

RECOMMENDATIONS FOR REFORM

The Texas Judicial System



TEXANS FOR LAWSUIT REFORM FOUNDATION

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EXECUTIVE SUMMARY

The Texas judicial system is complicated, inefficient, and poorly structured to handle modern litigation. Since its basic structure was created in the late 1800s, it has been expanded periodically on a purely *ad hoc* basis. As a result, the system is replete with anomalies and peculiarities. Problems exist at every level and extend to the administration and funding of the courts. Comprehensive reform is needed to produce greater coherence, efficiency and accountability. This paper examines the Texas court system, the federal court system, and the court systems of other states in an effort to determine the best method for structuring, administering and financing Texas's courts. The paper concludes with specific recommendations.

Texas's Antiquated Court Structure

At the top of the Texas court system sit two high courts—the Supreme Court and the Court of Criminal Appeals. The Supreme Court has civil and juvenile jurisdiction. The Court of Criminal Appeals has criminal jurisdiction. Each court has nine judges. Only one other state has a similar high court structure, and no other state has this many high-court judges.

There are pros and cons to having two high courts. On one hand, operating two high courts complicates judicial-system administration. Because neither court is truly supreme, Texas's high courts have no ability to resolve the conflicts that arise when they reach different conclusions on a point of law. On the other hand, having two high courts allows each court to bring specialized knowledge to different types of cases for the benefit of litigants. In addition, comparison to other states shows that both courts are able to consider a higher number of appeals than would be possible if there were a single high court. Ultimately, this enables each court to give greater certainty to the law by accepting cases presenting novel or complex legal issues or legal issues on which the intermediate appellate courts have disagreed.

There are fourteen intermediate appellate courts in Texas whose structure and disposition of cases are complicated by overlapping geographic jurisdiction and unequal dockets. Neither the federal judicial system nor any other state's judicial system has geographically overlapping intermediate appellate court districts. In Texas, however, the geographic jurisdiction of two intermediate appellate courts is identical and three have overlapping jurisdiction. In addition, the number of cases filed each year in the fourteen courts varies significantly. This inequality is addressed by the transfer of cases among the courts of appeals for "docket equalization"—a practice that is unpopular and unfair because a litigant cannot determine during trial which appellate court's decisions will govern the case. A fair judicial system should have a more predictable course than a random assignment of appeals to equalize workloads between the intermediate appellate courts.

Furthermore, the assignment of district courts to the intermediate appellate courts is puzzling. Texas's intermediate appellate court districts cut through many of its multi-county trial court districts. As a result, there are several district courts that answer to more than one intermediate appellate court. To make matters more confusing, Texas has nine administrative regions that do not coincide with the intermediate appellate court districts. And, like the appellate court districts, the administrative regions cut through multi-county trial court districts. This causes confusion and inefficiencies in the oversight of Texas courts, as will be discussed further below.

Texas has seven types of trial courts: district courts, constitutional county courts, statutory county courts, statutory probate courts, justice of the peace courts, small claims courts and municipal courts. This structure has been described by one Texas Supreme Court justice as “Byzantine” as the subject matter jurisdiction of these courts overlap substantially. In fact, the subject-matter jurisdiction of each type of trial court overlaps to some extent with the subject-matter jurisdiction of at least one other type of trial court. Moreover, the subject-matter jurisdiction of *constitutional* county courts and of *statutory* county courts varies widely from county to county. As a result of these variations, Texas’s 254 counties have almost that number of distinct trial court structures.

To complicate matters further, the district courts, which are the trial courts of general jurisdiction, sit in a spider web of districts having overlapping geographic boundaries. Often a single county is in two or three district court districts, with each of those districts being comprised of a different group of counties. This knotty trial-court structure is arcane and inefficient, and it invites forum shopping.

Among the structure’s many failings is the inability to effectively handle complex civil cases, which require significant and specialized judicial resources. While the federal court system and the court systems in other major states have special courts or procedures to handle complex or specialized litigation, Texas does not. Consequently, complex litigation in Texas often is conducted in trial courts lacking the knowledge or resources to handle that litigation.

Problems in Court Administration and Funding

Texas’s court administration system fails to provide proper control and accountability. The State is divided into nine administrative judicial regions, each with a regional presiding judge who has general responsibility for the efficient management of litigation within that region. Because the regional administrative judges are appointed by the Governor for fixed terms of office, the efficient administration of justice in these regions is not in the hands of a person who is accountable to any other *judicial* officer. At the local level, court administration is handled by local judges who are accountable to local officials for fiscal matters, but not really accountable to anyone other than their fellow judges for the efficient administration of justice.

Additionally, the judicial system’s funding mechanism is antiquated and uneven. Historically, many states relied predominantly on local revenues to support their courts. Many states have moved away from local funding and toward state funding in an attempt to ensure adequate funding of the court system, to facilitate the efficient administration of justice, and to enhance judicial accountability to the state supreme court. Texas, however, continues to rely heavily on locally generated revenue rather than state-generated revenue to fund its judicial system. Judicial salaries, judicial retirement, personnel, facilities, and other costs are shared by state, county and city governments. Some revenue generated by the courts are kept at the local level, while other revenue is passed through to the state government. After more than 100 years of periodic, *ad hoc* tinkering with the system, there is very little logic to the financial aspects of Texas’s judicial system.

Past Reform Efforts

These and other peculiarities of Texas's judicial system have given rise to numerous calls for reform. The reform movement started as early as 1918, when the Texas Bar Association adopted a proposal to replace the judicial article of the Texas Constitution, Article V, with a new judicial article. The new judicial article, according to one commentator, "embodied the principles of unification, flexibility of jurisdiction and assignment of judicial personnel, and responsible supervision of the entire system by the supreme court." That effort failed. A number of additional efforts to rewrite Article V have been attempted since 1918 with no success. The recurring themes of these reform efforts were eliminating the two-high-court structure by merging the Court of Criminal Appeals into the Texas Supreme Court, providing a coherent system of judicial administration by the Supreme Court, giving criminal jurisdiction to the intermediate appellate courts, structurally unifying Texas's trial courts, and implementing a method other than partisan elections for selecting judges.

While Article V has not been redrafted, some progress has been made toward these reform goals. By constitutional amendment effective September 1, 1981, Texas's intermediate appellate courts were given criminal jurisdiction (except in death penalty cases), and a number of justices were added to those courts to handle the additional work. At the same time, the Court of Criminal Appeals' jurisdiction was made discretionary. The constitutional amendments also confirmed the Supreme Court's inherent power over the judiciary, and, since 1981, the Legislature has created a statutory scheme giving the Supreme Court a good deal of administrative control over the judiciary. Unfortunately, however, Texas's trial court structure has become more, rather than less, fragmented and inconsistent since 1981.

Recommendations

This paper provides methods of improving Texas's court system. After thoroughly discussing Texas's courts and other court systems, it provides the following recommendations and proposals for reforming the structure, administration and financing of Texas's courts.

1. Study merging Texas's two high courts into a single court having both civil and criminal jurisdiction.
2. Reduce the number of judges on both the Texas Supreme Court and the Court of Criminal Appeals from nine to seven judges if the two courts are not merged.
3. Give the Texas Supreme Court discretionary jurisdiction in all civil appellate matters.
4. Reduce the number of intermediate appellate courts, subject to complying with the federal Voting Rights Act, which this paper does not address.
5. Eliminate overlapping geographic boundaries among the intermediate appellate courts. Again, redistricting of the appellate courts must take into account the Voting Rights Act, which this paper does not address.
6. Allow the Chief Justice of the Texas Supreme Court, rather than the Governor, to appoint and remove regional administrative judges.

7. Repeal the current legislative requirement that the Supreme Court transfer cases from one intermediate appellate court to another for docket equalization.
8. Structurally unify the trial courts into a single-tier structure, however, it may not be practical or necessary to merge the municipal courts into the single tier of trial courts.
9. Make the following changes in Texas's trial court structure even if complete rationalization is not adopted:
 - a. Convert the statutory county courts at law and statutory probate courts into district courts.
 - b. Remove judicial authority from those constitutional county courts sitting in counties having a statutory county court at law or a district court sitting only in that county.
 - c. Redraw district court boundaries to eliminate overlapping districts and ensure that each district court is in a single court of appeals district and a single administrative region.
 - d. Increase the amount-in-controversy threshold for district courts' civil jurisdiction to \$10,000.
 - e. Increase justice of the peace court jurisdiction to allow adjudication of civil disputes with \$10,000 or less in controversy.
 - f. Provide for district court jurisdiction of commercial eviction cases in which the amount in controversy exceeds the jurisdictional limit of the justice of the peace courts.
 - g. Eliminate the current small claims courts (i.e., the justice of the peace sitting as a "small claims" judge), but direct the Supreme Court to promulgate rules for the expeditious handling of small civil matters.
10. Establish a mechanism for moving complex cases to trial courts having the expertise and resources to handle those complex cases, as follows:
 - a. Convert the currently existing Multidistrict Litigation Panel into the Complex and Multidistrict Litigation Panel (CMDL Panel).
 - b. Give the CMDL Panel power to transfer complex cases to trial judges having the knowledge and resources to handle complex litigation while retaining the MDL Panel's current power to transfer large numbers of factually similar cases ("multidistrict cases") to a single trial judge for pretrial proceedings.
 - c. Instruct the Supreme Court to define "complex case" but provide statutory guidance on the definition.

- d. Require the Texas Supreme Court to promulgate rules governing the CMDL Panel's work, setting out the definition of "complex case," distinguishing between "complex cases" and "multidistrict cases" and providing special rules for each, and providing the procedure for requesting and attaining the transfer of a complex case by the CMDL Panel.
 - e. Provide that complex cases (but not multidistrict cases) must be assigned to a trial court in the court of appeals district in which the case was originally filed (assuming it was a county of proper venue).
 - f. Provide that the trial judge may conduct pre-trial proceedings in his or her court, or in any appropriate court in the court of appeals district.
 - g. Provide that the judge of a court to which a complex case is assigned (but not the judge assigned to a multi-district case) must return with the case to the county in which it was originally filed (assuming it was a county of proper venue) for trial.
 - h. Appropriate funds to support the CMDL Panel and the selected trial courts sufficient for them to employ professional and administrative staff to handle the transfer process, pre-trial proceedings and the trial of complex cases themselves.
11. Fund Texas's trial courts primarily from State, rather than local, revenue.
 12. Continue to increase judicial compensation, so that Texas's judges are compensated at a level comparable to other populous states and appropriate to the importance of their work.

The efficient administration of justice in this state depends on a modern court structure. Texas is long overdue for reform to its court system. The goal of this paper is to produce thought and discussion about the Texas judicial system to aid policy-makers as they consider and act on the recommendations offered here.

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INTRODUCTION

The purpose of this paper is to analyze the structure, funding and administration of Texas's courts with the goal of recommending changes to improve the courts' ability to meet the challenges of modern litigation. Pages 3-34 of the paper give a detailed description of Texas's court structure, focusing primarily on each court's geographic and subject-matter jurisdiction. Pages 35-50 describe Texas's system for supervising and funding its courts. For comparison, Pages 51-70 provide an overview of the structure, administration, and funding of other court systems, with particular attention given to the federal, California, New York and Florida court systems. Also included in this section is a review of how other states handle specialized or complicated litigation. Pages 71-92 make recommendations for changing Texas's court system, including reducing the number of judges on the State's two high courts from nine on each court to seven, reducing the number of intermediate appellate courts, eliminating the transfer of cases between the intermediate appellate courts for docket equalization, redistricting certain trial courts, merging several layers of trial courts, establishing uniform jurisdiction among the trial courts, creating a system for assigning complex cases to appropriate trial courts, allowing the Supreme Court to appoint administrative judges, conforming administrative judicial districts with the courts of appeals districts, and requiring the State to assume the primary obligation of funding the judiciary. Pages 93-104 describe the alternative methods the Legislature could use to create a system for assigning complex litigation to courts having the resources and knowledge to handle those cases, and culminates in a specific recommendation.

TEXAS COURT STRUCTURE

Overview

Article V, § 1 of the Texas Constitution provides that 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.”¹ The Texas judicial system consists of two high courts, the Supreme Court and the Court of Criminal Appeals, with nine members each;² fourteen intermediate courts of appeals with a total of eighty justices;³ 432 operating district courts;⁴ 254 constitutional county courts;⁵ 217 operating statutory county courts;⁶ seventeen operating statutory probate courts;⁷ municipal courts sitting in 912 cities with a total of 1396 judges;⁸ and 825 justice of the peace courts (Chart 1).⁹

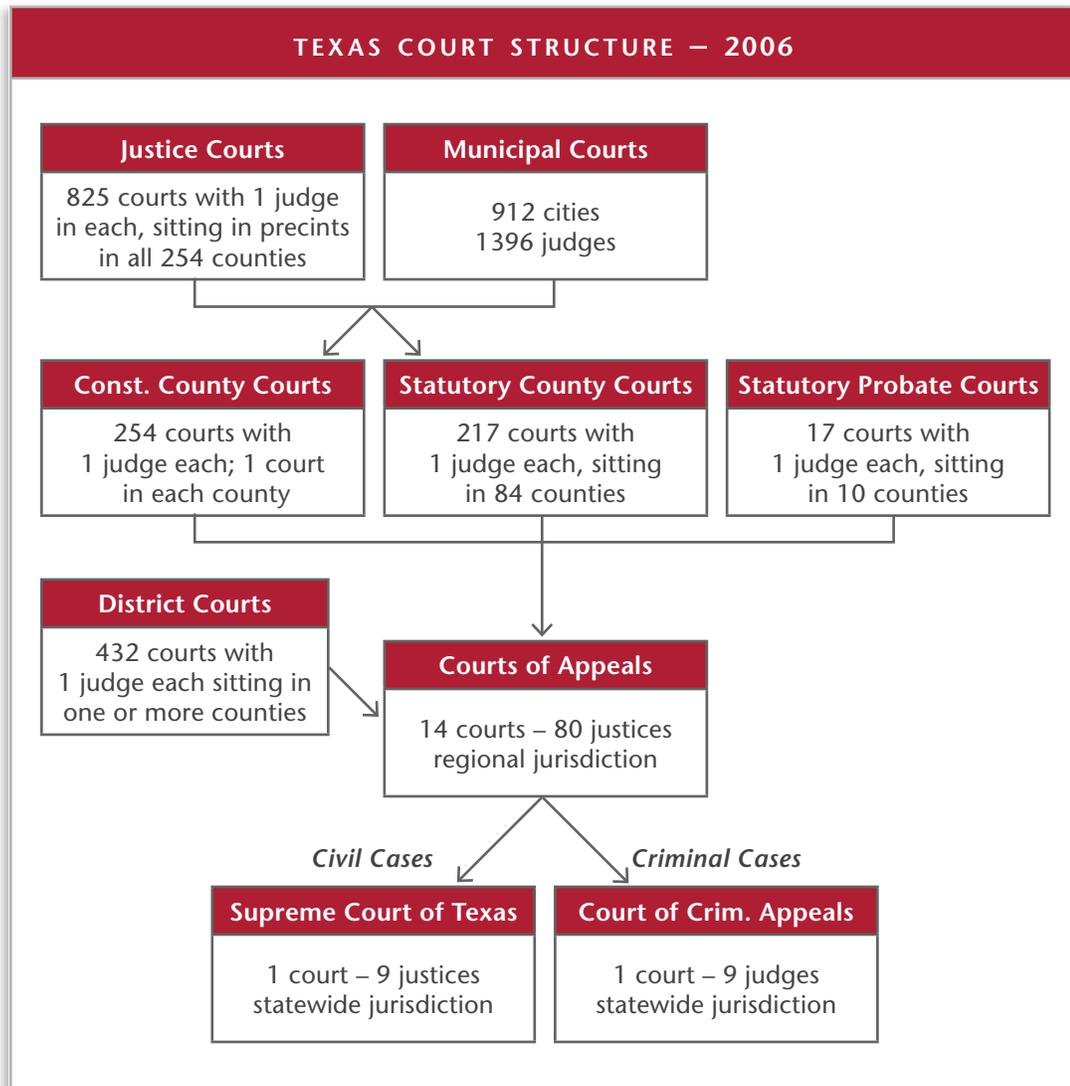


CHART 1

High Courts

Creating Two High Courts. Since the formation of the Republic of Texas in 1836, Texas's constitutions have vested the State's judicial power in "one supreme court."¹⁰ The Supreme Court's geographic jurisdiction always has been statewide, and the Court always has had appellate subject-matter jurisdiction.

During the time Texas was a republic, the Texas Supreme Court had appellate jurisdiction in both civil and criminal matters.¹¹ Texas joined the United States in 1845 and adopted a new constitution, which provided that the Supreme Court's criminal jurisdiction was subject to "such regulations as the Legislature shall make."¹² Subsequent constitutions continued to restrict, or allowed the Legislature to restrict, the Supreme Court's criminal jurisdiction.¹³

The 1876 constitution removed all criminal jurisdiction from the Supreme Court and placed that jurisdiction in "a Court of Appeals" consisting of three judges having the same qualifications as Supreme Court justices.¹⁴ The Court of Appeals was given appellate jurisdiction of "all criminal cases, of whatever grade, and in all civil cases...of which the County Courts have original or appellate jurisdiction."¹⁵ The Supreme Court remained the court of last resort for other civil matters.

In 1891, the constitution was amended to provide for a Supreme Court having civil but not criminal jurisdiction, and for a Court of Criminal Appeals having criminal but not civil jurisdiction.¹⁶ The intermediate appellate courts' jurisdiction was limited to civil cases.¹⁷ Thus, after ratification of the 1891 amendments, Texas had two high courts, with one having civil jurisdiction and the other having criminal jurisdiction. That structure remains in place today.¹⁸

In 1980 (effective September 1, 1981), the constitution was amended to give the intermediate courts of appeals criminal jurisdiction except in death penalty cases, which are provided a direct appeal-of-right to the Court of Criminal Appeals. The amendments also gave the Court of Criminal Appeals discretionary jurisdiction to review the intermediate appellate courts' judgments in criminal cases.¹⁹

Only Texas and Oklahoma have two high courts.²⁰ Like Texas, Oklahoma allocates civil jurisdiction to its supreme court and criminal jurisdiction to its court of criminal appeals.²¹ The federal system and all other states' systems have a single high court having both civil and criminal jurisdiction.²² With nine judges on each of its high courts, Texas has the highest number of high-court judges in the United States.²³

Supreme Court of Texas

Number of Justices and Terms of Office. The Supreme Court of Texas is comprised of a Chief Justice and eight justices, each of whom serves a six-year term.²⁴ To be eligible to serve on the Supreme Court, a person must be licensed to practice law in Texas, a citizen of the United States and of Texas, at least thirty-five years of age, and, as of the date of election, must have been a practicing lawyer, or a lawyer and judge of a court of record, for at least ten years.²⁵ The justices' terms rotate so that, in the normal course, three seats on the Court are filled each election cycle²⁶ in statewide, partisan elections.²⁷ Mid-term vacancies are filled by gubernatorial appointment with the consent of the Senate until the next succeeding general election, at which time the voters fill the vacancy for the unexpired term.²⁸

Jurisdiction. The Texas Supreme Court has statewide jurisdiction in civil cases, including juvenile delinquency cases.²⁹ It does not have jurisdiction in criminal cases.³⁰ The specific contours of the Supreme Court's jurisdiction, however, are somewhat complicated.

In discussing the Supreme Court's jurisdiction, it is necessary to distinguish between final judgments and interlocutory trial court orders. A final judgment is one that disposes of all claims by all parties.³¹ An interlocutory trial court order is one that resolves at least one particular issue, but does not dispose of all claims by all parties (for example, an order granting or denying a request to postpone trial).³² The general rule in Texas is that an appeal is available in a civil case if the trial court has rendered a final judgment; but an appeal is not available to obtain review of most interlocutory trial court orders unless a statute makes the order appealable.³³

In regard to final judgments, the Texas Supreme Court has jurisdiction to hear an appeal from any final judgment rendered by a Texas trial court in a civil case, except those judgments that are not appealable because the amount in controversy is too small.³⁴ All appeals from final judgments must be presented to and decided by the appropriate intermediate appellate court before the appeal can be advanced to the Texas Supreme Court.³⁵ The Court has the power to review any case "in which it appears that an error of law has been committed by the court of appeals, and that error is of such importance to the jurisprudence of the state that, in the opinion of the supreme court, it requires correction."³⁶ This provision effectively gives the Supreme Court discretionary jurisdiction in civil cases in which a final judgment has been rendered because the Court is the sole arbiter of whether a case presents an error of law important to the State's jurisprudence.

In regard to interlocutory trial court orders, the Court's jurisdiction is limited. The court has jurisdiction to hear an appeal from a trial court order granting or denying an injunction on the ground of the constitutionality of a Texas statute, and that appeal may be taken directly from the trial court to the Texas Supreme Court.³⁷ The Supreme Court also has jurisdiction to hear an appeal from a trial court order (1) certifying or refusing to certify a class, (2) denying a summary judgment to a media defendant who asserts a defense under the free speech or free press clauses of the First Amendment, or (3) denying a defendant's motion relating to a plaintiff's failure to file an expert report, or an adequate expert report, in a medical malpractice case.³⁸ These appeals must go through the court of appeals before being advanced to the Supreme Court.

Otherwise, the Supreme Court does not have jurisdiction to hear an appeal from an interlocutory trial court order unless the order is appealable by statute³⁹ and either: (1) a dissenting opinion was handed down in the case by a justice of the court of appeals (known as "dissent jurisdiction"), or (2) the court of appeals' decision conflicts with the prior decision of another court of appeals or the Supreme Court (known as "conflict jurisdiction").⁴⁰ Because dissenting opinions are rare and conflict jurisdiction historically has been difficult to establish,⁴¹ the court of appeals' decision cannot be reviewed by the Supreme Court in most appeals taken from interlocutory trial court orders.

