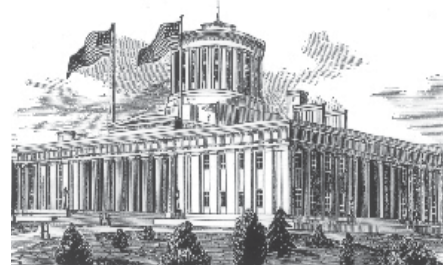

The Judicial Branch



The Supreme Court of Ohio, 1878

The Judicial Branch



Relationship of Judicial Branch to Legislative Branch

The judicial branch of government has primary responsibility for interpreting the laws written by the legislative branch. While the legislature attempts to be very thorough in drafting laws, it cannot foresee every possible circumstance in which the law will be applied. The judiciary interprets and applies the law in specific cases. These judicial interpretations establish guidelines for the application of statutes in the same or similar cases by establishing judicial precedent. The judicial branch also serves as a check on the legislative branch by ensuring through cases brought before the courts that the legislature has not enacted laws in violation of the Ohio or United States Constitution.

The following excerpts and chart from the Ohio Courts Summary, published on the Supreme Court of Ohio’s web site and slightly revised for purposes of this chapter, describe Ohio’s judicial branch. They are reprinted with the Court’s permission.

The Supreme Court of Ohio

The Supreme Court of Ohio is established by Article IV, Section 1 of the Ohio Constitution, which provides that “[t]he judicial power of the state is

vested in a supreme court, courts of appeals, courts of common pleas and divisions thereof, and such other courts inferior to the supreme court as may from time to time be established by law.”

Article IV, Section 2 of the Constitution sets the size of the Court at seven—a Chief Justice and six Justices—and outlines the jurisdiction of the Court.

The Supreme Court is the court of last resort in Ohio. Most of its cases are appeals from the 12 district courts of appeals. The Court may grant leave to appeal criminal cases from the courts of appeals and may direct any court of appeals to certify its record in civil cases that are found to be “cases of public or great general interest.”

The Court must accept appeals of cases that originated in the courts of appeals, cases involving the death penalty, cases involving an interpretation of the United States or Ohio Constitution, and cases in which there have been conflicting opinions from two or more courts of appeals. Appeals in death penalty cases are taken directly from the court of common pleas to the Supreme Court, bypassing the court of appeals. The Court may also hear certain actions or appeals involving contested elections.

The Court must also accept appeals from certain administrative bodies, such as the Board of Tax Appeals and the Public Utilities Commission.

The Court has original jurisdiction for certain special remedies that permit a person to file an action in the Supreme Court. These extraordinary remedies include writs of habeas corpus (involving the release of persons allegedly unlawfully imprisoned or committed), writs of mandamus (ordering a public official to do a required act), writs of procedendo

(ordering a lower court to proceed to judgment), writs of prohibition (ordering a judicial or quasi-judicial officer to cease an unlawful act), and writs of quo warranto (against a person or corporation for usurpation, misuse, or abuse of public office or corporate office or franchise).

The Supreme Court makes rules governing practice and procedure in Ohio's courts. Procedural rules adopted by the Supreme Court become effective unless both houses of the General Assembly adopt a concurrent resolution of disapproval by a specified date. The Supreme Court also exercises general superintendence over all state courts through its rule-making authority. The rules of superintendence set minimum standards for court administration. Unlike procedural rules, rules of superintendence do not have to be submitted to the General Assembly to become effective and are not subject to disapproval by the General Assembly.

The Chief Justice assigns judges to courts for temporary duty when a court is overloaded, a judge has been removed from a case because of bias, prejudice, or interest, or a judge has removed himself or herself from a particular case.

The Court has authority over the admission of attorneys to the practice of law in Ohio and may discipline admitted attorneys who violate the rules governing the practice of law.

The Chief Justice and six Justices are elected to six-year terms on a nonpartisan ballot. Two Justices are chosen at the general election in even-numbered years. In the year when the Chief Justice runs, voters pick three members of the Court. A person must be an attorney with at least six years of experience in the practice of law to be elected or appointed to the Court. Appointments are made by the Governor for vacancies that occur between elections.

Courts of Appeals

The courts of appeals are established by Article IV, Section 1 of the Ohio Constitution, and their jurisdiction is outlined in Article IV, Section 3. As the intermediate-level appellate courts, their primary function is to hear appeals from the common pleas,

municipal, and county courts. Each case is heard and decided by a three-judge panel.

The state is divided into 12 appellate districts, each of which is served by a court of appeals that sits in each county in the district. The number of judges in each district depends on a variety of factors, including the district's population and the court's caseload. Each district has a minimum of three appellate judges. Appeals court judges are elected to six-year terms on a nonpartisan ballot in even-numbered years. They must have been admitted to the practice of law in Ohio at least six years preceding commencement of the term. The Governor makes appointments to fill vacancies that occur between elections.

