Appointed by the Supreme Court, the reporter of decisions is responsible for preparing Supreme Court and Court of Appeals decisions for publication. Decisions are published in weekly "advance sheets" and in the permanent volumes of *Washington Reports* and *Washington Appellate Reports*.

Law Clerk -- Law clerks primarily provide research and writing assistance to the justices.

Law Librarian -- The state law librarian is appointed by the Supreme Court to maintain a complete, up-to-date law library. The librarian also provides legal research services for the Supreme Court, the Court of Appeals, and court personnel.

How Courts are Financed

Funds to support Washington's courts come from state and local sources.

State Sources

Only a small portion of the total cost of operating state government is devoted to the courts. Court operations funded directly by the state include those of the Supreme Court (including the Supreme Court Clerk's Office, the Reporter of Decisions, the State Law Library, and the Administrative Office of the Courts), the Court of Appeals, half of the salaries and one hundred percent of the benefits of superior court judges, and a smaller portion of salaries of district and qualifying municipal court judges.

Local Sources

As is the case at the state level, the amount spent to support local courts is small relative to expenditures made for other city and county government operations. Though local governments finance the major portion of the state's judicial system, during recent years those expenditures have represented only six percent of all funds spent by local governments. Local funds support the cost of court administration, grand juries, local law libraries, court facilities, civil process services, petit juries, and witness expenses.