Whether it is an appeal from a final judgment or an appeal from an interlocutory trial court order, the Supreme Court's jurisdiction is limited to resolving questions of law.⁴² The courts of appeals' judgments are "conclusive on the facts" of the case.⁴³ In other words, if there is a conflict in the facts presented, the Supreme Court is prohibited from ruling that the lower court erred in the way it resolved that conflict.⁴⁴

The Texas Supreme Court or a justice of the Supreme Court has the power to issue writs "agreeable to the principles of law regulating those writs, against a statutory county court judge, a statutory probate court judge, a district judge, a court of appeals or a justice of a court of appeals, or any officer of state government except the governor, the court of criminal appeals, or a judge of the court of criminal appeals."⁴⁵ Additionally, the Supreme Court is the only Texas court having authority to issue a mandatory or compulsory writ of process against any of the officers of the executive departments of Texas government to compel the performance of a judicial, ministerial, or discretionary act or duty that, by state law, the officer is authorized to perform.⁴⁶ Finally, the Texas Supreme Court has jurisdiction to answer questions of state law certified to it by a federal appellate court.⁴⁷

Workload. Appeals are taken to the Texas Supreme Court by petition for review.⁴⁸ Over the past ten years, the Supreme Court has received, on average, 964 petitions for review each year.⁴⁹ In addition, it has received, on average, 2057 other filings requiring court action, including petitions for extraordinary writs and extraneous motions.⁵⁰ The number of petitions for review received each year has been decreasing since peaking in fiscal year 2000, when 1069 petitions were filed.⁵¹ In fiscal year 2005, 805 petitions for review were filed, a number 25% below the high established in 2000 and 16% below the ten-year average.⁵² Over the past ten years, the Court has granted an average of 110 petitions for review each year, or 11% of the number disposed.⁵³ In fiscal year 2005, it granted 109 of the 823 petitions disposed, or 13%.⁵⁴ The Court hands down an average of 162 opinions per year, or roughly eighteen opinions per judge per year.⁵⁵

Supervising the Judiciary. While the Texas Constitution, like the United States Constitution, provides for "one supreme court,"⁵⁶ several aspects of Texas's judicial structure prevent the Texas Supreme Court from being a true *supreme* court. For example, the Texas Supreme Court is given administrative and supervisory control over the judicial branch.⁵⁷ Thus, the Supreme Court appears to have administrative and supervisory authority over all Texas courts, including the State's other high court. In reality the Supreme Court has not exercised supervisory control over the Court of Criminal Appeals and it shares its administrative duties with that court and with regional and local judges over whom it has little control.⁵⁸ Accordingly, no court in Texas exercises true administrative control over the entire judicial system like the United States Supreme Court exercises over the federal system, or many state supreme courts exercise over their respective states' judicial systems.

Similarly, the Supreme Court has the power to promulgate rules of procedure and of evidence, but so does the Court of Criminal Appeals.⁵⁹ The two courts have chosen to cooperate in the promulgation of the rules of evidence and appellate

procedure, but there are instances where the rules differ in civil and criminal cases because the courts did not agree on a single rule and neither court has the authority to craft a rule applicable to all cases.⁶⁰

Additionally, the Texas Supreme Court, as we have noted, is the only Texas court with the authority to issue a mandatory or compulsory writ of process against an officer of the executive branch of Texas government,⁶¹ but it has no such authority over the Court of Criminal Appeals, and vice versa.⁶²

Furthermore, the Supreme Court has no jurisdiction to review decisions made by the Court of Criminal Appeals, and the Court of Criminal Appeals has no jurisdiction to review decisions made by the Supreme Court.⁶³ While each court may consider the other's opinion on a point of law, neither is bound by the other court's precedent. This produces both consistent⁶⁴ and inconsistent⁶⁵ decisions by the two courts and because neither court has jurisdiction to hear an appeal from the other court, conflicts between the two courts on matters of state law cannot be cured by any Texas court. This peculiar situation is unique to Texas and Oklahoma.⁶⁶

Court of Criminal Appeals

Number of Judges and Terms of Office. The Court of Criminal Appeals is comprised of a presiding judge and eight judges, each serving a six-year term.⁶⁷ Court of Criminal Appeals judges must have the same qualifications as Supreme Court justices.⁶⁸ As with the Supreme Court, the judges' terms rotate so that in the normal course three seats on the Court are set for election during each election cycle.⁶⁹ The judges are elected in statewide, partisan elections.⁷⁰ Mid-term vacancies are filled by gubernatorial appointment with the consent of the Senate until the next succeeding general election, at which time the voters fill the vacancy for the unexpired term.⁷¹

The Court may sit in panels of three judges "for the purpose of hearing cases," but typically does not do so; instead, the court routinely sits *en banc* when hearing appeals.⁷² The Presiding Judge must convene the court *en banc* for the transaction of all other business, including proceedings involving capital punishment.⁷³

Texas law allows the presiding judge to appoint individual commissioners to aid the Court in its work.⁷⁴ In addition, the Court may appoint a commission to aid the Court in disposing of the business before the Court.⁷⁵ The opinions of the commission or of a commissioner, when approved by the Court, have the same weight and legal effect as an opinion handed down by the Court itself.⁷⁶ These provisions for appointing individual commissioners and a commission were used when the intermediate courts of appeals did not have criminal jurisdiction and, because the Court had a non-discretionary obligation to hear all criminal appeals, the Court had a substantial backlog of pending cases.⁷⁷

Jurisdiction. The Court has final appellate jurisdiction in all criminal cases appealed from state courts throughout Texas.⁷⁸ In cases in which the death penalty has been assessed, the only appeal in the Texas state-court system is to the Court of Criminal Appeals, which must hear the case.⁷⁹ The appeal of all other criminal cases is to the appropriate court of appeals, with the Court exercising its discretion to review decisions of the courts of appeals.⁸⁰

The Court and each of its judges acting individually have the power to issue writs of habeas corpus and other appropriate writs.⁸¹ Additionally, the Court has jurisdiction to answer questions of state law certified to it by a federal appellate court.⁸²

Workload. Over the past ten years, the Court of Criminal Appeals has received, on average, 313 direct appeals; 6236 applications for writ of habeas corpus; 702 petitions in original proceedings; and 2080 petitions for discretionary review.⁸³ Thus, it receives an average of 7251 filings each year that it *must* review and 2080 filings that it has discretion to review.⁸⁴ It has handed down, on average, 628 opinions per year, or about seventy opinions per judge per year.⁸⁵ On average, the Court has granted petitions for discretionary review at a rate of about 7% of the number of petitions disposed.⁸⁶ The Court's rate of granting petitions for discretionary review over the past five years, 6.4%, has been lower than its ten-year average.⁸⁷

The Court of Criminal Appeals, like the Supreme Court, has administrative duties, but, as is discussed on Pages 37-38, it does not have as many such duties as the Supreme Court.⁸⁸

Intermediate Appellate Courts

History of Texas's Intermediate Appellate Courts. The 1876 Texas Constitution provided for a three-judge court of appeals having civil and criminal jurisdiction.⁸⁹ The 1891 constitutional amendments required the Legislature to divide Texas into "supreme judicial districts" with a court of civil appeals in each district.⁹⁰ It provided that each court of civil appeals was to consist of a chief justice and two associate judges.⁹¹ These intermediate appellate courts did not have criminal jurisdiction. The Legislature established five courts of civil appeals, in Galveston, Fort Worth, Austin, San Antonio, and Dallas. Over the next seventy-five years, the Legislature established additional three-justice courts of civil appeals as caseload demanded. The following Table 1 shows the year each court of civil appeals was established.

The history of the courts of appeals explains how Texas ended up as the only state with overlapping intermediate appellate court districts.⁹⁴ In 1927, the Legislature transferred Hunt County from the Dallas Court of Appeals district to the Texarkana Court of Appeals' district.⁹⁵ Seven years later, it restored Hunt County to the Dallas court's district, but did not remove it from the Texarkana court's district, thus creating the first instance of overlapping court of appeals districts.⁹⁶ In 1963, the Legislature established the seventeen-county Tyler Court of Appeals.⁹⁷ Nine of the counties comprising the new district were removed from their former districts, but the other eight remained in their previous districts.⁹⁸ Consequently, Gregg, Hopkins, Panola, Rusk, Upshur and Wood Counties were in the Texarkana and Tyler courts' districts, and Kaufman and Van Zandt Counties were in the Dallas and Tyler courts' districts.⁹⁹ Texas now had nine counties that were within two intermediate appellate court districts.

| COURTS OF APPEALS YEARS OF ESTABLISHMENT | | | | | |
|--|-------------|------------------|------------------|----------------|------------------|
| Court of Appeals | Location | Year Established | Court of Appeals | Location | Year Established |
| First | Galveston | 1892 | Eighth | El Paso | 1911 |
| Second | Fort Worth | 1892 | Ninth | Beaumont | 1915 |
| Third | Austin | 1892 | Tenth | Waco | 1923 |
| Fourth | San Antonio | 1893 | Eleventh | Eastland | 1925 |
| Fifth | Dallas | 1893 | Twelfth | Tyler | 1963 |
| Sixth | Texarkana | 1907 | Thirteenth | Corpus Christi | 1963 |
| Seventh | Amarillo | 1911 | Fourteenth | Houston | 1967 |

TABLE 1

In 1967, the Legislature established the Fourteenth Court of Appeals in Houston, covering the same counties as the existing First Court of Appeals.¹⁰⁰ In addition to the thirteen counties already covered by the First Court of Appeals, the Legislature added Brazos County to both Houston courts' districts, while leaving it in the Waco Court of Appeals' district as well.¹⁰¹ Brazos County, therefore, was within three courts of appeals' districts. Thus, by 1967, twenty-two Texas counties were in two intermediate appellate court districts, and one county was in three.

In 1978, an amendment to the Texas Constitution allowed the Legislature to expand the number of justices on the courts of appeals. This allowed the Legislature to address increases in the intermediate appellate courts' workload without further increasing the number of courts of appeals.¹⁰²

In 1981, the constitution was amended to give the intermediate courts of appeals criminal jurisdiction except in death penalty cases and to change the name of those courts from "courts of civil appeals" to "courts of appeals."¹⁰³ A number of judges were added to the courts of appeals to handle the additional caseload.¹⁰⁴

In 2003, the Legislature began to untangle the courts of appeals' overlapping districts by removing Brazos County from the two Houston courts' districts and leaving it in the Waco court's district.¹⁰⁵ The Legislature also began reapportioning the districts, by moving Ector, Gaines, Glasscock, Martin and Midland counties from the El Paso court's district to the Eastland court's district.¹⁰⁶ And it reduced the size of the El Paso court from four to three justices, and increased the size of the Beaumont court from three to four justices.¹⁰⁷

In 2005, the Legislature continued its effort to untangle and reapportion the courts of appeals.¹⁰⁸ It removed Burleson, Trinity and Walker Counties from the two Houston courts' districts, putting Burleson and Walker Counties in the Waco court's district and Trinity County in the Tyler court's district. It also took Van Zandt County out of the Dallas court's

district, leaving it in the Tyler court's district. It moved Angelina County from the Beaumont court's district to the Tyler court's district, and took Hopkins, Kaufman and Panola Counties out of the Tyler court's district, leaving Hopkins and Panola in the Texarkana court's district and Kaufman in the Dallas court's district.

Today, five counties in northeast Texas (Gregg, Hunt, Rusk, Upshur, and Wood) remain in two courts of appeals districts¹⁰⁹ and the two Houston court districts, consisting of ten counties, are entirely overlapping.¹¹⁰ No county is in three districts anymore.

Courts of Appeals Today

Judges and Districts. Since 1967, Texas has had fourteen intermediate courts of appeals.¹¹¹ Today, those courts have a total of eighty justices.¹¹² The largest court has thirteen justices and the smallest courts have three.¹¹³ A court of appeals' justice must have the same qualifications as a Texas Supreme Court justice.¹¹⁴ A vacancy on a court of appeals is filled by gubernatorial appointment with the consent of the Senate until the next general election.¹¹⁵

The two Houston Courts of Appeals have established a central clerk's office and central offices for the eighteen justices and other support personnel.¹¹⁶ The clerks of the two courts will periodically equalize the dockets of the two courts by transferring cases from one to the other.¹¹⁷ Initially, cases are randomly assigned between the two courts.¹¹⁸

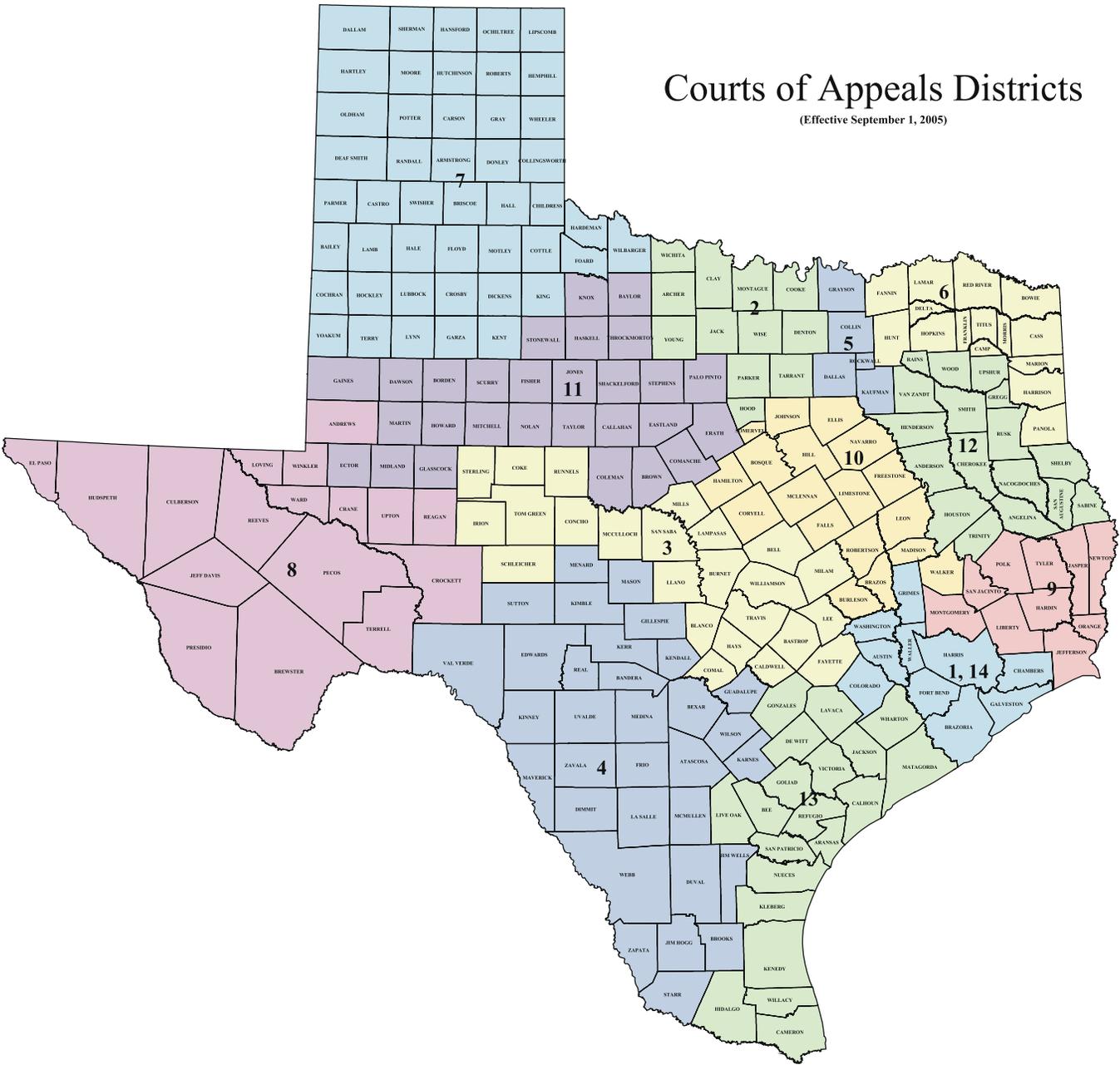
The Dallas and Texarkana courts share Hunt County,¹¹⁹ and the Texarkana and Tyler courts share Gregg, Rusk, Upshur, and Wood Counties.¹²⁰ There is no system for the random assignment of appeals from these counties to the two available courts of appeals. Consequently, the appealing party chooses the court of appeals.¹²¹ If more than one party wishes to appeal, there may be a "race to the courthouse" because the appellate court that first acquires jurisdiction is dominant and any other court of appeals in which an appeal has been lodged must abate the appeal.¹²²

Jurisdiction. In civil cases, each court of appeals has appellate jurisdiction of those civil cases arising from within its district of which the district or county courts have jurisdiction when the amount in controversy or judgment rendered exceeds \$100.¹²³ Their jurisdiction includes jurisdiction of appeals arising from final judgments and interlocutory trial court orders made appealable by statute.¹²⁴ The courts have criminal appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those cases in which the death penalty has been assessed.¹²⁵ Death penalty cases bypass the courts of appeals and go directly to the Court of Criminal Appeals.¹²⁶

Workload. The courts typically hear argument and decide cases in three-judge panels, although the courts may be convened *en banc* to hear and decide cases.¹²⁷ If a court has more than three justices so that more than one panel is used, the court must establish rules to rotate the justices among the panels.¹²⁸ A majority of a panel constitutes a quorum, and the concurrence of a majority of a panel is necessary for a decision.¹²⁹ For business other than "hearing cases," the Chief Justice of the court of appeals must convene the court *en banc*.¹³⁰

Courts of Appeals Districts

(Effective September 1, 2005)



July 1, 2005
05R1246
Source: H.B. 1077, 79th Legislature

Districts 5 and 6 Overlap
Districts 6 and 12 Overlap

MAP 1

Collectively, over the past ten years, 5161 civil cases and 6808 criminal cases have been added to the fourteen courts of appeals dockets each year, on average.¹³¹ The courts write an average of 11,635 opinions per year, or 145 opinions per judge.¹³² Because of variations in population and litigation activity, there is a disparity between the numbers of cases filed in each court on a per-judge basis. Table 2 reflects new filings per-judge for fiscal year 2005.¹³³

| PER-JUDGE FILINGS IN COURTS OF APPEALS | | | | |
|--|--------------------------|------------------|-----------------------------------|-----------------------|
| Court | City in which court sits | Number of judges | "New cases filed" FY 2005 | New filings per judge |
| First | Houston | 9 | 573 civil; 660 crim.; 1233 total | 137 |
| Second | Fort Worth | 7 | 454 civil; 526 crim.; 980 total | 140 |
| Third | Austin | 6 | 492 civil; 375 crim.; 867 total | 145 |
| Fourth | San Antonio | 7 | 534 civil; 408 crim.; 942 total | 135 |
| Fifth | Dallas | 13 | 781 civil; 1064 crim.; 1845 total | 142 |
| Sixth | Texarkana | 3 | 115 civil; 191 crim.; 306 total | 102 |
| Seventh | Amarillo | 4 | 166 civil; 250 crim.; 416 total | 104 |
| Eighth | El Paso | 3 | 173 civil; 141 crim.; 314 total | 105 |
| Ninth | Beaumont | 4 | 237 civil; 325 crim.; 562 total | 141 |
| Tenth | Waco | 3 | 159 civil; 171 crim.; 330 total | 110 |
| Eleventh | Eastland | 3 | 135 civil; 161 crim.; 296 total | 99 |
| Twelfth | Tyler | 3 | 168 civil; 208 crim.; 376 total | 125 |
| Thirteenth | Corpus Christi | 6 | 407 civil; 257 crim.; 664 total | 111 |
| Fourteenth | Houston | 9 | 619 civil; 644 crim.; 1263 total | 140 |
| TOTALS | | 80 | 10,394 | 130 avg. |

TABLE 2

These statistics show that, with the exception of the Beaumont and Corpus Christi courts, the courts with six or more justices are receiving more new cases each year on a per-judge basis than the courts with fewer justices.

The Supreme Court has authority to transfer cases among the courts at any time there is good cause for the transfer.¹³⁴ At the Legislature's behest accomplished by a rider on the annual appropriations bill,¹³⁵ the Supreme Court uses this authority to transfer cases to equalize the courts of appeals' dockets.¹³⁶ As Table 3 shows, in 2005 the Houston, Fort Worth, Austin, San Antonio, Dallas, Beaumont and Tyler courts of appeals were net transferors of cases, while the Texarkana, Amarillo, El Paso, Waco, Eastland and Corpus Christi courts were net transferees.

| TRANSFERS FOR DOCKET EQUALIZATION (2005) | |
|--|-----------------------|
| Court | Net cases transferred |
| Houston (1st) | 126 out |
| Fort Worth | 110 out |
| Austin | 40 out |
| San Antonio | 15 out |
| Dallas | 132 out |
| Texarkana | 94 in |
| Amarillo | 44 in |
| El Paso | 72 in |
| Beaumont | 18 out |
| Waco | 97 in |
| Eastland | 86 in |
| Tyler | 11 out |
| Corpus Christi | 103 in |
| Houston (14th) | 57 out |

TABLE 3

According to the Office of Court Administration (OCA), 561 cases were transferred into a court of appeals and 572 were transferred out of a court of appeals in fiscal year 2005.¹³⁸ Thus, about 5.5% of the 10,394 new cases filed in the courts of appeals in fiscal year 2005 were transferred from one court of appeals to another.