In addition to their appellate jurisdiction, the courts of appeals have original jurisdiction, as does the Supreme Court, to hear applications for writs of habeas corpus, mandamus, procedendo, prohibition, and quo warranto. The Tenth District Court of Appeals in Franklin County also hears appeals from the Court of Claims.

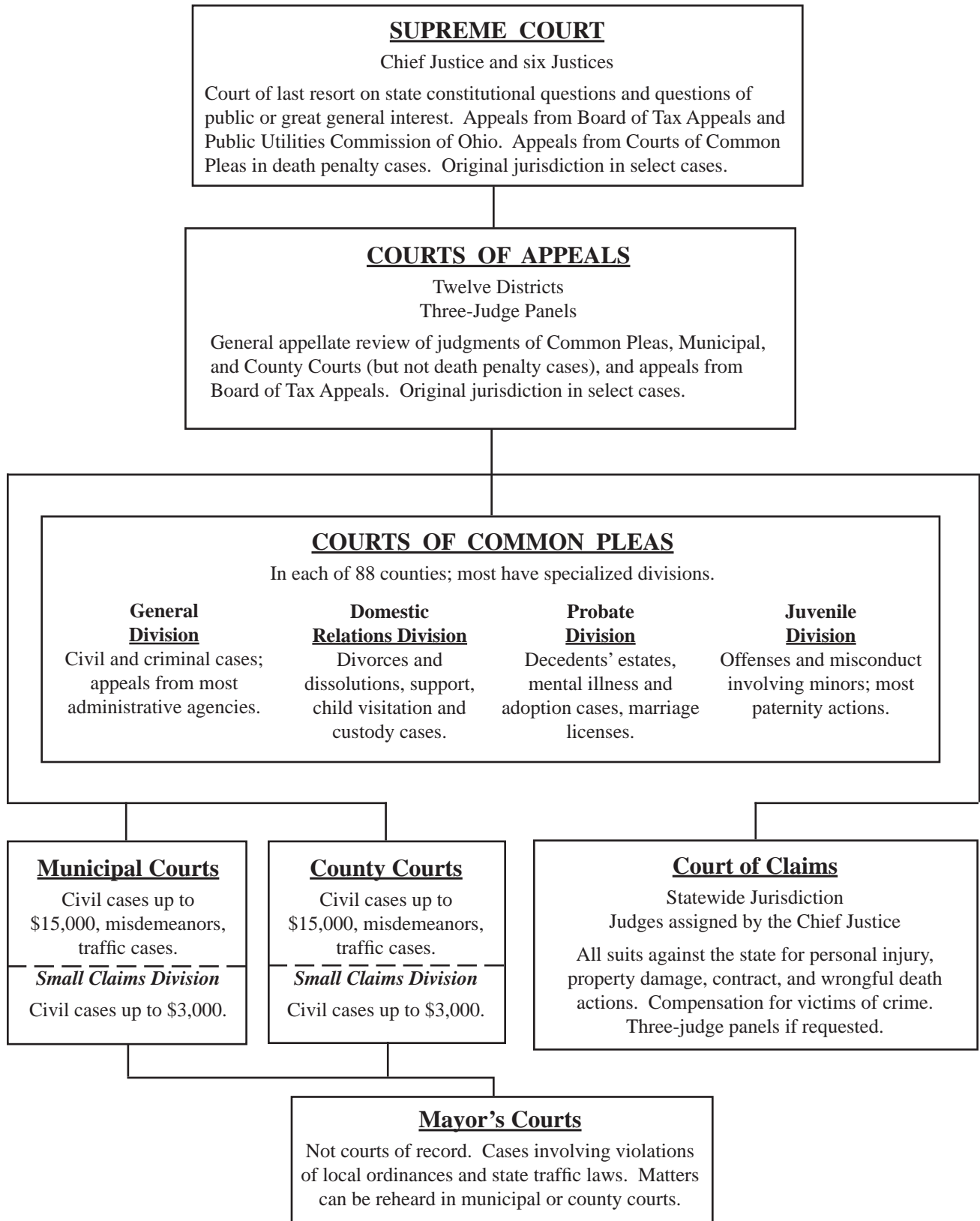
The Court of Claims

The Court of Claims is a statutorily created court that has statewide, exclusive original jurisdiction over all civil actions that are filed against the State of Ohio and are permitted by the state's waiver of sovereign immunity. It also has other jurisdiction specified by law. The Court sits in Franklin County in the Ohio Judicial Center.

Civil actions in the Court of Claims are determined in one of two ways. Actions against the state of \$2,500 or less are determined administratively by the Clerk or Deputy Clerk. Civil actions in excess of \$2,500 are heard and determined by a single judge. A judge of the Court also may review and enter final judgment in a civil action determined administratively.

No party in the Court of Claims is entitled to have a civil action against the state determined by a jury. Upon motion of a party, the Chief Justice of the Supreme Court of Ohio may assign a panel of three judges (instead of a single judge) to hear and determine a civil action presenting novel or complex issues of law or fact.