Trial Courts

1876 Trial Court Structure. In 1876, when the current constitution was adopted, Texas had a three-tier trial court structure consisting of justice of the peace courts, county courts, and district courts.¹³⁹ Justice courts operated in precincts within each county. No special qualifications were required to be a justice of the peace. The justice courts had jurisdiction in criminal cases in which a fine of \$200 or less could be imposed and in civil matters in which the amount in controversy was \$200 or less. A justice court judgment, except one below \$20, could be appealed to the county court.¹⁴⁰

Every county had a county court.¹⁴¹ A county judge had to be “well informed in the law of the State,” but did not have to be an attorney.¹⁴² County courts had jurisdiction of all mis-

demeanors, except those in which the fine imposed could not exceed \$200.¹⁴³ In civil matters, county courts had exclusive jurisdiction of cases in which the amount in controversy exceeded \$200, but did not exceed \$500, and concurrent jurisdiction with the district courts when the amount was from \$500 to \$1000.¹⁴⁴ A county court’s judgment in a civil matter could be appealed to the court of appeals.¹⁴⁵ County courts also had probate jurisdiction, and a county court’s judgment in a probate matter could be appealed to a district court.¹⁴⁶

TEXAS COURT STRUCTURE – 1876

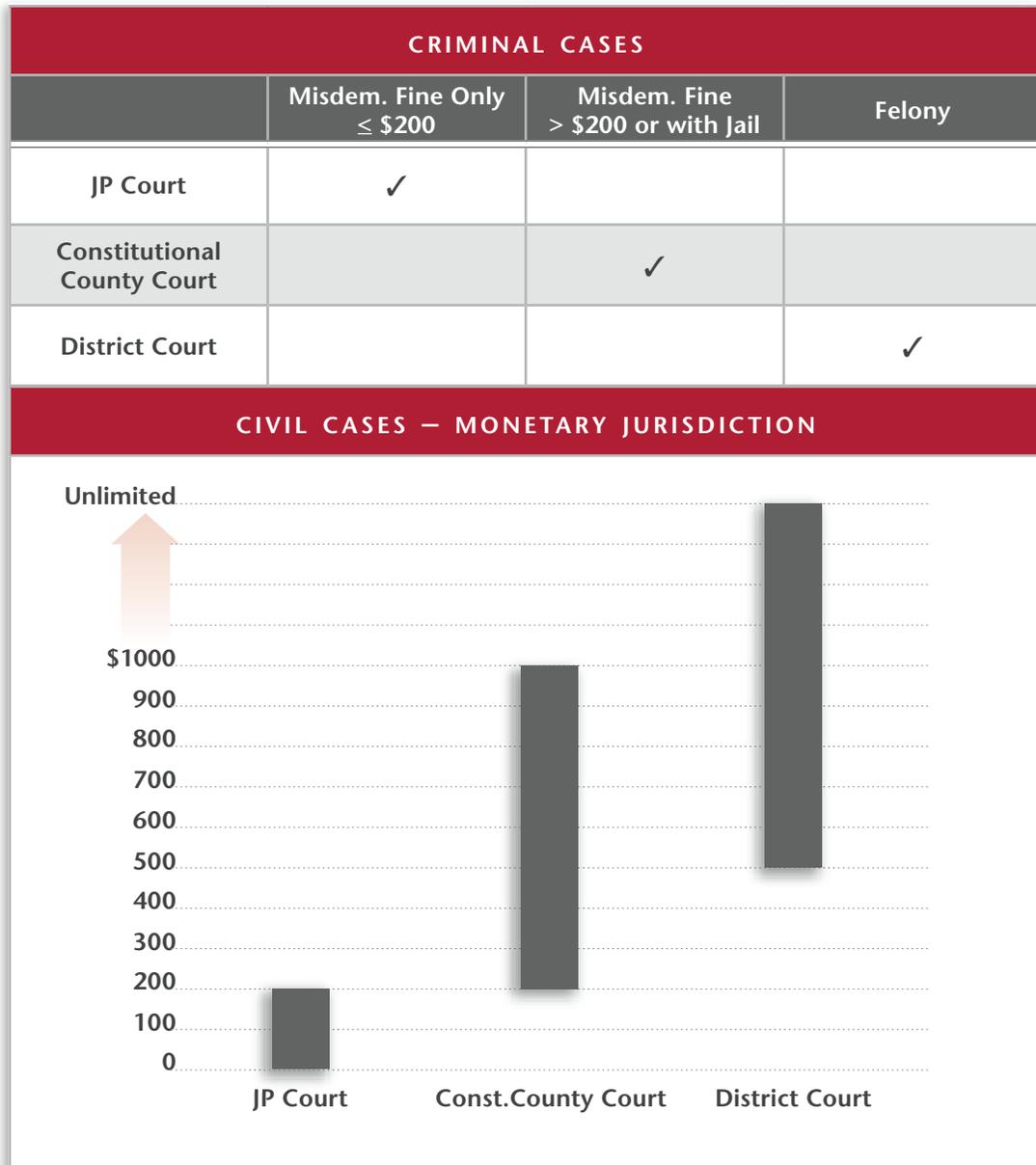


TABLE 4

At the top of the trial court pyramid were the district courts. A district judge had to be an experienced attorney.¹⁴⁷ The district courts had criminal jurisdiction of felonies, civil jurisdiction of matters with an amount in controversy of \$500 or more, and appellate jurisdiction of probate matters originating in the county courts.¹⁴⁸ A district court's judgment could be appealed to an appellate court.¹⁴⁹

There was no overlapping subject-matter jurisdiction between justice courts and county courts or district courts. The only overlapping jurisdiction between county courts and district courts involved civil cases with an amount in controversy between \$500 and \$1000. And if the amount in controversy in a civil case was too small, an appeal was not permitted. Significant cases were handled by the highest trial courts, sitting in multi-county districts, whose judges were attorneys.

Today's Byzantine Trial Court Structure. Today, as depicted in Table 5, Texas has seven types of trial courts—district courts, statutory county courts (called county courts at law), statutory probate courts, constitutional county courts, justice of the peace courts, small claims courts, and municipal courts.¹⁵⁰ The subject-matter jurisdiction of almost every type of trial court overlaps in at least one way with the subject-matter jurisdiction of every other type of trial court.¹⁵¹ Additionally, the subject-matter jurisdiction of constitutional county courts varies widely from county to county, as does the subject-matter jurisdiction of statutory county courts.¹⁵² According to Texas Supreme Court Justice Nathan Hecht in a recent opinion, “[t]he jurisdictional structure of the Texas court system is unimaginably abstruse.”¹⁵³ Over the years, the jurisdictional scheme “has gone from elaborate...to Byzantine.”¹⁵⁴

In addition to having a highly complicated jurisdictional scheme, the geographic structure of Texas's district court system creates a spider web of overlapping districts.¹⁵⁵ A single county may be in three or four unique districts.¹⁵⁶ A number of district courts sit in two appellate court districts, and two district courts sit in four appellate court districts.¹⁵⁷ Several district courts also sit in two regional administrative districts.¹⁵⁸ And the administrative regions do not match the intermediate appellate court districts.¹⁵⁹

When the byzantine jurisdictional structure is coupled with the spider web of overlapping districts, the variations become overwhelming.

The OCA's detailed description of Texas trial court structure and jurisdiction comprises seventeen pages of fine print.¹⁶⁰ In a nutshell, Texas's trial court structure is antiquated and tangled, and it verges on irrational.

TEXAS COURT STRUCTURE – 2006



TABLE 5

1 Arguably, small claims courts do not have jurisdiction of claims below \$200.
 2 JP court jurisdiction is limited to \$5000 except in eviction cases, in which there is no limit.
 3 Some constitutional county courts have been stripped of civil jurisdiction.
 4 Probate courts can hear survival actions, wrongful death claims, and other actions incident to an estate without regard to the amount in controversy.
 5 Most county courts at law are limited to cases with < \$100,000 in controversy, but some have unlimited civil jurisdiction.
 6 The lower limit of district court jurisdiction is unclear. It could be \$200, \$500 or \$5000.

District Courts

Number of Courts and Qualification of Judges. The Texas Constitution provides that “[t]he judicial power of this State shall be vested...in District Courts” and that the State must “be divided into judicial districts, with each district having one or more Judges as may be provided by law or by this Constitution.”¹⁶¹ The Texas Legislature has authorized 438 district courts.¹⁶² Six of these came into existence on January 1, 2007.¹⁶³

To be eligible to serve as a district judge, a person must: (1) be at least 25 years of age, (2) be a citizen of the United States and of Texas, (3) be licensed to practice law in Texas, (4) have been a practicing lawyer or a judge of a Texas court, or both combined, for four years preceding the election, and (5) have resided in the district in which he or she is elected for two years preceding the election.¹⁶⁴ A district judge must reside in the district during the term of office.¹⁶⁵ District judges are “elected by the qualified voters at a General Election” to four-year terms.¹⁶⁶ When a vacancy occurs on a district court, the vacancy is filled by gubernatorial appointment, with the consent of the Senate, until the next succeeding general election.¹⁶⁷

Jurisdiction. In civil matters, Texas’s district courts are courts of general original jurisdiction, entertaining every kind of legal and equitable claim.¹⁶⁸ The Texas Constitution provides that the district courts have exclusive, appellate, and original jurisdiction of all actions, proceedings, and remedies, except in cases where exclusive, appellate, or original jurisdiction may be conferred by the constitution or other law on some other court, tribunal, or administrative body.¹⁶⁹ They are empowered to hear and determine any cause cognizable by courts of law or equity and may grant relief that could be granted by courts of law or equity.¹⁷⁰

| DISTRICT COURT JURISDICTION | |
|-----------------------------|---|
| Civil | <ul style="list-style-type: none"> • General jurisdiction, hearing all legal or equitable claims • \$200* – unlimited |
| Criminal | <ul style="list-style-type: none"> • Felonies • Misdemeanors involving official misconduct • Misdemeanors punishable with jail time in cases transferred from a Constitutional County Court having a non-lawyer judge |
| Appellate | <ul style="list-style-type: none"> • Appellate and supervisory jurisdiction over the County Commissioners Court • Criminal cases originating in a Justice of the Peace Court if the Constitutional County Court’s jurisdiction has been transferred to the District Court |

* The lower monetary limit is uncertain. It could be \$200, \$500, or \$5000, depending on how the constitution and statutes are interpreted.

TABLE 6

Neither the current constitution nor any statute provides a minimum amount in controversy necessary to confer district court jurisdiction. Instead, the constitution provides that district courts do not have jurisdiction if “exclusive, appellate, or original jurisdiction” has been conferred on another court “by this Constitution or other law.”¹⁷¹ Because justice courts have exclusive jurisdiction of civil cases in which the amount in controversy is \$200 or less,¹⁷² the lower monetary limit of district court jurisdiction appears to be \$200.¹⁷³ There is no upper monetary limit to district court jurisdiction.

In criminal matters, district courts have original jurisdiction of all felonies, of misdemeanors involving official misconduct, and of misdemeanors punishable with jail time if the case is transferred to the district court, with the written consent of the district judge, from a county court with a non-lawyer as a judge.¹⁷⁴

Some of Texas’s district courts could be regarded as specialized courts. The Texas Government Code establishes “Family District Courts” with the same jurisdiction and power provided for district courts by the Texas Constitution and the Government Code, but with primary responsibility for family matters.¹⁷⁵ In other words, the Legislature has established district courts, given them primary responsibility for some kinds of cases, but has not limited their jurisdiction. The Government Code also provides for criminal district courts in Dallas, Tarrant, and Jefferson Counties.¹⁷⁶ These courts are district-level courts but are not, strictly speaking, district courts. They are “other courts” established by the Legislature under Article V, § 1 of the constitution, and have limited jurisdiction. Additionally, the Government Code provides that any district court has jurisdiction over juvenile matters and “may be designated a juvenile court.”¹⁷⁷ Finally, the Legislature has established and empowered a multidistrict litigation procedure by which related cases can be consolidated in a single district court for pretrial proceedings, effectively creating courts that are specialized in particular kinds of cases like asbestos or silica litigation.¹⁷⁸

Districts and Reapportioning Districts. Many of Texas’s district courts have a multi-county district, while many Texas counties have multiple district courts sitting only in that county.¹⁷⁹ In any county with two or more district courts, the judges of those courts may transfer any civil or criminal case to one of the other district courts in the county.¹⁸⁰ In addition, the judges of these courts may, in their discretion, sit for another district judge in that county.¹⁸¹

As shown on Map 2, some counties are in more than one district court district with differing sets of neighboring counties. For example, Anderson County is in the 87th District with Freestone, Leon, and Limestone Counties, in the 3rd District with Henderson and Houston Counties, in the 349th District with Houston County, and in the 369th District with Cherokee County.¹⁸² These overlapping districts are most common in East Texas, but are found in other parts of the State as well.¹⁸³

To make matters more complicated, court of appeals districts have little correlation to district court districts. As a result, district judges often answer to two or more courts of appeals. For example, rulings made by the judge of the 87th District Court when he or she is sitting in Freestone, Leon, or Limestone Counties

are reviewed by the Waco Court of Appeals, but rulings he or she makes while sitting in Anderson County are reviewed by the Tyler Court of Appeals.¹⁸⁴ Two Texas district judges answer to four courts of appeals.¹⁸⁵ This can be a significant problem when the courts of appeals differ on an important issue of law, which may remain unresolved for years until the Texas Supreme Court or Court of Criminal Appeals resolves the conflict.¹⁸⁶

Finally, several multi-county district courts are in two administrative regions. For example, the 155th District Court is in both the Second and Third administrative regions, the 198th District Court is in both the Sixth and Seventh administrative regions, and the 273rd District Court is in both the First and Second administrative regions.¹⁸⁷

All of these problems could be addressed through the reapportionment of district court districts. Article V, § 7a of the Texas Constitution establishes the “Judicial Districts Board” for the purpose of reapportioning the district courts’ judicial districts.¹⁸⁸ The Chief Justice of the Texas Supreme Court serves as chairman of the Judicial Districts Board.¹⁸⁹ The other members of the Board are the Presiding Judge of the Court of Criminal Appeals, the presiding judge of each of the administrative judicial districts of the state, the president of the Texas Judicial Council, and one Texas lawyer appointed by the Governor with the advice and consent of the Senate.¹⁹⁰

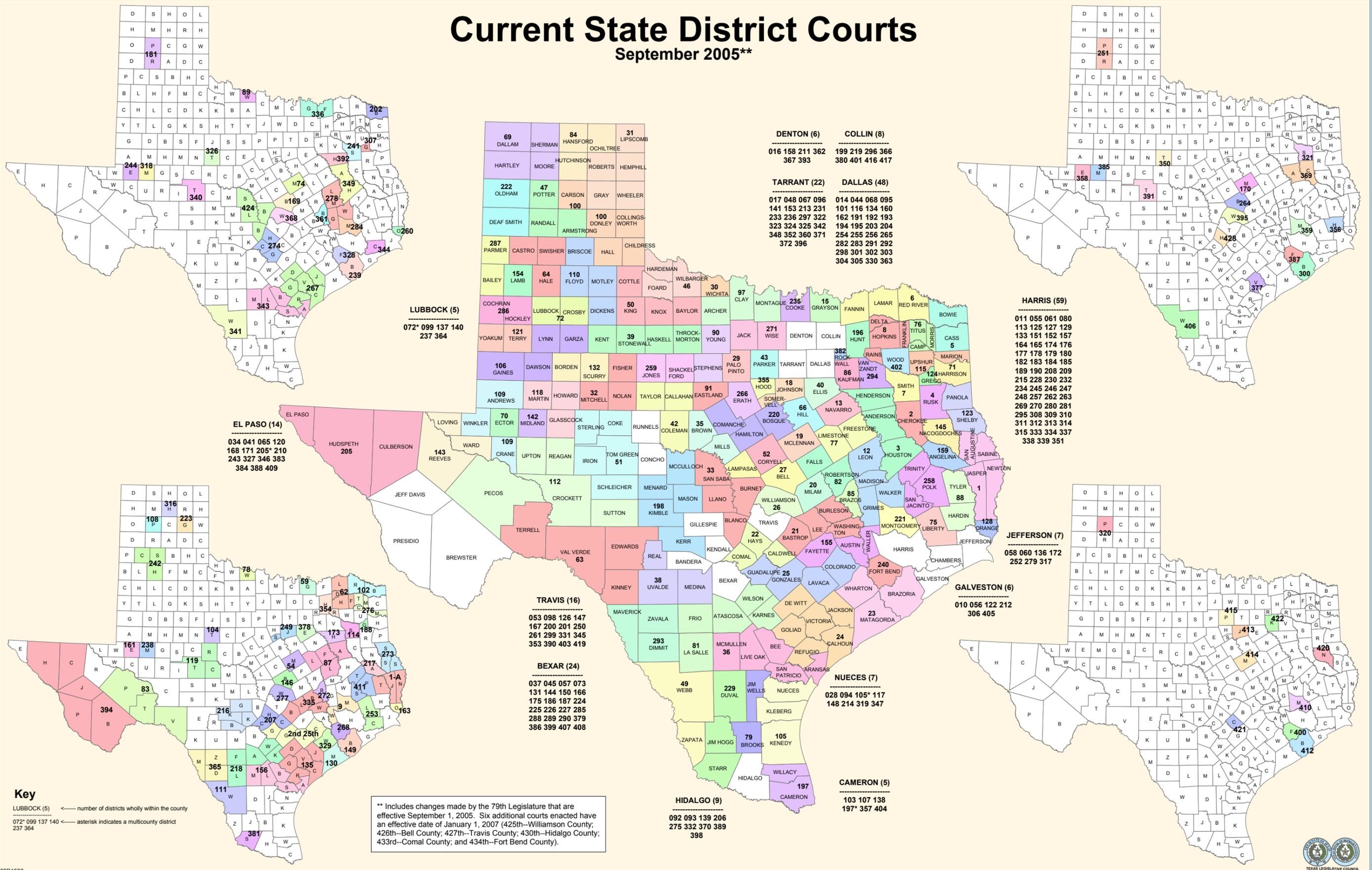
The constitution requires the Board to “convene not later than the first Monday of June of the third year following the year in which the federal decennial census is taken to make a statewide reapportionment of the districts” “[u]nless the Legislature enacts a statewide reapportionment of the judicial districts following [the] federal decennial census.”¹⁹¹ If the Judicial Districts Board fails to make a statewide reapportionment by August 31 of the year it commences its work, “the Legislative Redistricting Board established by Article III, Section 28, of this constitution shall make a statewide reapportionment of the judicial districts not later than the 150th day after the final day for the Judicial Districts Board to make the reapportionment.”¹⁹²

The Board is specifically empowered to redesignate the county or counties that comprise the specific judicial districts affected by its reapportionment orders.¹⁹³ Finally, “[A]ny judicial reapportionment order adopted by the board must be approved by a record vote of the majority of the membership of both the senate and house of representatives before such order can become effective and binding.”¹⁹⁴ Two decennial censuses have been conducted since the adoption of Article V, § 7a in 1985, but the Legislature, the Judicial Districts Board, and the Legislative Redistricting Board have not conducted the judicial reapportionment required by § 7a after either census.

Workload. In fiscal year 2005, over 263,000 criminal cases were added to the district courts’ dockets.¹⁹⁵ The district courts disposed of almost 257,000 criminal cases in fiscal year 2005, leaving almost 229,000 criminal cases pending.¹⁹⁶ About 613,000 civil matters were filed in the district courts in fiscal year 2005, about 124,000 of which involved show cause motions.¹⁹⁷ The courts disposed of almost 546,000 civil cases, leaving more than 666,000 civil cases pending.¹⁹⁸

Current State District Courts

September 2005**



| | |
|--|--|
| DENTON (6) | COLLIN (8) |
| 016 158 211 362 367 393 | 199 219 296 366 380 401 416 417 |
| TARRANT (22) | DALLAS (48) |
| 017 048 067 096 141 153 213 231 233 236 297 322 323 324 325 342 348 352 360 371 372 396 | 014 044 068 095 101 116 134 160 162 191 192 193 194 195 203 204 254 255 256 265 282 283 291 292 298 301 302 303 304 305 330 363 |

LUBBOCK (5)
072* 099 137 140
237 364

EL PASO (14)
034 041 065 120
168 171 205* 210
243 327 346 383
384 388 409

TRAVIS (16)
053 098 126 147
167 200 201 250
261 299 331 345
353 390 403 419

BEXAR (24)
037 045 057 073
131 144 150 166
175 186 187 224
225 226 227 285
288 289 290 379
386 399 407 408

HIDALGO (9)
092 093 139 206
275 332 370 389
398

NUECES (7)
028 094 105* 117
148 214 319 347

CAMERON (5)
103 107 138
197* 357 404

GALVESTON (6)
010 056 122 212
306 405

JEFFERSON (7)
058 060 136 172
252 279 317

HARRIS (59)
011 055 061 080
113 125 127 129
133 151 152 157
164 165 174 176
177 178 179 180
182 183 184 185
189 190 208 209
215 228 230 232
234 245 246 247
248 257 262 263
269 270 280 281
295 308 309 310
311 312 313 314
315 333 334 337
338 339 351

Key
LUBBOCK (5) ← number of districts wholly within the county
072* 099 137 140 ← asterisk indicates a multicounty district
237 364

** Includes changes made by the 79th Legislature that are effective September 1, 2005. Six additional courts enacted have an effective date of January 1, 2007 (425th--Williamson County; 426th--Bell County; 427th--Travis County; 430th--Hidalgo County; 433rd--Comal County; and 434th--Fort Bend County).



County-Level Courts

Statutory County Courts (County Courts at Law). Article V, § 1 of the Texas Constitution allows the Legislature to establish such other courts as it deems necessary and to prescribe the jurisdiction of those courts. In exercising this power, the Legislature in 1907 began establishing statutory county courts (commonly called county courts at law), the first of which was established in Dallas County.¹⁹⁹ By 1953, there were eighteen county courts at law sitting in thirteen counties.²⁰⁰ All had the same jurisdictional limit on monetary claims as were applicable to the constitutional county courts—they could hear claims for damages from \$200 to \$500.²⁰¹

Today, there are 217 county courts at law located in eighty-four of Texas's 254 counties.²⁰²

| COUNTY COURT AT LAW JURISDICTION | |
|----------------------------------|---|
| Civil | <ul style="list-style-type: none"> • Limited jurisdiction as provided by statute • > \$200-\$100,000* • Probate & guardianship jurisdiction concurrent with Constitutional County Court unless Probate Court is in county • No jurisdiction of defamation, foreclosure, divorce, corporate forfeiture, or eminent domain** |
| Criminal | <ul style="list-style-type: none"> • All misdemeanors unless Justice of the Peace or Municipal Court given orig. jurisdiction & fine ≤ \$500 |
| Appellate | <ul style="list-style-type: none"> • Civil cases of which Justice of the Peace Court has orig. jurisdiction if judgment > \$20 • Criminal Cases of which Justice of the Peace and Municipal Court have orig. jurisdiction • Final decisions of Texas Dept. of Insurance regarding workers' compensation |

* Many statutes specific to individual counties expand the upper monetary limit in civil cases.

** Specific statutes often give County Court at Law jurisdiction of some of these types of cases, particularly divorce cases.

TABLE 7

Unlike district courts, which have jurisdiction of “all actions, proceedings and remedies”²⁰³ (meaning that district courts have jurisdiction of, among others, family law cases and cases in which equitable relief is sought), the county courts at law have only the specific jurisdiction conferred on them by statute. In other words, with exceptions we will describe below, these are courts of limited jurisdiction.

The jurisdiction statute generally applicable to the county courts at law provides that these courts have jurisdiction over “all causes and proceedings, civil and criminal, original and appellate, prescribed by law for [constitutional] county courts.”²⁰⁴ Constitutional county courts—and, therefore, county courts at law—have original jurisdiction of “all misdemeanors of which exclusive original jurisdiction is not

given to the justice court, and when the fine to be imposed shall exceed five hundred dollars,” and appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction.²⁰⁵

In civil cases, constitutional county courts—and, therefore, county courts at law— have jurisdiction to hear and determine any cause in law or equity that a court of law or equity recognizes and may grant any relief that may be granted by a court of law or equity.²⁰⁶ They have jurisdiction when the amount in controversy exceeds \$200 but does not exceed \$5000 and appellate jurisdiction in civil cases over which the justice courts have original jurisdiction, if the judgment or amount in controversy exceeds \$20.²⁰⁷ They do not have jurisdiction of, among other cases: (1) suits to recover damages for slander or defamation of character, (2) suits for the enforcement of a lien on land, (3) suits for divorce, (4) suits for the forfeiture of a corporate charter, or (5) eminent domain cases.²⁰⁸

The \$5000 upper monetary limit applicable to constitutional county courts, however, actually does not apply to county courts at law because the generally applicable jurisdiction statute for county courts at law provides that they have jurisdiction concurrent with the district court in civil cases in which the matter in controversy exceeds \$500 but does not exceed \$100,000.²⁰⁹ Consequently, county court at law monetary jurisdiction is from \$200 to \$100,000 unless lesser or greater jurisdiction is provided by another statute for an individual court.

County courts at law also have jurisdiction of appeals of final decisions of the Texas Department of Insurance regarding workers’ compensation claims, regardless of the amount in controversy, and the probate jurisdiction provided by general law for constitutional county courts.²¹⁰

However, because each county court at law is established by a specific statute and the constitution allows the Legislature to set the jurisdiction of courts established by statute, many county courts at law have specific jurisdiction statutes giving them jurisdiction that is greater than that provided by the generally applicable statute.²¹¹ As a result, county court at law jurisdiction varies significantly from county to county. In fourteen counties, for example, the county courts at law have concurrent jurisdiction with district courts in all civil cases. Therefore, no upper monetary limit is applicable to those courts and they have jurisdiction of several types of cases, like divorce and defamation cases, that county courts at law in other counties cannot hear.²¹² In still other counties, the county courts at law are given specific jurisdiction—for example, family law jurisdiction or jurisdiction of felony cases.²¹³

Even though statutory county courts at law have overlapping jurisdiction with state district courts, and many of them have limitless jurisdiction, as described in the preceding paragraph, only six jurors serve in a case tried in a county court at law.²¹⁴ If the same case were tried in district court, twelve jurors would serve.²¹⁵ This feature can cause litigants to decide that one court or the other is a better choice in a given case. The courts should not be structured in a way that encourages shopping for a favorable forum.

In a county with a statutory probate court, the probate court is the only statutory county-level court with probate jurisdiction.²¹⁶ In counties that do not have a statu-

tory probate court, a statutory county court (concurrent with the constitutional county court) has probate jurisdiction as provided by law for constitutional county courts.²¹⁷

To serve as a county court at law judge, a person must: (1) be at least 25 years of age, (2) have resided in the county in which the court sits for at least two years before election or appointment, (3) be a licensed Texas attorney, and (4) have practiced law or served as a Texas state-court judge, or both combined, for the four years preceding election or appointment.²¹⁸ When a vacancy occurs on a county court at law, it is filled by a person appointed by the commissioners court of the county in which the court sits, not by the governor as would be a district court vacancy.²¹⁹ The appointee holds office until the next general election and until his or her successor is elected and qualified.²²⁰

Statutory Probate Courts. There are seventeen statutory probate courts in Texas. Again, these courts have been created pursuant to the Legislature’s authority under the constitution to create such courts as it deems necessary.²²¹ Statutory probate courts sit in Bexar, Dallas, Denton, El Paso, Galveston, Harris, Hidalgo, Tarrant and Travis Counties.²²² The qualifications for serving as a statutory probate court judge are the same as those for a county court at law judge.²²³

| PROBATE COURT JURISDICTION | |
|----------------------------|---|
| Civil | <ul style="list-style-type: none"> • General probate and guardianship jurisdiction • All actions incident or appertaining to a probate or guardianship estate, including jurisdiction to transfer cases from other courts to Probate Court • Pendent & ancillary jurisdiction to achieve judicial efficiency • Personal injury, survival or wrongful death cases by or against representative of estate • Actions by or against a trustee • Actions involving a trust • Other misc. jurisdiction, such as proceeding to determine date & place of birth or parentage |
| Criminal | <ul style="list-style-type: none"> • None |
| Appellate | <ul style="list-style-type: none"> • None |

TABLE 8

The Government Code provides that statutory probate courts have “the general jurisdiction of a probate court as provided by the Texas Probate Code.”²²⁴ Statutory probate courts also have the jurisdiction provided by law for a county court to hear and determine other miscellaneous actions, such as a proceeding to establish a record of a person’s date of birth, place of birth, and parentage instituted under § 192.027 of the Health and Safety Code.²²⁵

For those counties in which there is a statutory probate court, “all applications, petitions, and motions regarding probate or administrations shall be filed and heard in the statutory probate court.”²²⁶ A parallel provision requires that “all applications, petitions, and motions regarding guardianships, mental health matters, or other matters addressed by this chapter [of the Probate Code] shall be filed and heard in the statutory probate court.”²²⁷

A statutory probate court also has concurrent jurisdiction with the district court “in all personal injury, survival, or wrongful death actions by or against a person in the person’s capacity as a personal representative, in all actions by or against a trustee, in all actions involving an inter vivos trust, testamentary trust, or charitable trust, and in all actions involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate.”²²⁸ Similarly, a statutory probate court “has concurrent jurisdiction with the district court in all personal injury, survival, or wrongful death actions by or against a person in the person’s capacity as a guardian and in all actions involving a guardian in which each other party aligned with the guardian is not an interested person in the guardianship.”²²⁹

All courts exercising original probate jurisdiction have the power to hear all matters “incident to” a probate or guardianship estate.²³⁰ Statutory probate courts have jurisdiction over any matter “appertaining to” or “incident to” a probate or guardianship estate and have jurisdiction over any cause of action in which a personal representative or guardian is a party in a proceeding pending in the statutory probate court.²³¹ The phrases “appertaining to estates” and “incident to an estate” include the probate of wills, issuance of letters testamentary and of administration, determination of heirship, appointment of guardians, and issuance of letters of guardianship.²³² The terms cover all claims by or against a probate or guardianship estate,²³³ all actions for trial of title to land and for the enforcement of liens thereon,²³⁴ all actions for the trial of the right of property,²³⁵ all actions to construe wills,²³⁶ interpretation and administration of testamentary trusts and the application of constructive trusts,²³⁷ and, generally, all matters relating to the collection, settlement, partition, and distribution of estates of deceased persons or guardianship estates.²³⁸

Finally, a statutory probate court, in either a probate or guardianship matter, “may exercise the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy.”²³⁹ The purpose of pendent and ancillary jurisdiction is to permit the hearing of tangentially related cases if hearing those cases would promote judicial economy.²⁴⁰ Probate courts generally exercise ancillary or pendent jurisdiction over non-probate matters only when doing so will aid in the efficient administration of an estate pending in the probate court.²⁴¹

The Probate Code provides that “[a] judge of a statutory probate court...may transfer to his court from a district, county, or statutory court a cause of action appertaining to or incident to an estate pending in the statutory probate court or a cause of action in which a personal representative of an estate pending in the statutory probate court is a party.”²⁴² Another section of the Probate Code gives probate court

judges the ability to transfer from a district, county or statutory court causes of action “appertaining to or incident to a guardianship estate that is pending in the statutory probate court.”²⁴³ Transfer of proceedings to the statutory probate court is permissive and not mandatory.²⁴⁴ Thus, a probate court *may* transfer to itself a cause of action that is appertaining to or incident to an estate, but is not required to do so.²⁴⁵ A probate court’s ability to transfer actions to itself is not unlimited, however. A statutory probate court cannot transfer a case to itself if venue in the county of the statutory probate court is improper under Civil Practice and Remedies Code § 15.007.²⁴⁶

If the judge of a statutory probate court having jurisdiction over a cause of action appertaining to or incident to an estate pending in the statutory probate court determines that the court no longer has jurisdiction over the cause of action, the judge may transfer that cause of action to (1) a district court, county court, statutory county court, or justice court located in the same county having jurisdiction over the cause of action, or (2) the court from which the cause of action was transferred to the statutory probate court pursuant to Probate Code §§ 5B or 608.²⁴⁷

Constitutional County Courts. The 1836 constitution provided for a county court in each county.²⁴⁸ The 1845 and 1861 constitutions did not, but they required instead that the Legislature establish “inferior tribunals...in each county for appointing guardians, granting letters testamentary and of administration; for settling the accounts of executors, administrators, and guardians, and for the transaction of business appertaining to estates.”²⁴⁹

| CONSTITUTIONAL COUNTY COURT JURISDICTION | |
|--|---|
| Civil | <ul style="list-style-type: none"> • Limited jurisdiction as provided by statute • > \$200-\$5000 • Probate and guardianship jurisdiction concurrent with County Court at Law (if one exists in county) unless Probate Court is in county • No jurisdiction of defamation, foreclosure, divorce, corporate forfeiture, or eminent domain |
| Criminal | <ul style="list-style-type: none"> • All misdemeanors unless Justice of the Peace or Municipal Court given original jurisdiction and fine ≤ \$500 |
| Appellate | <ul style="list-style-type: none"> • Civil cases of which Justice of the Peace Court has original jurisdiction if judgment > \$20 • Criminal cases of which Justice of the Peace and Municipal Courts have original jurisdiction |

TABLE 9

The 1866 constitution again provided for the establishment of a county court in each county and for the election of a county judge.²⁵⁰ The county court was given jurisdiction of “misdemeanors and petty offences” and of civil cases in which the

amount in controversy did not exceed \$500.²⁵¹ This created an overlap with district court jurisdiction, which at that time, involved any case in which the amount in controversy was \$100 or more.²⁵² The county courts also were given power to, among other things, probate wills, appoint guardians, and grant letters testamentary.²⁵³ The 1866 constitution also called for the selection of four county commissioners who, along with the county judge, constituted the “Police Court for the County.”²⁵⁴ The Police Court was not a judicial body, but was charged with regulating, promoting, and protecting the county’s public interest.²⁵⁵

The 1869 constitution did not provide for county judges or a Police Court. Instead, it required that each county elect five justices of the peace who, in addition to their judicial duties, would have “such jurisdiction, similar to that heretofore exercised by county commissioners and police courts.”²⁵⁶

The current constitution (adopted in 1876) provides that Texas’s judicial power is vested in, among others, county courts and commissioners courts.²⁵⁷ It established a county court in all of Texas’s 254 counties.²⁵⁸ The district courts initially had appellate jurisdiction and “general control in probate matters” over the county courts.²⁵⁹ The county courts were given original jurisdiction of misdemeanors unless exclusive original jurisdiction rested in the justice of the peace courts, concurrent jurisdiction with the justice courts in civil cases when the matter in controversy exceeded \$200 but did not exceed \$500, and concurrent jurisdiction with the district courts when the matter in controversy was between \$500 and \$1000. In addition, they were given appellate jurisdiction in cases in which the justice of the peace courts had original jurisdiction if the judgment exceeded \$20, and the power to probate wills, “appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards,” and to grant letters testamentary and of administration.²⁶⁰ The county judge also presides over a four-member commissioners court in each county, which has “powers and jurisdiction over all county business.”²⁶¹

The constitution was amended in 1985, and the section governing county court jurisdiction was revised to provide that the county courts have “jurisdiction as provided by law” and that a county judge is the “presiding officer of the County Court and has judicial functions as provided by law.”²⁶² Consequently, while constitutional county courts are established in the constitution, the *jurisdiction* of those courts is now provided by statute, not by the constitution.

The Government Code gives constitutional county courts jurisdiction to hear and determine any cause in law or equity that a court of law or equity recognizes and may grant any relief that may be granted by a court of law or equity.²⁶³ Unless another statute provides differently, these courts have jurisdiction of civil cases in which the amount in controversy exceeds \$200 but does not exceed \$5000, and appellate jurisdiction in civil cases over which the justice courts had original jurisdiction if the judgment or amount in controversy exceeds \$20.²⁶⁴ Constitutional county courts do not have jurisdiction, among other cases, in: (1) suits to recover damages for slander or defamation of character, (2) suits for the enforcement of a lien on land, (3) suits for divorce, (4) suits for the forfeiture of a corporate charter, or (5) eminent domain cases.²⁶⁵

The Probate Code provides that constitutional county courts have “the general jurisdiction of a probate court” and are empowered to “probate wills, grant letters testamentary and of administration, settle accounts of personal representatives, and transact all business appertaining to estates subject to administration, including the settlement, partition, and distribution of such estates.”²⁶⁶ In those counties in which there is no statutory probate court or county court at law, all applications, petitions, and motions regarding probate and administrations must be filed and heard in the county court.²⁶⁷ If a contested matter arises in the probate proceeding, the judge of the county court may on the judge’s own motion or shall on the motion of a party, request the assignment of a statutory probate court judge to hear the contested portion of the proceeding or transfer the contested portion of the proceeding to the district court, which hears the contested matter as if it had been originally filed in district court.²⁶⁸

In those counties in which there is no statutory probate court, but in which there is a county court at law, “all applications, petitions, and motions regarding probate and administrations shall be filed and heard in those courts and the constitutional county court, unless otherwise provided by law.”²⁶⁹ If a contested matter arises in the probate case, the judge of the constitutional county court may on the judge’s own motion, and shall on the motion of a party, transfer the proceeding to the county court at law, which hears the proceeding as if it had been originally filed in that court.²⁷⁰

In criminal cases, the constitutional county courts have original jurisdiction of “all misdemeanors of which exclusive original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed five hundred dollars,” and appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction.²⁷¹ If the county court’s jurisdiction has been transferred by statute to a district or statutory county court, then an appeal in a criminal case from a justice or other inferior court is to the court to which the county court’s jurisdiction has been transferred.²⁷²

Finally, each county may have specific jurisdictional rules for its constitutional county court, and more than 40% have such rules.²⁷³ Consequently, constitutional county court jurisdiction is far from uniform. For example, some counties assign probate and criminal jurisdiction to their constitutional county courts, but remove civil jurisdiction from the court.²⁷⁴

To qualify as a county judge, a person must “be well informed in the law.”²⁷⁵ A county judge does not have to be a licensed attorney, and 87% of the sitting county judges are not lawyers.²⁷⁶ In addition to being a judicial officer, the constitutional county court judge presides over the county commissioners court, which is the administrative body governing the county.²⁷⁷ County judges are elected by the qualified voters of the county and hold office for four years.²⁷⁸ A vacancy in the office of county judge is filled by the commissioners court until the next succeeding general election.²⁷⁹

Workload of the County-Level Courts. The OCA aggregates information from constitutional county courts, statutory county courts, and probate courts in its publicly available reports. OCA reports that more than 58,000 probate cases, almost 33,000

mental health cases, over 630,000 criminal cases, more than 166,000 civil cases, and over 8000 juvenile proceedings were added to the county-level courts' dockets in fiscal year 2005.²⁸⁰ These courts disposed of more than 613,000 criminal cases, leaving almost 674,000 pending at the end of the fiscal year.²⁸¹ The courts also disposed of almost 147,000 civil cases, leaving more than 199,000 pending.²⁸² Additionally, the courts disposed of over 7700 juvenile cases, leaving almost 5100 pending.²⁸³

Justice of the Peace Courts. Justice courts, like the Supreme Court and the district courts, have been established by every Texas constitution since the formation of the Republic of Texas in 1836.²⁸⁴ These courts always have had limited civil and criminal jurisdiction, and their judgments always have been subject to appeal to a district or county court except in very small matters.²⁸⁵

| JUSTICE COURT JURISDICTION | |
|----------------------------|---|
| Civil | <ul style="list-style-type: none"> • Limited jurisdiction as provided by constitution & statute • \$0-\$5000 • Eviction cases without regard to amount in controversy • Personal property foreclosures • Suit to enforce some deed restrictions • No jurisdiction of suits by state to recover forfeiture, defamation cases, divorce cases, suits to establish title to real property or foreclose on real property |
| Criminal | <ul style="list-style-type: none"> • Misdemeanors punishable by fine only |
| Appellate | <ul style="list-style-type: none"> • None |

TABLE 10

Every county has at least one justice of the peace court, but depending on population, up to eight justice of the peace courts sit in a county in different precincts.²⁸⁶ Justices of the peace are elected to four-year terms, which are staggered if the county has more than one justice.²⁸⁷ There are no qualifications for serving as a justice of the peace other than the general eligibility requirements to hold elective office in Texas.²⁸⁸ Only 6% of Texas's justices of the peace are licensed attorneys.²⁸⁹ If a vacancy occurs on a justice of the peace court, it is filled by the commissioners court until the next general election.²⁹⁰

The constitution provides that justice courts have original jurisdiction in criminal misdemeanor cases punishable only by fine, exclusive jurisdiction in civil matters where the amount in controversy is \$200 or less, and such other jurisdiction as may be provided by law.²⁹¹ Statutes provide that, in criminal cases, justice courts have original jurisdiction in cases punishable only by a fine or by a fine and a sanction not consisting of confinement or imprisonment²⁹² and, in civil cases, original jurisdiction of (1) civil matters in which exclusive jurisdiction is not in the district or county court and in which the amount in controversy is not more than \$5000, (2) suits to evict a tenant from rental property (known as

forcible entry and detainer actions), without regard to whether the amount in controversy is otherwise within the court's jurisdiction, and (3) foreclosure of mortgages and enforcement of liens on personal property in cases in which the amount in controversy is otherwise within the court's jurisdiction.²⁴⁸ Justice courts also have concurrent jurisdiction with district courts for actions to enforce a deed restriction of a residential subdivision that does not concern a structural change to a dwelling.²⁹⁴ A justice court does not have jurisdiction of (1) a suit on behalf of the State to recover a penalty, forfeiture, or escheat, (2) a suit for divorce, (3) a suit to recover damages for slander or defamation of character, (4) a suit for trial of title to land, or (5) a suit for the enforcement of a lien on land.²⁹⁵

Eviction cases are supposed to proceed through a justice court on an expedited basis. If a tenant is alleged to have defaulted under a written or oral lease agreement, the landlord must give the tenant only three days written notice to vacate the premises before the landlord files an eviction action, unless the parties have contracted for a shorter or longer notice period.²⁹⁶ Once the eviction case is filed, the justice court must immediately issue citation commanding the tenant/defendant to appear before the justice court at a specific time, which cannot be more than ten days nor less than six days from the date of service of the citation, except as explained below.²⁹⁷

The landlord is entitled to possession on the seventh day after the defendant is served with notice that the landlord has filed a possession bond, unless the defendant files a counterbond prior to the expiration of six days from the date the defendant was served with the landlord's notice of filing a bond.²⁹⁸ The amount of the landlord's bond is fixed by the justice of the peace in the amount of the costs of suit plus damages that may result to the defendant in the event the suit was improperly instituted.²⁹⁹ Similarly, the amount of the counterbond is fixed by the justice of the peace in the amount of the costs of suit plus the damages that may result to the landlord in the event possession has been improperly withheld by the defendant.³⁰⁰ In other words, the amounts of the bond and counterbond probably will be different. If the landlord has filed a bond, the defendant, instead of filing a counterbond, may demand that trial be held prior to the expiration of six days from the date the defendant was served with the landlord's notice of the filing of a bond.³⁰¹

The prevailing party is entitled to a judgment awarding costs and any damages, and a prevailing landlord is entitled to possession of the premises within five days after the court's determination.³⁰² As is discussed below, the losing party may appeal from a final judgment in an eviction case.³⁰³

In criminal cases, constitutional county courts have appellate jurisdiction of cases over which the justice of the peace courts have original jurisdiction.³⁰⁴ In civil cases, constitutional county courts have appellate jurisdiction of cases over which the justice of the peace courts have original jurisdiction if the judgment or amount in controversy exceeds \$20.³⁰⁵ The jurisdiction statute generally applicable to the statutory county courts (county courts at law) provides that these courts have jurisdiction over "all causes and proceedings, civil and criminal, original and appellate, prescribed by law for [constitutional] county courts."³⁰⁶ Thus, county courts at law also have jurisdiction to hear appeals from justice of the peace court judgments. Additionally, if the constitutional county court's jurisdiction has been transferred to a district court or county court at law, then an appeal in a criminal case from a justice or other inferior court is to the court in which the county court's jurisdiction has been transferred.³⁰⁷