OHIO JUDICIAL STRUCTURE*



* Structure of the Ohio Judicial System (accessed on February 2, 2011), www.supremecourt.ohio.gov/sco/jurisdiction/structure.pdf. Reprinted with permission of the Supreme Court of Ohio (format and content slightly revised by LSC).

A panel of commissioners of the Court of Claims hears appeals of decisions made by the Attorney General regarding an award of reparations or the denial of such an award filed under the Ohio Victims of Crime Act, and a judge of the Court hears appeals of decisions of the panel.

The judges of the Court of Claims must be incumbent or retired Justices or judges of the Supreme Court, courts of appeals, or courts of common pleas. They sit by temporary assignment by the Chief Justice of the Supreme Court. The Supreme Court appoints the commissioners of the Court of Claims.

Courts of Common Pleas

The court of common pleas, the only trial court created by the Ohio Constitution, is established by Article IV, Section 1 of the Constitution, and its duties are outlined in Article IV, Section 4.

There is a court of common pleas in each of the 88 counties. The number of judges in each county is specified by statute. The courts of common pleas have original jurisdiction in all criminal felony cases and original jurisdiction in all civil cases in which the amount in controversy is more than \$500. Courts of common pleas have appellate jurisdiction over the decisions of some state administrative agencies.

Most courts of common pleas have specialized divisions created by statute to decide cases involving juveniles, the administration of estates, and domestic relations matters. The common pleas courts of only five counties have no specialized divisions: Adams, Morgan, Morrow, Noble, and Wyandot.

Common pleas judges are elected in even-numbered years to six-year terms on a nonpartisan ballot. A person must be an attorney with at least six years of experience in the practice of law to be elected or appointed to the court. The Governor makes appointments to fill vacancies that occur between elections.

Juvenile Divisions

Juvenile divisions of courts of common pleas hear cases involving persons under 18 years of age charged with acts that would be crimes if committed by an adult. They also hear cases involving unruly, dependent, neglected, and abused children. Juvenile courts have jurisdiction in adult cases involving paternity, child abuse, nonsupport, contributing to the delinquency of minors, and the failure to send children to school.

Probate Divisions

Probate courts are divisions of the courts of common pleas, with jurisdiction over the probate of wills, supervision of the administration of estates and guardianships, issuance of marriage licenses, adoption proceedings, determination of sanity or mental competency, and certain eminent domain proceedings. The probate judge also is allowed to perform marriages and may charge a fee for the service.

Domestic Relations Divisions

Domestic relations divisions of courts of common pleas have jurisdiction over all proceedings involving divorce or dissolution of marriage, annulment, legal separation, child and spousal support, visitation, and allocation of parental rights and responsibilities for the care of children.

Municipal and County Courts

Municipal and county courts are statutorily created courts. A municipal court may have jurisdiction in one or more municipalities, in one or more municipalities and adjacent townships, or throughout the entire county. When municipal courts exercise jurisdiction over all the territory of a county, no county court exists. A county court

is used if an area of a county is not served by a municipal court. The number of judges for each court is specified by statute.

The subject matter jurisdiction of municipal and county courts is nearly identical. Both municipal and county courts have the authority to conduct preliminary hearings in felony cases, and both have jurisdiction over traffic and nontraffic misdemeanors. These courts also have limited civil jurisdiction. They may hear civil cases in which the amount of money in dispute does not exceed \$15,000. A few municipal courts have a housing division or environmental division, and those divisions may render personal judgments regardless of the amount. A small claims division must be established in a municipal or county court to hear most types of civil cases in which the amount of money in dispute does not exceed \$3,000. Often, the parties in small claims cases represent themselves rather than hire an attorney. Municipal and county court judges have the authority to perform marriages.

Municipal court judges are elected in odd-numbered years to six-year terms on a nonpartisan judicial ballot and may serve either full or part time as specified by statute. County court judges are elected in even-numbered years to six-year terms on a nonpartisan ballot. All county court judges are part-time. Except for county court judges who were holding office on July 1, 1997, municipal and county court judges must be attorneys with at least six years of experience in the practice of law. The Governor makes appointments to fill vacancies that occur between elections.

Mayor's Courts

In general, Ohio law allows the mayor of a municipal corporation having a population of more than 100 to conduct a mayor's court if the municipal corporation is not the site of a municipal court or a place where a judge of a specified countywide municipal court sits.

Mayor's courts hear only cases involving violations of local ordinances and state traffic laws and are barred from hearing certain types of those cases. They are not courts of record but must file statistics quarterly and register annually with the Supreme Court. The Supreme Court, however, at the request of the General Assembly, has adopted rules providing for basic legal education for mayors and for procedures in their courts. Additional education for mayors is required if the court is to hear alcohol- and drug-related traffic offenses.

A mayor who conducts a mayor's court is not required to be a lawyer. The mayor may appoint an attorney as a magistrate to hear cases in mayor's court. A magistrate must have engaged in the practice of law for at least three years.

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