In civil cases, an appeal of a judgment from a justice of the peace court results in a new trial in the county or district court.³⁰⁸ An appeal of a judgment from a justice of the peace court is “perfected” by filing an appeal bond or a pauper’s affidavit in lieu of a bond.³⁰⁹ When the appeal is perfected, the justice of the peace court’s judgment is annulled.³¹⁰

In non-eviction cases, a losing defendant must file a bond that is double the amount of the judgment,³¹¹ and a losing plaintiff must file a bond that is double the amount of the costs incurred in the justice court and the estimated costs in the county court, less any amount of costs already paid by the plaintiff.³¹² In an appeal in an eviction case, the amount of the bond is set by the justice of the peace who must include damages that may result from loss of rentals while the appeal is pending and reasonable attorneys’ fees incurred in the justice of the peace court and likely to be incurred in the county court.³¹³

In non-eviction cases, if the judgment of the county or district court on appeal from the justice of the peace court judgment is over \$100, an appeal may be taken to the court of appeals.³¹⁴ In eviction cases, “a final judgment of a county court...may not be appealed on the issue of possession unless the premises in question are being used for residential purposes only.”³¹⁵ A county court’s judgment may not under any circumstances be stayed pending appeal unless, within ten days of the signing of the judgment, the appellant files a supersedeas bond in an amount set by the county court.³¹⁶ In setting the bond amount, the county court is to consider the value of rents likely to accrue during the appeal and the damages that may occur as a result of the stay.³¹⁷

Those justice courts reporting information to the OCA in 2005 reported that almost 3.1 million criminal cases were filed in the justice courts in fiscal year 2005, with the majority of those—about 2.4 million—being traffic misdemeanors.³¹⁸ The justice courts disposed of about 2.7 million criminal cases in fiscal year 2005.³¹⁹ About 303,000 civil cases were filed in the justice courts.³²⁰ About 182,000 of those cases were for eviction of a tenant from real property, while small claims suits accounted for about 57,000 filings.³²¹ The courts disposed of over 271,000 civil cases in fiscal year 2005.³²² The justice of the peace courts generated revenue of about \$318 million.³²³

Small Claims Courts. Each justice of the peace court serves as a small claims court which is presided over by the justice of the peace.³²⁴ The Legislature created the small claims courts in 1953 to provide an affordable and expedient procedure for litigating claims involving relatively small amounts of money.³²⁵

In creating small claims courts, the Legislature noted that “many citizens of the State of Texas are now in effect denied justice because of the present expense and delay of litigation when their claims involve small sums of money; and the further fact that the discouragement of litigation based on financial ability is contrary to the public policy of this State.”³²⁶

A small claims action is commenced by filling out and filing a simple form.³²⁷ Formal pleadings are not required.³²⁸ The judge hears the testimony of the parties and the witnesses and considers other evidence offered by the parties.³²⁹ The hearing is informal, “with the sole objective being to dispense speedy justice between the parties.”³³⁰ The judge is charged with developing the facts of the case and may question a witness or party and summon any party to appear as a witness as the judge considers necessary to a correct judgment and speedy disposition of the case.³³¹

| SMALL CLAIMS COURT JURISDICTION | |
|---------------------------------|-------------------------------|
| Civil | • \$0-\$5000 but nothing else |
| Criminal | • None |
| Appellate | • None |

TABLE 11

The small claims courts have concurrent jurisdiction with the justice courts in actions by any person for recovery of money in which the amount involved, exclusive of costs, does not exceed \$5000.³³² The following may not bring actions in small claims courts, however: (1) an assignee of a claim or a person seeking to bring an action on an assigned claim, (2) a person primarily engaged in the business of lending money at interest, and (3) a collection agency or collection agent.³³³ Attorneys may represent litigants in a small claims court, but a corporation need not be represented by an attorney.³³⁴

The jurisdiction of small claims courts differs from that of justice courts in that small claims courts do not have jurisdiction over either eviction suits or the foreclosure of mortgages and enforcement of liens on personal property.³³⁵ In addition, justice courts, but not small claims courts, have concurrent jurisdiction with district courts for actions to enforce a deed restriction of a residential subdivision that does not concern a structural change to a dwelling.³³⁶

As with justice of the peace courts, if the amount in controversy exceeds \$20, a dissatisfied party may appeal the final judgment to the county court or county court at law “in the manner provided by law for appeal from justice court to county court.”³³⁷ On appeal, the county court is to “dispose of small claims appeals with all convenient speed.”³³⁸ An appeal involves a new trial, and the “[j]udgment of the county court or county court at law on the appeal is final.”³³⁹ The Texas Supreme Court has interpreted “final” to mean that an appeal cannot be taken from a county court to the court of appeals if the case originated in the small claims court.³⁴⁰ The court concedes that the same judgment would be appealable if the case originated in a justice of the peace court rather than a small claims court.³⁴¹ “Even if the difference between the justice court and small claims court were illogical, ‘the problem [would be] one for legislative, not judicial solution.’”³⁴²

Municipal Courts. Each incorporated city in Texas has at least one statutory municipal court.³⁴³ If the legislative body of a municipality determines that an additional court is necessary to provide a more efficient disposition of its cases, the municipality can establish a municipal court of record in addition to its statutory municipal court.³⁴⁴

The Government Code permits qualifications for municipal judges to be set by municipal ordinance,³⁴⁵ but the qualifications for judges of municipal courts of record are outlined in § 30.00006 of the Government Code.³⁴⁶ Section 30.00006 requires that a municipal court of record judge be a resident of Texas, a citizen of the United States, and a licensed attorney in good standing with two or more years of experience in the practice of law in Texas.³⁴⁷ Each city with a municipal court of record also may prescribe additional qualifications.³⁴⁸

| MUNICIPAL COURT JURISDICTION | |
|------------------------------|--|
| Civil | <ul style="list-style-type: none"> • To enforce municipal ordinances • To enforce some state laws for health, safety and nuisance abatement |
| Criminal | <ul style="list-style-type: none"> • Exclusive jurisdiction of offenses under municipal ordinance governing fire safety, health, sanitation or zoning punishable by fine ≤ \$2000 • Other offenses under municipal ordinance punishable by fine only ≤ \$500 • Misdemeanors arising under state law punishable by fine only if offense occurred w/in territorial boundaries of municipality |
| Appellate | <ul style="list-style-type: none"> • None |

TABLE 12

Judges of statutory municipal courts may be either elected or appointed as provided by municipal ordinance,³⁴⁹ while judges of municipal courts of record are appointed by the legislative body of the municipality.³⁵⁰

Statutory municipal courts have exclusive original jurisdiction within the territorial limits of the municipality over all criminal cases that are: (1) punishable by a fine not to exceed \$2000 in all cases arising under municipal ordinances that govern fire safety, zoning, or public health and sanitation, (2) punishable by a fine not to exceed \$500 in all other cases arising under municipal ordinance or joint board rule, and (3) cognizant under municipal ordinance or joint board rules regarding the operation of an airport under section 22.074 of the Transportation Code.³⁵¹ A municipal court has concurrent jurisdiction with the justice court of a precinct in which the municipality is located in all criminal cases arising under state law within the territorial limits of the municipality and punishable by fine only, or arising under Chapter 106 of the Alcoholic Beverage Code and not including confinement as an authorized sanction.³⁵² Further, a municipal court has jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the court has jurisdiction.³⁵³

Municipal courts of record have jurisdiction provided by general law for municipal courts,³⁵⁴ as well as jurisdiction over criminal cases arising under ordinances authorized by certain provisions of the Local Government Code.³⁵⁵ The legislative body of a municipality also may provide that the court has concurrent jurisdiction with a justice court in criminal cases that arise within the territorial limits of the municipality and that are punishable by a fine.³⁵⁶ Additionally, by ordinance, the legislative body of a municipality may provide the court with: (1) civil jurisdiction for enforcing certain municipal ordinances; (2) concurrent jurisdiction with a district court or a county court at law under the Local Government Code for the purpose of enforcing health and safety and nuisance abatement ordinances; and (3) authority to issue certain search and seizure warrants.³⁵⁷

The municipal courts providing information to the OCA reported almost 8 million new cases filed in fiscal year 2005, with about 6.7 million being traffic misdemeanors.³⁵⁸ The municipal courts disposed of about 7.7 million cases in fiscal year 2005 and generated revenue of over \$592 million.³⁵⁹

TEXAS COURT ADMINISTRATION, JUDICIAL PAY, AND COURT FUNDING

Overview

This section of the paper reviews court administration, judicial pay, and court funding to provide a basis for comparison to other states, which are reviewed on Pages 51-70.

The basic administrative structure of the Texas judicial system has three tiers. At the top is the Texas Supreme Court, which is given administrative and supervisory authority over Texas's judicial system. In the middle are nine regional administrative judges. At the bottom are administrative judges in each county.

The Texas Constitution and Government Code purport to give the Supreme Court broad administrative and supervisory authority over the Texas judicial system, but, in reality, the Court's ability to impose an efficient system for disposing of cases is limited. In exercising the Supreme Court's administrative and supervisory authority, the Chief Justice can: (1) temporarily assign a trial judge from one administrative region to another administrative region when he considers the assignment necessary to the prompt and efficient administration of justice, (2) call and preside over meetings of the regional and local presiding judges if he considers a meeting necessary for the promotion of the orderly and efficient administration of justice, (3) make assignments within an administrative region and perform the other duties of a regional presiding judge *if* the regional presiding judge dies, resigns, is incapacitated, or is disqualified in a particular matter, and (4) promulgate rules of administration.

Absent the death or incapacity of a regional administrative judge, the Supreme Court does not have the power to assign or reassign cases or trial judges to ensure efficient disposition of cases. The Court has the power to promulgate rules imposing time standards for disposition of cases and has done so, but it has no ability to enforce those standards. The regional administrative judges are appointed by the Governor for fixed terms and the local administrative judges are elected by their peers for fixed terms, so the Court has little ability to compel those judges to take action for the efficient administration of justice. The courts of appeals have no administrative authority outside their own courts. The real administrative power in Texas lies with the regional and local administrative judges, who have the power to assign and reassign trial judges and to transfer cases among the trial courts to ensure the efficient administration of justice.

The Chief Justice of the Texas Supreme Court has more administrative authority in regard to the work of the courts of appeals. The Chief Justice, at any time, may temporarily assign a justice of a court of appeals to another court of appeals and may assign a qualified retired appellate justice or judge to a court of appeals. And the Court may order cases transferred from one court of appeals to another at any time, if in the opinion of the Supreme Court, there is good cause for the transfer.

In regard to funding its judicial system, Texas relies heavily on locally-generated revenue rather than state-generated revenue. Judicial salaries, judicial retirement, and personnel, facilities, and other costs are shared by state, county and city governments. Some revenues generated by the courts are kept at the local level, while other revenues are passed through to the state government. The result is a system that is unequally funded and that creates accountability, if any, at the local level rather than at a system-wide level.

Administration

Supreme Court's Administrative Duties. The Supreme Court “is responsible for the efficient administration of the judicial branch.”³⁶⁰ It has “supervisory and administrative control over the judicial branch and is responsible for the orderly and efficient administration of justice.”³⁶¹ Consequently, it has a large number of administrative duties, many of which are carried out by the Chief Justice.

Among the Court's most important duties is the licensing and supervising of attorneys. Only the Supreme Court can issue a license to practice law in Texas.³⁶² The Court adopts rules for determining who is eligible for examination for a license to practice law and the manner in which the bar examination is conducted.³⁶³ Additionally, the Court appoints the nine-member Board of Law Examiners,³⁶⁴ which determines who is eligible to be examined for a license to practice law and examines the eligible candidates.³⁶⁵

The Court has administrative control over the State Bar of Texas.³⁶⁶ Each attorney admitted to practice in Texas is a member of the State Bar.³⁶⁷ Texas attorneys are subject to the disciplinary jurisdiction of the Supreme Court and the Commission for Lawyer Discipline, which is a committee of the State Bar appointed by the Supreme Court and the President of the State Bar.³⁶⁸ In furtherance of the Court's powers to supervise the conduct of attorneys, the Court is required to establish disciplinary procedures and minimum standards and procedures for an attorney disciplinary system.³⁶⁹ In addition to these minimum standards and procedures, the Court must adopt rules it considers necessary for disciplining, suspending, and disbarring attorneys, and for accepting their resignations.³⁷⁰ Accordingly, the Court appoints the Board of Disciplinary Appeals³⁷¹ and promulgates the Texas Rules of Disciplinary Procedure and the Texas Disciplinary Rules of Professional Conduct, which govern attorneys licensed in Texas.³⁷²

The Court also is required to promulgate rules to provide due process for judges against whom a formal disciplinary proceeding regarding retirement or removal from office has been commenced by the State Commission on Judicial Conduct.³⁷³ Pursuant to this authority, the Court promulgates the Texas Code of Judicial Conduct.³⁷⁴ The Court also appoints four of the thirteen members of the State Commission on Judicial Conduct.³⁷⁵

The constitution provides that the Court may promulgate rules of civil procedure “as may be necessary for the efficient and uniform administration of justice in the various courts.”³⁷⁶ The Government Code gives the Court “full rulemaking power in the practice and procedure in civil actions.”³⁷⁷ In exercising this authority, the Court has promulgated the Texas Rules of Civil Procedure since 1941 and the Texas Rules of Evidence since 1983.³⁷⁸ The Supreme Court Rules Advisory Committee, a committee of prominent lawyers and judges appointed by the Court, has assisted the Court in drafting rules since the Court was given rulemaking authority in 1939.³⁷⁹

The Court also promulgates rules of administration “as may be necessary for the efficient and uniform administration of justice in the various courts.”³⁸⁰ In exercising this authority, the Court promulgates the Rules of Judicial Administration. These rules, among other things, set time standards for disposition of cases, govern public access to judicial records, and provide procedures for multi-district litigation.³⁸¹

The Chief Justice must deliver a state of the judiciary message to the Legislature each regular session “evaluating the accessibility of the courts to the citizens of the state and the future directions and needs of the courts of the state.”³⁸² The Court also must assess the need for adding, consolidating, eliminating, or reallocating existing appellate courts; promulgate rules, regulations, and criteria to be used in assessing those needs; and, in the third year following the year in which the federal decennial census is taken, recommend to the regular session of the Legislature any needed changes in the number or allocation of those courts.³⁸³

The Chief Justice chairs the Judicial Districts Board, a constitutionally created body charged with proposing a plan to the Legislature after each decennial census for reapportioning Texas’s district courts.³⁸⁴

The Court appoints the Administrative Director of the Courts for the OCA,³⁸⁵ and the Chief Justice is obliged to direct and supervise that organization.³⁸⁶ The Chief Justice also is a member and serves as chair of the Texas Judicial Council, an administrative agency of the State established in 1929 to study and report on the organization, rules, procedures and practices of Texas’s judicial system.³⁸⁷

To facilitate the courts of appeals’ work, the Chief Justice may temporarily assign a justice of a court of appeals to another court of appeals and may assign a qualified retired appellate justice or judge to a court of appeals for active service, regardless of whether a vacancy exists in the court to which the justice or judge is assigned.³⁸⁸ In addition, the Court may order cases transferred from one court of appeals to another at any time that, in the opinion of the Supreme Court, there is good cause for the transfer.³⁸⁹ It often does so to equalize the dockets of the courts of appeals.³⁹⁰ Additionally, the Chief Justice can assign a trial judge from one administrative region for service in another administrative region when the Chief Justice considers the assignment necessary to the prompt and efficient administration of justice.³⁹¹

The Chief Justice must call and preside over an annual meeting of the presiding judges of the administrative judicial regions, and he may call meetings of the regional presiding judges or local administrative judges that he considers necessary for the promotion of the orderly and efficient administration of justice.³⁹² The Court, however, does not appoint the regional presiding judges. The appointment of those judges is the Governor’s prerogative.³⁹³

Finally, the Court, on its own initiative, appoints committees and task forces as are necessary to aid the Court in its administrative duties. For example, the Court recently established the Task Force on Jury Assembly and Administration to review Texas’s rules for summoning jurors and make recommendations to ensure the integrity and randomness of the process.³⁹⁴

Court of Criminal Appeals’ Administrative Duties. The Court of Criminal Appeals also has administrative responsibilities. Its primary administrative responsibility is supervising the training of the judiciary and court personnel.³⁹⁵ In addition, it must provide for “judicial training related to the problems of family violence, sexual assault, and child abuse,”³⁹⁶ and for the training of prosecuting attorneys concerning the use of certain sections of the Penal Code and Code of Criminal Procedure to enhance punishment on a finding that an offense was a “hate crime” committed because of the defendant’s bias or prejudice.³⁹⁷

Since 1987, the Court of Criminal Appeals has had rulemaking authority for appellate procedure in criminal cases.³⁹⁸ It exercises this authority, in cooperation with the Supreme Court, to promulgate the Texas Rules of Appellate Procedure.³⁹⁹ It also has authority to promulgate rules of evidence for trials of criminal cases.⁴⁰⁰ Again, it exercises this authority in cooperation with the Supreme Court in promulgating the Texas Rules of Evidence.⁴⁰¹ The Legislature has retained for itself the prerogative to promulgate rules of criminal procedure for use at trial.⁴⁰²

Regional Administration. The State is divided into nine administrative judicial regions,⁴⁰³ as shown in Map 3.

A presiding judge is appointed by the Governor to each Administrative Judicial Region.⁴⁰⁴ The presiding judge serves a four-year term from the date he or she qualifies as the presiding judge.⁴⁰⁵ A presiding judge must be, at the time of appointment, a regularly elected or retired district judge, a former judge with at least twelve years of service as a district judge, or a retired appellate judge with judicial experience on a district court.⁴⁰⁶ If the judge is retired, he or she must have voluntarily retired from office and must reside within the administrative region.⁴⁰⁷

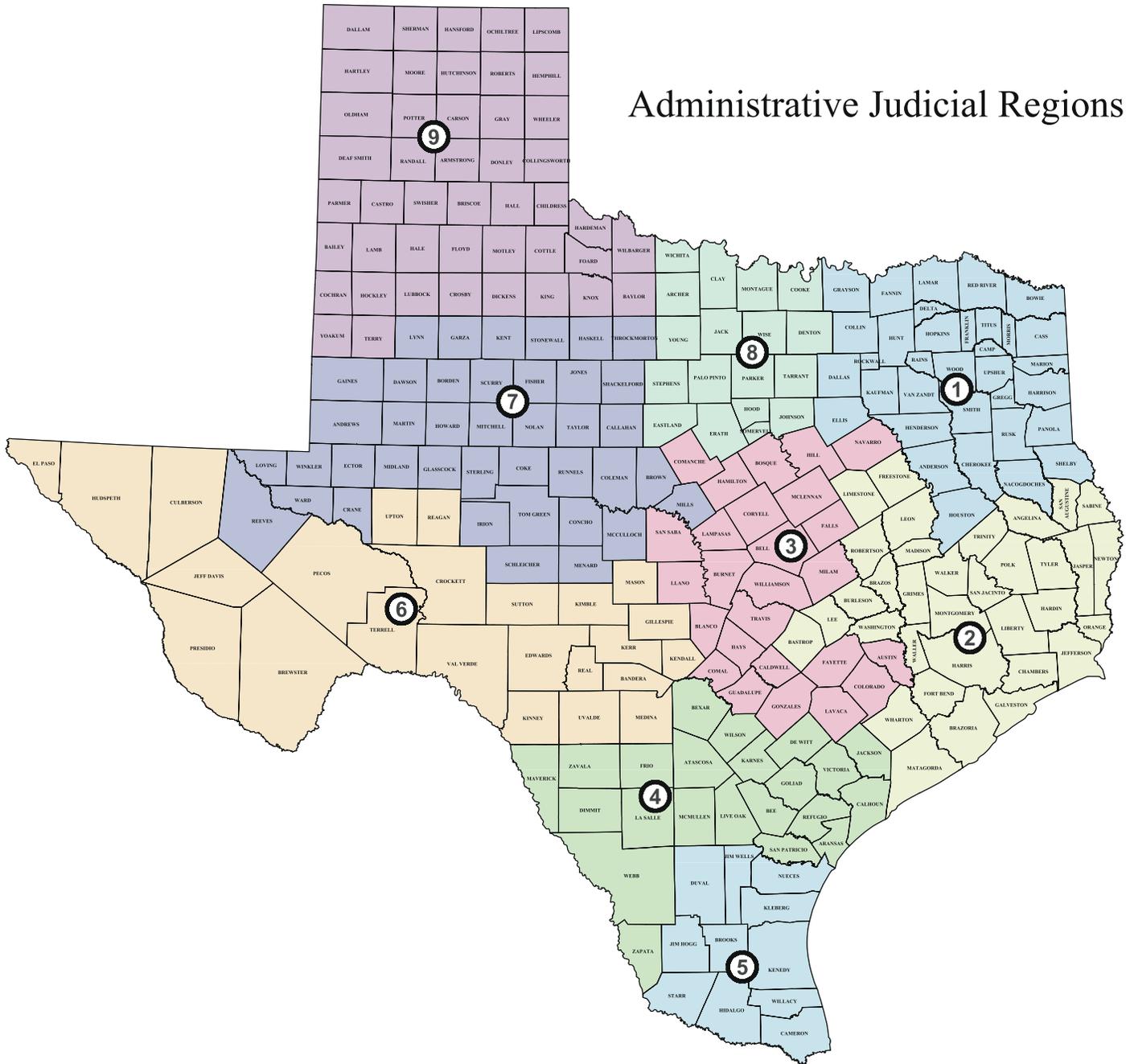
A presiding judge is required to:

1. Ensure the promulgation of regional rules of administration;
2. Advise local judges on case flow management and auxiliary court services;
3. Recommend to the Chief Justice of the Supreme Court any needs for judicial assignments from outside the region;
4. Recommend to the Supreme Court any changes in the organization, jurisdiction, operation, or procedures of the region necessary or desirable for the improvement of the administration of justice;
5. Act for a local administrative judge when the local administrative judge does not perform the duties required of him or her;
6. Implement rules adopted by the Supreme Court pursuant to its authority under the Court Administration Act;
7. Provide requested statistical information to the Supreme Court or the OCA; and
8. Perform duties assigned by the Chief Justice of the Supreme Court.⁴⁰⁸

One of the primary responsibilities of the regional presiding judge is to assign judges of the administrative region to other counties in the region “to try cases and dispose of accumulated business.”⁴⁰⁹ An assigned judge has all the powers of the judge of the court to which he or she is assigned.⁴¹⁰

As part of the authority to assign judges, the regional presiding judges are called upon to assign judges to hear recusal motions.⁴¹¹ Texas Rule of Civil Procedure 18a provides that when a recusal motion is filed, the judge subject to the motion must either recuse or request the regional presiding judge to assign a judge to hear the motion.⁴¹² The regional presiding judge must “immediately set a hearing before himself or some other

Administrative Judicial Regions



November 8, 2005
 05R1246
 Source: "www.courts.state.tx.us/trial/adminreg.asp"

MAP 3

judge designated by him, cause notice of such hearing to be given to all parties or their counsel, and make such other orders including orders on interim or ancillary relief in the pending cause as justice may require.”⁴¹³

In addition to his other duties, the presiding judge must call a yearly meeting of the district and statutory county court judges in the administrative region for the purpose of consulting with those judges “concerning the state of the civil and criminal business in the courts of the administrative region and arranging for the disposition of the business pending on the court dockets.”⁴¹⁴

The presiding judge of an administrative region can request the presiding judge of another administrative region to furnish judges to aid in the disposition of litigation pending in a county in the administrative region of the judge who makes the request.⁴¹⁵ In addition to the assignment of judges by the presiding judges, the Chief Justice may assign one or more judges in an administrative region for service in another administrative region when the Chief Justice considers the assignment necessary to the prompt and efficient administration of justice.⁴¹⁶

The Chief Justice of the Supreme Court may make assignments within an administrative region and perform the other duties of a presiding judge if a presiding judge dies or resigns, if an absence, illness, or other incapacity prevents the presiding judge from performing his or her duties for a period of time, or if the presiding judge disqualifies himself or herself in a particular matter.⁴¹⁷

Local Administration. In addition to regional administration, Texas has a system for the local administration of its district courts, statutory county courts, and statutory probate courts. Each county has a local administrative district judge and, in counties having a statutory county court, a local administrative statutory county court judge.⁴¹⁸ In a county with two or more district courts, the judges of those courts elect a district judge as local administrative district judge for a term of not more than two years.⁴¹⁹ In a county having only one district judge, that judge serves as the local administrative district judge.⁴²⁰ Similarly, in a county having two or more statutory county courts, the judges of those courts elect one of their own as local administrative statutory county court judge for a term of not more than two years.⁴²¹ In a county with only one statutory county court, that judge serves as the local administrative statutory county court judge.⁴²²

A local administrative judge is required to:

1. Implement the local rules of administration, including the assignment, docketing, transfer, and hearing of cases;
2. Appoint any special or standing committees necessary or desirable for court management and administration;
3. Promulgate local rules of administration if the other judges do not act by a majority vote to do so;
4. Recommend to the regional presiding judge any needs for assignment from outside the county to dispose of court caseloads;

5. Supervise the expeditious movement of court caseloads, subject to local, regional, and state rules of administration;
6. Provide statistical and management information to the Supreme Court and the OCA if requested;
7. Set the hours and places for holding court in the county;
8. Supervise the employment and performance of nonjudicial personnel;
9. Supervise the budget and fiscal matters of the local courts;
10. Coordinate with any other local administrative judge in the assignment of cases in courts having concurrent jurisdiction for the efficient operation of the court system and the effective administration of justice; and
11. Perform other duties as may be directed by the Chief Justice or the regional presiding judge.⁴²³

Judges have an obligation to try any case and hear any proceeding as assigned by the local administrative judge, and the court clerk has an obligation to file, docket, transfer, and assign cases as directed by the local administrative judge in accordance with local rules.⁴²⁴

Local administration is aided by the ability of judges to sit for one another and move cases among themselves. The Texas Constitution provides that district judges may exchange benches or hold court for each other when they deem it expedient, and Texas Rule of Civil Procedure 330 allows district judges within the same county to “exchange benches or districts from time to time, and may transfer cases and other proceedings from one court to another, and any of them may in his own courtroom try and determine any case or proceeding pending in another court without having the case transferred.”⁴²⁵ The Court Administration Act allows a district judge to hear and determine a matter pending in any district in the county regardless of whether the matter is preliminary or final, or whether there is a judgment in the matter.⁴²⁶

Similarly, a statutory county court judge may hear and determine a matter pending in any statutory county court in the county.⁴²⁷ The judge may sign a judgment or order in any of the courts regardless of whether the case is transferred.⁴²⁸ Additionally, the judge of a statutory county court may transfer a case to the docket of a district court but a case may not be transferred without the consent of the judge of the court to which it is being transferred and then only if it is within the jurisdiction of the court to which it is being transferred.⁴²⁹

The Court Administration Act further provides that the judges of constitutional county courts, statutory county courts, and justice courts in a county may transfer cases to and from the dockets of their respective courts, “except that a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred.”⁴³⁰ “The judges of those courts within a county may exchange benches and courtrooms with each other so that if one is absent, disabled, or disqualified, the other may hold court for him without the necessity of transferring the case.”⁴³¹

A judge who has jurisdiction over a suit pending in one county may, unless objected to by any party, conduct any of the judicial proceedings except the trial on the merits in a different county.⁴³²

Statutory probate courts have a statewide, rather than local, administrative structure. The judges of the statutory probate courts elect from their number a presiding judge who may perform acts “to improve the management of the statutory probate courts and the administration of justice.”⁴³³ The presiding judge is required to, among other things,

1. Ensure the promulgation of local rules of administration in accordance with policies and guidelines set by the Supreme Court;
2. Advise statutory probate court judges on case flow management practices and auxiliary court services;
3. Perform a duty of a local administrative statutory probate court judge if the local administrative judge does not perform that duty;
4. Call and preside over annual meetings of the judges of the statutory probate courts as designated by the presiding judge;
5. Call and convene other meetings of the judges of the statutory probate courts as considered necessary by the presiding judge to promote the orderly and efficient administration of justice in the statutory probate courts;
6. Study available statistics reflecting the condition of the dockets of the probate courts in the state to determine the need for the assignment of judges; and
7. Compare local rules of court to achieve uniformity to the extent practical and consistent with local conditions.⁴³⁴

Texas Judicial Council. The twenty-two member Texas Judicial Council was established in 1929 to study and report on the organization and practices of the Texas judicial system.⁴³⁵ The Council studies strategies to improve the administration of justice, formulates methods to simplify judicial procedures, and submits its recommendations to the Governor, the Legislature, and the Supreme Court.⁴³⁶ The OCA performs all staff functions for the Council and helps the Council fulfill its functions by maintaining information on the docket activities of every appellate, district, county-level, justice of the peace, and municipal court in the State.⁴³⁷

Office of Court Administration.⁴³⁸ The Office of Court Administration (OCA) is an agency of the state and operates under the direction and supervision of the Supreme Court and the Chief Justice of the Supreme Court.⁴³⁹ The OCA’s duties include:

1. Preparing and submitting an estimated budget for the appropriation of funds necessary for the maintenance and operation of the judicial system;⁴⁴⁰
2. Studying and recommending expenditures and savings of funds appropriated for the maintenance and operation of the judicial system;⁴⁴¹
3. Providing staff for the Texas Judicial Council;⁴⁴²

4. Assisting Texas's justices and judges, including the regional and local administrative judges, in discharging their administrative duties;⁴⁴³
5. Consulting and assisting court clerks and other court officers and employees to provide for the efficient administration of justice;⁴⁴⁴
6. Examining the judicial dockets, practices, and procedures of the courts and the administrative and business methods or systems used in the office of a clerk of a court or in an office related to and serving a court and recommending improvements to the methods or systems or other changes to promote the efficient administration of justice;⁴⁴⁵
7. Preparing an annual report of the activities of the OCA, to be published in the annual report of the Texas Judicial Council;⁴⁴⁶
8. Collecting data relating to the rate at which state judges resign from office or do not seek reelection and the reason for their actions, and reporting the data to the Legislature;⁴⁴⁷
9. Publishing a report regarding the demographic profile of the judicial law clerks and attorneys employed by Texas courts;⁴⁴⁸ and
10. Collecting and publishing an annual performance report of information regarding the efficiency of Texas courts.⁴⁴⁹

The Supreme Court, Court of Criminal Appeals, each court of appeals, and each district court must provide information to the OCA each year.⁴⁵⁰ District courts must report the "aggregate clearance rate of cases for the district courts."⁴⁵¹ The appellate courts must provide a substantial amount of information, including the number of cases filed and disposed and the average time to disposition.⁴⁵²

Judicial Pay and Retirement

The Chief Justice of the Texas Supreme Court and the presiding judge of the Court of Criminal Appeals receive an annual salary from the State of \$152,500, while the other justices and judges on those courts receive \$150,000 per year from the State.⁴⁵³

The chief justice on each of the courts of appeals is entitled to receive an annual salary of \$140,000 from the State, and the other justices on those courts are entitled to receive an annual salary of \$137,500.⁴⁵⁴ The commissioners courts in the counties of each of the fourteen court of appeals districts may pay additional compensation to each of the justices of the courts of appeals residing within the court of appeals district that includes those counties.⁴⁵⁵ This additional compensation is for "all extrajudicial services performed by the justices."⁴⁵⁶ The additional compensation to each justice is effectively limited to \$7500 per year.⁴⁵⁷ Thus, the chief justices of the courts of appeals may receive a total annual salary of up to \$147,500, while other justices on those courts may receive a total annual salary of up to \$145,000.

A district judge is entitled to receive from the State an annual salary of at least \$125,000.⁴⁵⁸ In a county having more than five district courts, the local presiding district judge is entitled to an additional \$5000 in salary from the State.⁴⁵⁹ As with courts of appeals justices,

the counties in the district can supplement the judges' salaries by up to \$7500 per year "for extrajudicial services performed by the district judges," so the maximum annual salary paid to a district judge is \$132,500.⁴⁶⁰

A statutory county court judge, other than one who engages in the private practice of law, is paid a total annual salary set by the county commissioners court "at an amount that is at least equal to the amount that is \$1000 less than the total annual salary received by a district judge in the county on August 31, 1999."⁴⁶¹ The county commissioners court also must set the annual salary of each statutory probate court judge "at an amount that is at least equal to the total annual salary received by a district judge in the county."⁴⁶² A judge's total annual salary includes contributions and supplements, if any, paid by the State or a county.⁴⁶³

The compensation of constitutional county court judges, justices of the peace, and municipal court judges is set and paid by the counties or cities in which those judges sit and, thus, is not uniform. For example, a Dallas County judge is paid \$142,246 by the county (population 2,218,899), and each Dallas County justice of the peace is paid \$97,926;⁴⁶⁴ a Lubbock County judge is paid \$77,000 per year by the county (population 242,628), and each Lubbock County justice of the peace is paid \$47,000;⁴⁶⁵ and a Burnet County judge is paid \$49,026 per year by the county (population 34,147), and each Burnet County justice of the peace is paid \$ 37,940.⁴⁶⁶ Each of the twelve municipal court judges in the City of Dallas makes \$116,313 per year,⁴⁶⁷ while the City of Burnet budgeted only \$105,418 for *all* salaries and costs associated with its municipal court in fiscal year 2005-06.⁴⁶⁸ A county judge is entitled to an annual salary supplement from the State of \$15,000 if at least 40% of the functions performed by the judge are judicial functions.⁴⁶⁹ In addition to his or her salary, a county judge or justice of the peace may receive payments for performing marriage ceremonies, and a justice of the peace may receive payments for acting as a notary public or as a registrar for the Bureau of Vital Statistics.⁴⁷⁰

Texas has two retirement systems for judges employed by the State (judges serving on the Supreme Court, Court of Criminal Appeals, courts of appeals, or district courts)—Judicial Retirement System of Texas Plans One and Two.⁴⁷¹ The State contributes to those retirement plans on each judge's behalf.⁴⁷² County-level judges, including constitutional and statutory county court judges and justices of the peace, participate in their county's retirement system, and municipal judges participate in their city's retirement system.⁴⁷³ Because each county and city establishes its own retirement system and that system's benefits, the systems are not uniform.

Court Funding

Judicial System Revenues. Texas's courts collect a variety of filing, jury, and other fees. The Supreme Court collects, among other fees, \$50 when a petition for review or for extraordinary relief is filed, \$75 when a petition for review or for extraordinary relief is granted or when any other proceeding is filed in the Court, and \$100 when a direct appeal is filed.⁴⁷⁴ With the exception of the \$10 fee associated with issuing an attorney's license to practice law, which is kept by the Court, all fees collected by the Supreme Court are paid into the state treasury and deposited by the State Comptroller of Public Accounts in the State's judicial fund.⁴⁷⁵

The courts of appeals collect, among other fees, \$100 in an appeal from a county or district court, \$50 when a petition for extraordinary relief is filed, and \$75 when a petition for extraordinary relief is granted.⁴⁷⁶ All fees collected by a court of appeals are paid into the state treasury; the Comptroller deposits one-half of those fees into the judicial fund, and the remainder go toward general revenue.⁴⁷⁷

Texas's trial courts collect a variety of fees and court costs. Among others, the courts collect the following fees and costs:

- The counties within seven courts of appeals districts must (and in one other district may) establish an “appellate judicial system” and collect up to \$5 per civil suit filed in the county to assist the court of appeals in the processing of appeals and to defray costs and expenses incurred for the operation of the court of appeal for which the county is required by law to reimburse other counties in the court of appeals district.⁴⁷⁸ This money is deposited into a separate fund in each county treasury and managed by the chief justice of the court of appeals with the consent of each county commissioners court.
- District clerks collect, among other fees, \$50 for filing a suit, \$75 for filing a suit with 11-25 plaintiffs, \$100 for filing a suit with 26-100 plaintiffs, \$125 for filing a suit with 101-500 plaintiffs, \$150 for filing a suit with 501-1000 plaintiffs, \$200 for filing a suit with more than 1000 plaintiffs, \$15 for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition, and \$10 for records management.⁴⁷⁹ These fees are deposited into the county treasury.⁴⁸⁰
- County clerks collect, among other fees, \$40 for filing a civil action, \$15 for filing a garnishment action, \$30 for filing an action other than a civil action, and \$5 for an abstract of judgment, execution, order of sale, or other writ or process.⁴⁸¹ These fees are deposited into the county treasury.⁴⁸²
- Probate clerks collect, among other fees, \$40 for probate of a will, administration of an estate, declarations of heirship, mental health or chemical dependency services, and the filing of an adverse probate action and \$25 for filing an inventory and appraisal or an annual or final account of an estate.⁴⁸³ These fees are deposited into the county treasury.⁴⁸⁴
- In probate matters, the county judge collects, among other fees, \$2 to probate a will, grant letters testamentary or of administration, order or approve a sale, or issue a decree of partition and distribution, and \$1 to issue a decree removing an executor, administrator or guardian.⁴⁸⁵ These fees are deposited into the county treasury.⁴⁸⁶
- A justice of the peace collects, among other fees, \$15 when a case is filed in justice court and \$10 when a case is filed in small claims court, and \$5 for an abstract of judgment.⁴⁸⁷ These fees are deposited into the county treasury.⁴⁸⁸
- The clerk of a court having an official court reporter must collect a court reporter service fee of \$15 as a court cost in each civil case.⁴⁸⁹ This fee must be delivered by the clerk to the county treasurer, who must deposit the fee into the county's court reporter service fund.⁴⁹⁰

- In any case in which a jury is demanded, a district clerk must collect a \$30 jury fee and a county clerk must collect a \$22 jury fee.⁴⁹¹
- If approved by the county commissioners, the clerk of a statutory county court, the clerk of a constitutional county court in which the judge spends more than 40% of his or her time on judicial matters, or the clerk of a probate court must collect a \$40 filing fee in each civil or probate case to be used “for court-related purposes for the support of the judiciary.”⁴⁹² The fee is deposited into the county treasury, the county treasurer forwards it to the Comptroller, and the Comptroller deposits it in the judicial fund.⁴⁹³
- If approved by the county commissioners, a person shall pay, in addition to other court costs, \$15 upon conviction of a criminal offense, other than a pedestrian or parking offense, in a statutory county court or constitutional county court.⁴⁹⁴ The fee is deposited into the county treasury, the county treasurer forwards it to the Comptroller, and the Comptroller deposits it in the judicial fund.⁴⁹⁵
- Trial courts must collect as a court cost \$133 from a person convicted of a felony, \$83 from a person convicted of a Class A or B misdemeanor and \$40 from a person convicted of a nonjailable misdemeanor other than a pedestrian or parking offense.⁴⁹⁶ These costs are paid into the county treasury, remitted by the treasurer to the Comptroller, and allocated by the Comptroller to one of fourteen funds, which include the crime stoppers assistance fund.⁴⁹⁷
- Trial courts must collect as a court cost \$4 from each person convicted of a criminal offense, other than a pedestrian or parking offense, for court-related purposes for the support of the judiciary.⁴⁹⁸ The money collected is paid into the county or municipal treasury, \$.60 is allocated to the general fund of the municipality or county, and the Comptroller deposits the remainder into the judicial fund.⁴⁹⁹
- On the filing of any civil suit, the district clerk must collect \$45 for family law cases and \$50 for other cases, which is paid into the county treasury and remitted by the treasurer to the Comptroller for deposit into the judicial fund for use for court-related purposes for the support of the judiciary and into the basic legal services account of the judicial fund for use in programs approved by the Supreme Court that provide basic civil legal services to indigents.⁵⁰⁰
- On the filing of any civil action or proceeding requiring a filing fee (including a counterclaim, cross-action, third-party action, interpleader or intervention), the district clerk must collect \$5 in family law cases and \$10 in any other civil case, which is paid into the county treasury and remitted by the treasurer to the Comptroller for deposit into the basic legal services account of the judicial fund for use in programs approved by the Supreme Court that provide basic civil legal services to indigents.⁵⁰¹
- On the filing of any civil action or proceeding requiring a filing fee (including an appeal, counterclaim, cross-action, third-party action, interpleader or intervention), the clerk of a statutory or constitutional county court must collect a \$5 fee, and the clerk of a justice court must collect a \$2 fee, which is paid into the county treasury and remitted by the treasurer to the Comptroller for deposit into the basic legal

services account of the judicial fund for use in programs approved by the Supreme Court that provide basic civil legal services to indigents.⁵⁰²

- On the filing of any civil suit, the clerk of a district court, statutory county court, or constitutional county court must collect a \$37 fee, which is paid into the county treasury and remitted by the treasurer to the Comptroller for deposit into the judicial fund to be used for court-related purposes for the support of the judiciary.⁵⁰³

In sum, almost all fees collected by the courts are deposited into the judicial fund by the Comptroller. Additionally, local officials deposit fees or costs into the local treasury. The treasurer is required to forward some fees and costs to the Comptroller, who deposits them into the judicial fund, and some fees and costs are earmarked for basic civil legal services to indigents. The Comptroller's January 2005 budget estimates for the 2006-2007 biennium estimated that the judicial fund would receive \$25,480,000 in fiscal year 2006 and \$25,540,000 in fiscal year 2007, with over 90% of the revenue coming from court costs and district court suit filing fees.⁵⁰⁴ The Comptroller's April 2006 budget estimate for the 2006-2007 biennium raised the judicial fund revenue estimate to \$43,025,000 for fiscal year 2006 and \$56,084,000 for fiscal year 2007 based on additional revenue expected from new fees and costs implemented to cover judicial compensation increases enacted in the 79th Legislature's second called session.⁵⁰⁵

Judicial System Expenditures.⁵⁰⁶ The State provides all funding for the Supreme Court and the Court of Criminal Appeals.⁵⁰⁷ For the courts of appeals, the State pays the salaries of the judges and court employees, for consumable supplies, travel, rent and other operating expenses, and retirement and insurance benefits.⁵⁰⁸ For some courts of appeals, the Government Code specifically provides that the host county must provide the facilities for the court and that the other counties within the district must reimburse the host county for their share of court-related expenses.⁵⁰⁹ For other courts of appeals, the statutes are silent as to whether the host county must provide facilities for the court and whether the non-host counties must reimburse the host county for court-related expenses.⁵¹⁰ In addition, the counties in a court of appeals district may supplement each justice's salary by up to \$7500 per year.⁵¹¹ Thus, Texas's county governments partially support the courts of appeals.⁵¹²

For district courts, the State pays the salaries and benefits (including retirement contributions and health insurance) of district judges and visiting judges, the \$5000 annual supplement paid to some local administrative judges, travel expenses on a per-county basis for judges in multi-county districts, a per diem for assigned district judges, and juror reimbursement.⁵¹³ Each county provides facilities for the court and pays court personnel working in that county,⁵¹⁴ and a county can supplement a district judge's salary up to \$7500 per year.⁵¹⁵ The counties pay all costs, including judges' salaries, associated with constitutional county courts, statutory county courts, probate courts and justice of the peace courts,⁵¹⁶ but the State may supplement a county judge's salary if the county judge is performing judicial services.⁵¹⁷ Cities pay all costs associated with municipal courts.⁵¹⁸

The Texas Legislature appropriated \$69.4 billion dollars for all State spending for fiscal year 2006, which ended on August 31, 2006.⁵¹⁹ Of that amount, only \$261 million—less than 4/10ths of 1%—was appropriated for Texas's judicial system.⁵²⁰

For fiscal year 2006, the total appropriation to the Supreme Court was \$24.2 million, with \$4.3 million appropriated for court operations. The remaining \$19.9 million was appropriated for “basic civil legal services.”⁵²¹ The Court of Criminal Appeals’ appropriation for fiscal year 2006 was slightly more than \$14.2 million, with \$4.6 million appropriated for court operations and the remaining \$9.8 million appropriated for judicial education.⁵²² The Legislature appropriated \$28.5 million for the fourteen courts of appeals, with most of that used for salaries.⁵²³

For the district courts, the Legislature appropriated over \$51 million to the Comptroller of Public Accounts for judges’ salaries, plus another \$5.5 million for visiting judge payments, local administrative judge supplemental salaries, and district judge travel-related expenses.⁵²⁴ It also appropriated \$10 million to the Comptroller to pay county-level judge salary supplements.⁵²⁵

Appropriations to the Comptroller for judicial system expenses also include district attorney salaries and reimbursements of \$24 million, assistant district attorney longevity pay of \$2.4 million, county attorney supplemental pay of \$5 million, witness expenses of \$1.1 million, appropriations to the Public Integrity Unit of the Travis County District Attorney of \$3.4 million, and juror pay of \$7.5 million.⁵²⁶ The Legislature appropriated \$28 million to the OCA and Texas Judicial Council and over \$800,000 to the State Commission on Judicial Conduct.⁵²⁷

The total cost of the judicial system in Texas is substantially greater than the amount paid by the State. For example, in Lubbock County’s fiscal year 2005-2006 budget, the county expected to spend a total of \$44 million, with 16% (\$7 million) for judicial expenses.⁵²⁸ Lubbock County budgeted for the district courts to collect \$550,000 in fees and \$45,000 in fines, for the county courts at law to collect \$925,000 in fees and \$335,000 in fines, and for the justices of the peace to collect \$69,000 in fees and \$1.7 million in fines.⁵²⁹ In other words, Lubbock County expected judicial system-related revenues of just over \$3.6 million and expenses of about \$7 million.

Similarly, for fiscal year 2007, Burnet County budgeted for total expenditures of almost \$16 million, with judicial system expenditures of \$ 1.3 million (about 8%).⁵³⁰ Burnet County expected the district clerk to generate revenue of \$104,000, the county clerk to generate revenue of \$518,000 (some of which would not be related to the clerk’s judicial functions), and the four justices of the peace to generate revenue of \$57,000.⁵³¹ Thus, as with Lubbock County, judicial system-generated revenue in Burnet County in fiscal year 2007 will be about one-half of judicial system expenditures.

The municipal courts, on the other hand, are profit centers for cities. In fiscal year 2006, the City of Dallas expected revenues from municipal court costs and fines of \$21.6 million.⁵³² This is a “major revenue source” for the City.⁵³³ In fiscal year 2004-2005, the City of Burnet received almost \$150,000 in revenue from municipal court fines and costs, but expended only \$81,000 in support of its municipal court.⁵³⁴

OTHER JUDICIAL SYSTEMS

Overview

This section of the paper considers the structure, administration and funding of other states' court systems, and gives particular emphasis to how other states and the federal courts deal with cases requiring additional judicial resources and expertise.

A review of the federal and other states' court systems shows that there is no particular uniformity in how court systems are structured, but that Texas's system, by comparison, is one of the more complicated systems. The federal system has a general jurisdiction trial court, intermediate appellate courts, and a single high court; but it also has specialized trial and appellate courts to handle specific kinds of cases. California has a simple three-tier system and Florida has a simple four-tier system, both of which could be models for Texas. New York's system, on the other hand, is more complicated than Texas's, and does not provide a model.

In terms of court administration, the federal system provides the best model. The United States Supreme Court has administrative control over the federal courts, but the real administrative control is exercised by councils of judges from the intermediate appellate courts and trial courts who ensure the efficient administration of justice within each intermediate appellate court district. In regard to judicial funding, there are two basic models among the states. One relies predominantly on state revenue while the other relies predominantly on local revenue. Over the years, the trend has been away from local funding and to state funding. Today, sixty percent of states now rely predominantly on state revenue to support their judicial systems.

Finally, a number of states have recognized the need for special procedures or courts to handle complicated cases. Some have special courts for business litigation, others for commercial litigation, and others for complex litigation. Some operate within a county or region only, and others operate statewide. In one way or another, all provide guidance on how to handle litigation requiring more resources and expertise than the average case.

Structure

Federal Courts. The federal judiciary consists of courts established pursuant to Articles I and III of the United States Constitution.⁵³⁵ As outlined below, the federal structure consists of a Supreme Court, thirteen intermediate courts of appeals, trial courts of general jurisdiction (district courts) in ninety-four districts, tribunals that are adjunct to the district courts and a number of specialized trial courts.

Article III Courts. Article III of the United States Constitution provides that the judicial power of the United States is vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.⁵³⁶ Judges serving on Article III courts are appointed by the President with the advice and consent of the Senate.⁵³⁷ They are appointed for life and are protected from any reduction in salary.⁵³⁸ The Article III courts are the United States Supreme Court,⁵³⁹ the United States Courts of Appeals⁵⁴⁰ the United States district courts,⁵⁴¹ and the United States Court of International Trade.⁵⁴² There currently are 860 authorized Article III judgeships.⁵⁴³

The United States Supreme Court is comprised of a Chief Justice and eight Associate Justices.⁵⁴⁴ The Supreme Court hears a limited number of appeals from the United States Courts of Appeals and from state courts of last resort.⁵⁴⁵

The United States Courts of Appeals are the federal intermediate appellate courts. As shown on Map 4, the United States are divided into twelve regional circuits—the First through the Eleventh Circuits plus the District of Columbia Circuit—each with its own court of appeals.⁵⁴⁶ Texas, Mississippi, and Louisiana are in the Fifth Circuit.⁵⁴⁷ The twelve regional Courts of Appeals hear appeals from the district courts within their circuits, as well as appeals of decisions of federal administrative agencies.⁵⁴⁸ The Court of Appeals for the Federal Circuit has nationwide jurisdiction to hear appeals in certain specialized cases, particularly those involving patent laws.⁵⁴⁹ In fiscal year 2005, there were 179 authorized court of appeals judgeships, with 167 active judges. There also were 100 senior judges with staff serving on the federal appellate courts.⁵⁵⁰

The United States district courts serve as federal trial courts of general jurisdiction and, within certain limits set by Congress and the Constitution, hear nearly all categories of federal criminal and civil cases.⁵⁵¹ There are ninety-four federal judicial districts, including at least one district in each state, the District of Columbia, and Puerto Rico.⁵⁵² According to the Administrative Office of the United States Courts, in fiscal year 2005 there were 678 authorized Article III trial court judgeships, 642 active judges, and 292 senior judges with staff.⁵⁵³

As shown in Appendix 2, Texas has four United States district courts—the United States District Courts for the Northern, Southern, Eastern, and Western Districts of Texas—divided into twenty-eight divisions.⁵⁵⁴

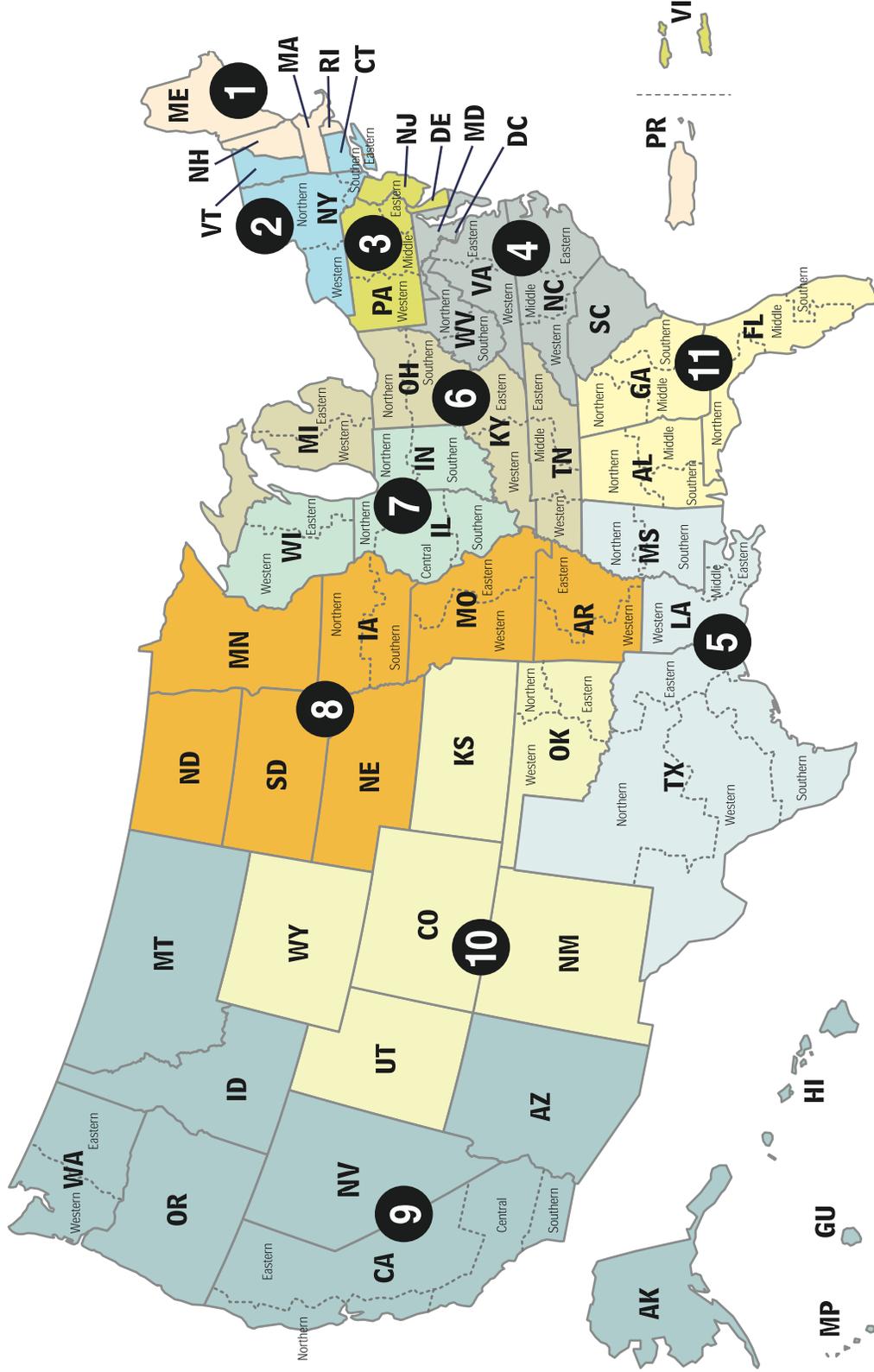
The Court of International Trade is a special federal trial court having exclusive jurisdiction to decide civil actions against the United States, its officers, or its agencies arising out of any law pertaining to international trade.⁵⁵⁵ It has nationwide jurisdiction and is composed of nine life-tenured Article III judges.⁵⁵⁶

Tribunals Adjunct to District Courts. The judges of each United States district court appoint United States magistrate judges in such numbers and to serve at such locations within the judicial districts as the Judicial Conference determines is appropriate.⁵⁵⁷ Magistrate judges function as judicial officers of the district courts.⁵⁵⁸ Full-time magistrates are appointed for eight-year terms and part-time magistrates are appointed for four-year terms.⁵⁵⁹ In fiscal year 2005, there were 503 authorized full-time magistrate judges, 45 part-time magistrate judges, and three clerk/magistrate judges assisting the district courts in their work.⁵⁶⁰

In each judicial district, the bankruptcy judges “constitute a unit of the district court to be known as the bankruptcy court for that district.”⁵⁶¹ Bankruptcy judges act as judicial officers of the district court.⁵⁶² They are appointed by the United States court of appeals for the district in which the bankruptcy court sits for a term of fourteen years.⁵⁶³ Currently, Congress has authorized 316 bankruptcy judges.⁵⁶⁴

GEOGRAPHIC BOUNDARIES

OF UNITED STATES COURTS OF APPEALS AND UNITED STATES DISTRICT COURTS



MAP 4

Article I Courts. In addition to the courts established under Article III of the United States Constitution, Congress has established a number of courts under Article I of the Constitution,⁵⁶⁵ including the territorial district courts in Guam, the Virgin Islands and the Northern Mariana Islands, the United States Court of Federal Claims, the United States Tax Court, the Court of Appeals for Veterans Claims, and the United States Court of Appeals for the Armed Forces.

Territorial district courts operate in Guam, the U.S. Virgin Islands, and the Northern Mariana Islands.⁵⁶⁶ The judges of the territorial district courts are not life-tenured Article III judges, but are appointed by the President, with the advice and consent of the Senate, to ten-year terms.⁵⁶⁷

The United States Court of Federal Claims is a special trial court that primarily hears claims against the United States for monetary damages in excess of \$10,000.⁵⁶⁸ This court consists of sixteen judges nominated by the President and confirmed by the Senate for fifteen-year terms.⁵⁶⁹

The United States Tax Court is a special court created by Congress to adjudicate disputes over certain tax deficiencies.⁵⁷⁰ The nineteen judges of the United States Tax Court are appointed by the President with the advice and consent of the Senate to fifteen-year terms.⁵⁷¹

The Court of Appeals for Veterans Claims reviews decisions of the Board of Veterans' Appeals.⁵⁷² The Court must be composed of at least three and not more than seven judges appointed by the President, with the advice and consent of the Senate, to fifteen-year terms.⁵⁷³

The United States Court of Appeals for the Armed Forces is an independent tribunal created by Congress in 1951 at the same time that the Uniform Code of Military Justice was enacted to establish a military judicial system.⁵⁷⁴ This Court is charged with determining the applicability of constitutional provisions to members of the armed forces and exercising appellate jurisdiction over members of the armed forces on active duty and other persons subject to the Uniform Code of Military Justice.⁵⁷⁵ It is composed of five civilian judges appointed for fifteen-year terms by the President with the advice and consent of the Senate.⁵⁷⁶

State Courts

*California.*⁵⁷⁷ As shown in Chart 2, California’s court system is divided into three levels: one level of trial courts, one level of inmediate appellate courts, and one supreme court.

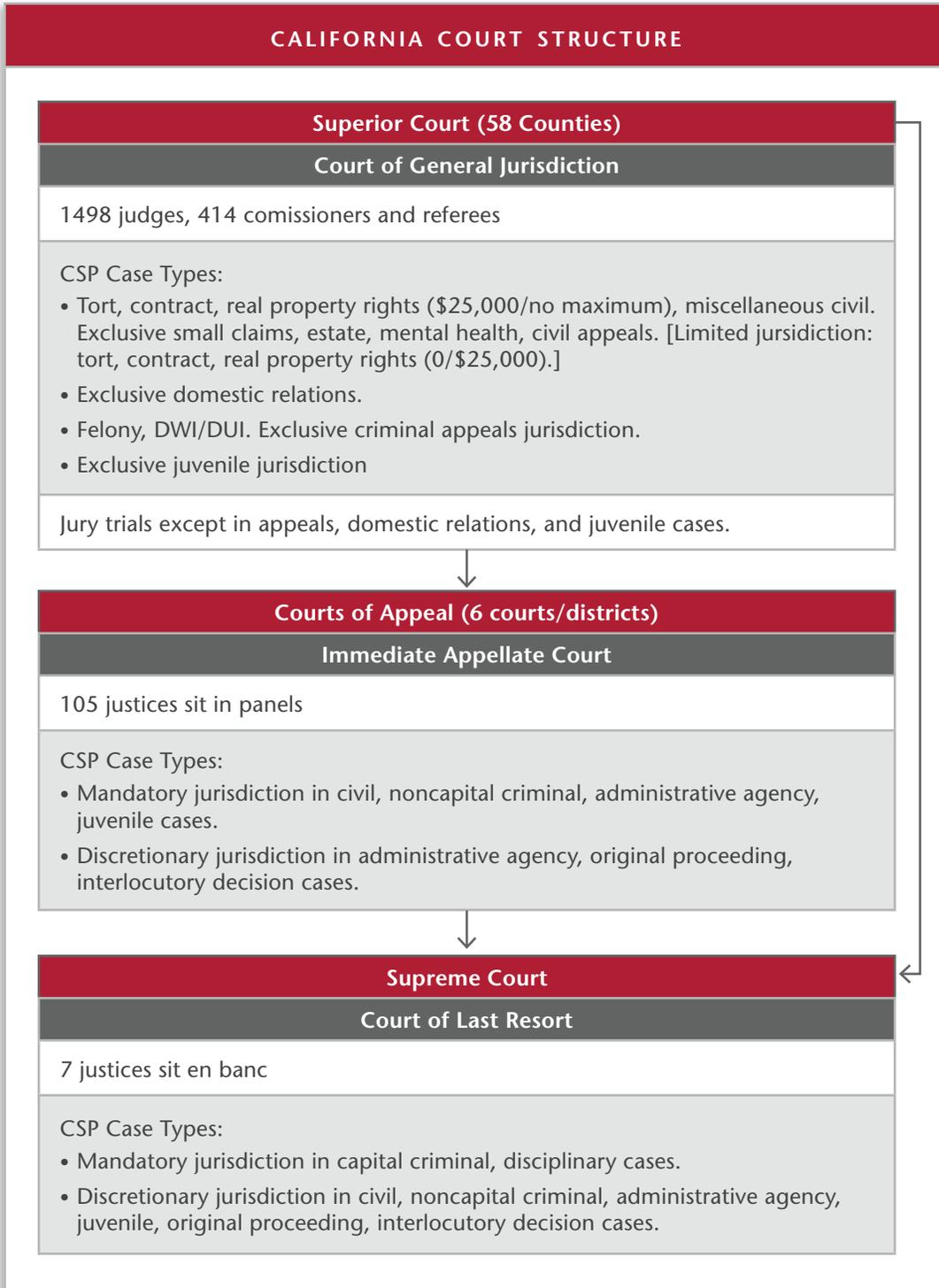


CHART 2

California's Supreme Court is composed of seven justices. The California Constitution gives the California Supreme Court the right to review any court of appeal's decision in any cause.⁵⁷⁸ While the Supreme Court is not required to review any particular case (except death penalty cases), the Supreme Court has no limit on the subject matter of the cases it reviews.⁵⁷⁹ In fact, the Supreme Court has the power to transfer cases to itself from the courts of appeal before those courts reach a decision.⁵⁸⁰

Despite the breadth of its jurisdiction, the California Rules of Court are written so that the Court can focus on granting review of cases that are either necessary to secure uniformity of decision or to settle an important question of law.⁵⁸¹

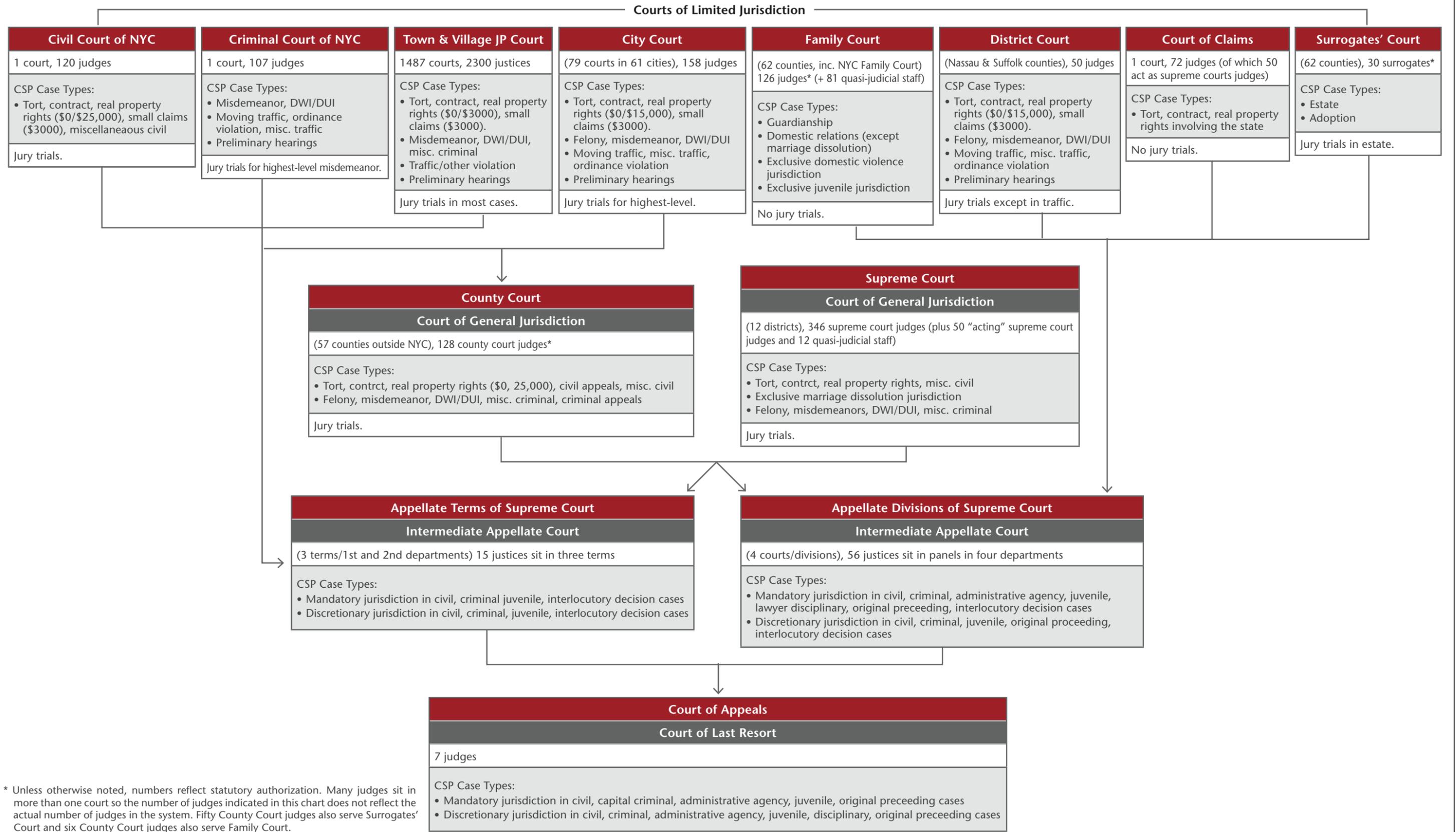
The California Courts of Appeal serve as the state's intermediate appellate courts. The courts of appeal adjudicate cases in three-judge panels. California is divided into six districts, which are further divided into nineteen divisions.⁵⁸² There are 105 justices on California's courts of appeal.⁵⁸³ With certain exceptions, the courts of appeal have appellate jurisdiction in civil and criminal cases where the trial courts have original jurisdiction.⁵⁸⁴ The courts of appeal also hear appeals of decisions made by various state agencies.⁵⁸⁵

The California trial courts are known as Superior Courts. There is a Superior Court in each of California's 58 counties, with over 400 individual courthouse locations and 1498 judges.⁵⁸⁶ The Superior Courts have trial jurisdiction over all criminal and civil matters.⁵⁸⁷ However, within each Superior Court, there are typically divisions that exclusively handle specific types of cases, including family law matters, small claims cases, probate matters, mental health cases, traffic matters, criminal cases, and complex litigation.⁵⁸⁸ These areas of specialization are not mandated at the state level but, instead, are determined on a county-by-county basis.

The size of the trial courts in California varies by county, and the number of judges in a particular court is determined by the California Legislature. In some counties, there may be as few as two Superior Court judges. In contrast, Los Angeles County has numerous specialized divisions that are overseen by more than 400 judges and various commissioners and referees.

New York. New York's judicial system is among the largest and most complex in the United States.⁵⁸⁹ It has over 3500 judges serving on ten types of trial courts and four types of appellate courts (with County Courts falling into both categories).⁵⁹⁰ The Court of Appeals is New York's court of last resort. It hears criminal and civil cases, generally on appeal from the intermediate appellate courts.⁵⁹¹ Seven justices serve on the court.⁵⁹² The Appellate Division of the Supreme Court and the Appellate Term of the Supreme Court serve as New York's intermediate appellate courts.⁵⁹³ Seventy-three judges serve on a total of six courts.⁵⁹⁴ The Supreme Court is New York's trial court of general jurisdiction,⁵⁹⁵ but there are nine different kinds of trial courts having limited jurisdiction.⁵⁹⁶ New York has 3419 trial court judges. Because the structure of New York's court system is so complicated, it should not be considered as a basis for reform of the Texas judicial system.

NEW YORK COURT STRUCTURE – 2004*



* Unless otherwise noted, numbers reflect statutory authorization. Many judges sit in more than one court so the number of judges indicated in this chart does not reflect the actual number of judges in the system. Fifty County Court judges also serve Surrogates' Court and six County Court judges also serve Family Court.

CHART 3

Florida.⁵⁹⁷ Historically, Florida's court system was among the most complex in the nation. However, reforms in the 1970s simplified it. As shown in Chart 4, it now consists of one Supreme Court, the District Courts of Appeal, and two types of trial courts—the Circuit Courts and the County Courts.⁵⁹⁸ The Circuit Courts are trial courts of general jurisdiction and the County Courts are courts of limited jurisdiction.

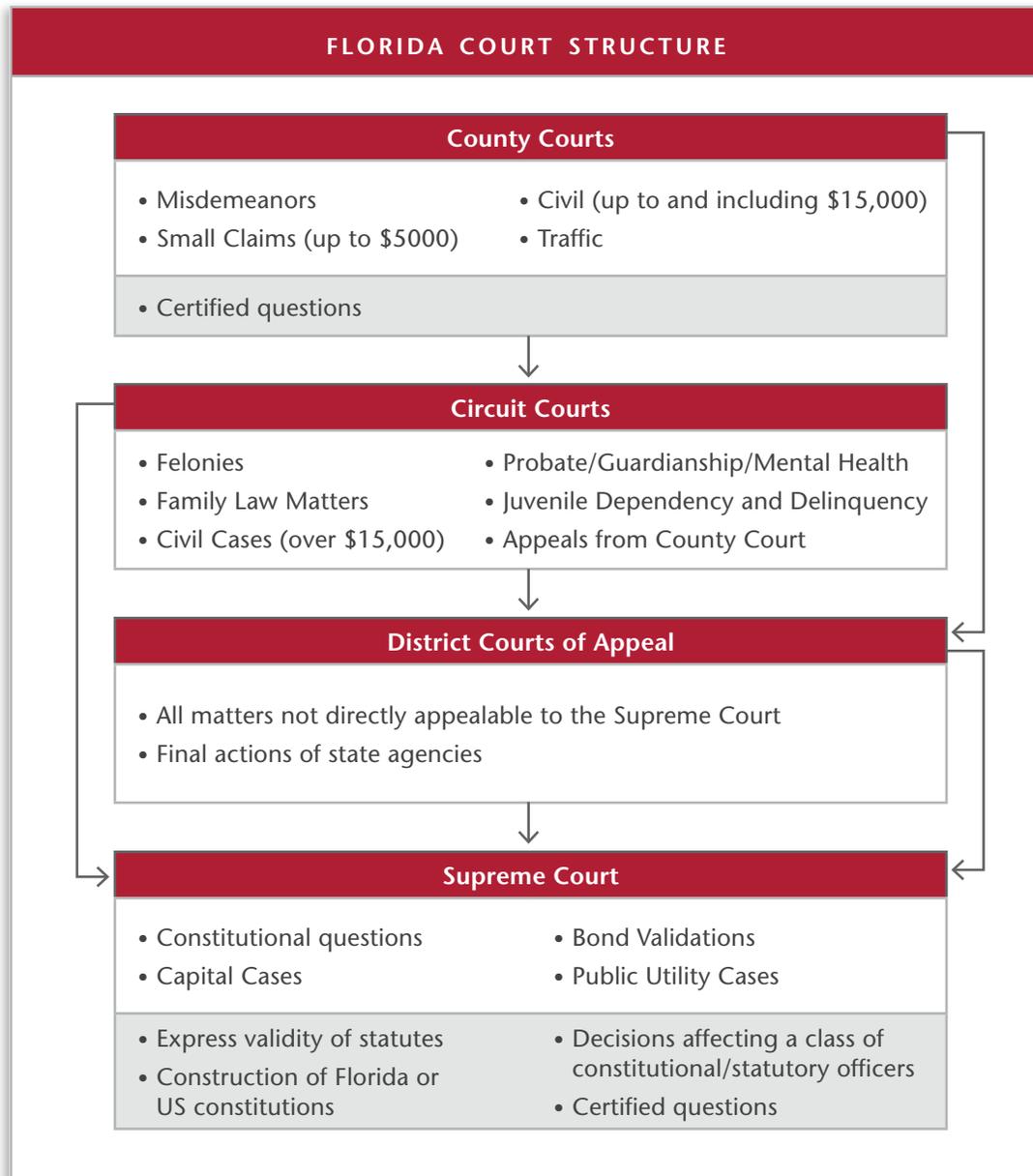


CHART 4

Florida's Supreme Court is the highest court in the state and is composed of seven justices.⁵⁹⁹ The Supreme Court has a system of both mandatory and discretionary review depending on the type of case at issue. Generally speaking, the Supreme

Court must hear cases in which (i) the death penalty has been imposed, (ii) a state statute or constitutional provision has been invalidated, or (iii) bond validations or utility rates are at issue.⁶⁰⁰ Otherwise, review of most other cases is subject to the Court's discretion.⁶⁰¹ Upon request of the Governor, the Supreme Court also issues advisory opinions on the scope of the Governor's duties and powers.⁶⁰²

Intermediate appellate courts in Florida are known as the District Courts of Appeal. These courts are administered by three-judge panels in five districts throughout the state.⁶⁰³ The District Courts of Appeal hear appeals from final judgments as well as appeals of certain interlocutory orders.⁶⁰⁴ In addition, the District Courts of Appeal review final executive actions of state agencies.⁶⁰⁵ Sixty-two judges serve on Florida's District Courts of Appeal.⁶⁰⁶

Until the 1970s, Florida maintained a complicated system of trial courts that relied on more different kinds of trial courts than any state except New York.⁶⁰⁷ Today, circuit courts are the trial courts of general jurisdiction and exist in twenty judicial circuits throughout the state.⁶⁰⁸ The Florida Legislature establishes where a judicial circuit exists,⁶⁰⁹ and the Florida Constitution requires that a circuit court exist in every judicial circuit.⁶¹⁰ The number of judges on a circuit court varies depending on the population and caseload of a particular area. Circuit courts have original jurisdiction over (i) matters involving more than \$15,000, (ii) cases involving estates of decedents, minors, juveniles, and incapacitated persons, (iii) criminal prosecutions for all felonies, (iv) tax disputes, (v) declaratory judgment actions, (vi) actions to determine boundaries of and title to real property, and (vii) requests for injunctive relief.⁶¹¹ In addition to general trial jurisdiction, circuit courts also hear appeals from county courts.⁶¹²

County courts exist in each of Florida's sixty-seven counties pursuant to the Florida Constitution.⁶¹³ The number of judges in a particular county court depends on the population and caseload of each county.⁶¹⁴ County court judges must be members of the Florida Bar, and a judge in a county with more than 40,000 residents must have been a member for at least five years.⁶¹⁵ County courts generally have jurisdiction over civil disputes involving less than \$15,000, subject to grants of original jurisdiction to the circuit courts.⁶¹⁶ The county courts are often known as the "people's courts" in Florida because they are the forum where traffic offenses, misdemeanors, and small claims are typically resolved.⁶¹⁷

Other States. In August 2006, the United States Department of Justice's Bureau of Justice Statistics published a paper describing the state court judicial systems in all fifty states as they existed in 2004.⁶¹⁸ Not surprisingly, the paper shows that the fifty states have implemented about that many different court structures.

Structurally, every state except Texas and Oklahoma has a single high court. As is shown on Chart 5, most states (twenty-eight) have seven high-court judges,⁶¹⁹ while seventeen states have five high-court judges.⁶²⁰ Three states (Alabama, Mississippi, and Washington) have nine high-court judges.⁶²¹ Oklahoma has a total of fourteen high-court judges,⁶²² and Texas has a total of eighteen on its two high courts.

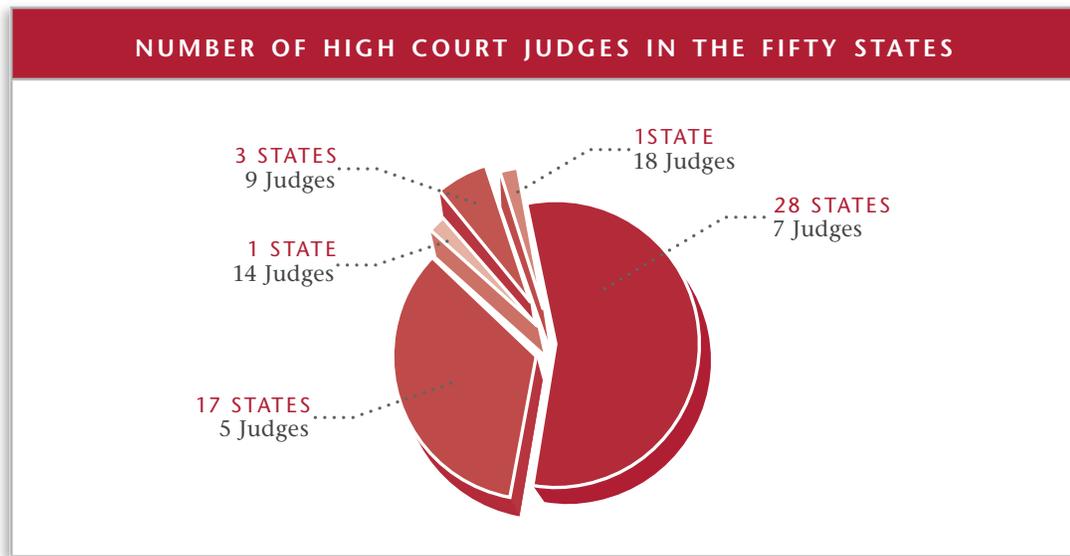


CHART 5

Thirty-five states have one tier of intermediate appellate courts.⁶²³ Eleven states do not have an intermediate appellate court.⁶²⁴ Two states (Alabama and Tennessee) have separate intermediate appellate courts for civil appeals and for criminal appeals.⁶²⁵ And two states (New York and Pennsylvania) have two kinds of intermediate appellate courts with overlapping subject-matter jurisdiction.⁶²⁶

COURTS OF APPEALS IN THE TEN MOST POPULOUS STATES

| State | 2000 Population | % Difference to Texas Population | No. of Courts of Appeals | No. of Judges on Courts | % Difference to No. of Texas Judges |
|--------------|-----------------|----------------------------------|--------------------------|-------------------------|-------------------------------------|
| California | 33,871,648 | +62% | 6 | 105 | +31% |
| Texas | 20,851,820 | — | 14 | 80 | — |
| New York | 18,976,457 | -9% | 6 | 59 | -26% |
| Florida | 15,982,378 | -23% | 5 | 65 | -19% |
| Illinois | 12,419,293 | -41% | 5 | 53 | -34% |
| Pennsylvania | 12,281,054 | -41% | 3 | 35 | -56% |
| Ohio | 11,353,140 | -46% | 12 | 68 | -15% |
| Michigan | 9,938,444 | -52% | 4 | 28 | -65% |
| New Jersey | 8,414,350 | -60% | 8 | 32 | -60% |
| Georgia | 8,186,453 | -61% | 4 | 12 | -85% |

TABLE 13

The number of intermediate appellate courts in each of the ten most populous states is shown in Table 5. Texas has the highest number of intermediate courts of appeals of any state.

The structure of the judicial system in many states, like New York, is complicated, but a number of states have relatively simple structures. Illinois, Iowa, and Minnesota have three-tier systems like California's, with one level of trial courts, one level of intermediate appellate courts, and one high court.⁶²⁷ Alaska, Connecticut, Hawaii, Idaho, Kansas, Kentucky, Missouri, North Carolina, Virginia, and Wisconsin have four-tier systems like Florida's, with two levels of trial courts, one level of intermediate appellate courts, and one high court.⁶²⁸ Nevada, New Hampshire, North Dakota, South Dakota, West Virginia, and Wyoming have relatively simple three-tier structures consisting of two levels of trial courts and a high court, but no intermediate appellate court.⁶²⁹

Arizona's court structure is similar to, but less complicated than, Texas's structure. Arizona has a supreme court, a one-level intermediate appellate court, one level of general-jurisdiction trial courts (with some of those judges serving on tax courts), justice of the peace courts having limited civil and criminal jurisdiction, and municipal courts having limited criminal jurisdiction.⁶³⁰

Court Administration

Federal Courts. The administrative bodies of the federal judiciary include the Judicial Conference of the United States, the Administrative Office of the United States Courts, the Federal Judicial Center, the United States Sentencing Commission, the Judicial Panel for Multidistrict Litigation, and the circuit judicial councils.⁶³¹ Additionally, the chief judges of the circuit, district, and bankruptcy courts, the circuit executives, and the court clerks fulfill administrative roles.⁶³²

The national policymaking body of the federal courts is the Judicial Conference of the United States.⁶³³ The Judicial Conference is comprised of the chief judge of each of the twelve circuit courts of appeals, the chief judge of the Federal Circuit, one district court judge from each of the regional circuits, and the chief judge of the Court of International Trade.⁶³⁴ It is presided over by the Chief Justice of the United States Supreme Court.⁶³⁵ The Judicial Conference is charged with "mak[ing] a comprehensive survey of the condition of business in the courts of the United States and prepar[ing] plans for assignment of judges to or from circuits or districts where necessary" and "submit[ting] suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business."⁶³⁶ It employs a variety of standing committees, including committees on budgeting, rules of practice and procedure, court administration and case management, criminal law, bankruptcy, judicial resources, information technology, and codes of conduct.⁶³⁷ The Chief Justice is required to submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.⁶³⁸

The Administrative Office of the United States Courts "provides a broad range of legislative, legal, financial, technology, management, administrative, and program support services to the federal courts" and is responsible for carrying out the policies of the Judicial Conference.⁶³⁹ The Administrative Office provides support staff and technical assistance

to all federal courts, in addition to developing budgets, collecting and reporting judicial statistics, conducting studies and assessments, and developing training programs.⁶⁴⁰ The director of the Administrative Office is appointed by the Chief Justice of the Supreme Court in consultation with the Judicial Conference.⁶⁴¹

Circuit judicial councils established in each circuit oversee the administration of the courts within their regions. Circuit judicial councils must meet at least twice a year and are comprised of the chief judge of the circuit court, who presides, and an equal number of circuit court judges and district court judges of the circuit, with the number to be determined by majority vote of all active judges of the circuit.⁶⁴² Each regional judicial council is charged with making “all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit.”⁶⁴³ The circuit judicial council is also responsible for reviewing local court rules to ensure consistency with national rules of procedure.⁶⁴⁴ The circuit judicial council may appoint a circuit executive to exercise administrative control of all nonjudicial activities of the court of appeals of the circuit; administer the personnel system and budget of the court of appeals of the circuit; maintain a modern accounting system; establish and maintain property control records; conduct studies relating to the business and administration of the courts within the circuit and prepare appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference; collect, compile, and analyze statistical data; represent the circuit as its liaison to state courts, state and local bar associations, and civic and other groups; arrange and attend meetings of the judges of the circuit and of the circuit council; and prepare an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding calendar year, including recommendations for more expeditious disposition of the business of the circuit.⁶⁴⁵

State Courts

California. The Judicial Council of California serves as the policymaking and governing body for California state courts.⁶⁴⁶ The Judicial Council consists of the Chief Justice of the Supreme Court, another judge of the Supreme Court, three judges of the courts of appeal, ten judges of the superior courts, two non-voting court administrators, and other non-voting members as determined by the voting members of the Council.⁶⁴⁷ The Judicial Council is directed to “survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute.”⁶⁴⁸ The Judicial Council may appoint an Administrative Director of the Courts to perform functions delegated by the Council or by the Chief Justice.⁶⁴⁹

The Administrative Office of the Courts (AOC) serves as the staff agency to the Judicial Council.⁶⁵⁰ The AOC is based in San Francisco, has three regional offices, and is organized into ten divisions, including the Appellate and Trial Court Judicial Services Unit, the Center for Families, Children & the Courts, the Education Division/Center for Judicial Education and Research, the Executive Office Programs Division, the Finance Division, the Human Resources Division, the Information Services Division, the Office of Court Construction and Management, the Office of General Counsel, and the Office of Governmental Affairs.⁶⁵¹

In addition to the Judicial Council, California's system of court administration includes the Commission on Judicial Appointments and the Commission on Judicial Performance.⁶⁵² The Commission on Judicial Appointments is responsible for confirming the Governor's appointees to the Supreme Court and the courts of appeal.⁶⁵³ The Commission on Judicial Performance has the authority to conduct proceedings against and remove, retire, or censure judges for cause.⁶⁵⁴

New York. The Chief Judge of the New York Court of Appeals serves as the chief judicial officer of New York's "unified court system."⁶⁵⁵ The Chief Judge is responsible for appointing, with the advice and consent of the Administrative Board of the Courts, a chief administrator of the courts.⁶⁵⁶ The Chief Administrator supervises the administration and operation of the court system.⁶⁵⁷ His or her duties include establishing an administrative office for the courts; appointing employees as necessary; establishing the hours, terms, and parts of court, assigning justices to them, and making rules for them; designating deputy chief administrators and administrative judges for any or all courts within the court system; acting as "chief executive officer;" making recommendations to the Legislature and Governor regarding laws and programs to improve the administration of justice; preparing judicial impact statements concerning proposed legislation for the Legislature; receiving and considering proposed amendments to the civil practice law and rules and the criminal procedure law; holding hearings and conducting investigations; collecting and compiling statistics; creating advisory committees; establishing educational programs; and performing other duties as delegated by the Chief Judge.⁶⁵⁸

The Administrative Board of the Courts is established by the New York Constitution and consists of the Chief Judge of the Court of Appeals and the presiding justice of the Appellate Division of the Supreme Court for each judicial department.⁶⁵⁹ The Administrative Board consults with the Chief Judge with respect to the establishment of administrative standards and policies for general application throughout the state and has powers of advice and consent with regard to the appointment of the Chief Administrator of the Courts and the adoption of rules regulating practice and procedure in the courts.⁶⁶⁰ The New York Constitution also provides for a Commission on Judicial Nomination and a Commission on Judicial Conduct.⁶⁶¹ The Commission on Judicial Nomination is responsible for evaluating the qualifications of candidates for appointment to the Court of Appeals and preparing a written report and recommendation for the Governor.⁶⁶² The Commission on Judicial Conduct has the authority to determine whether a judge or justice should be admonished, censured, or removed from office for cause.⁶⁶³

Florida. The Chief Justice of the Florida Supreme Court serves as the chief administrative officer of the judicial system.⁶⁶⁴ The chief judge of each district court and of each circuit court is responsible for the administrative supervision of their respective courts and, in the case of the chief judge of each circuit court, of all courts within their circuits.⁶⁶⁵ The chief judge of each district court receives assistance from a clerk and a marshal, while a trial court administrator provides operational assistance in the circuit courts.⁶⁶⁶

Under the direction of the Chief Justice and the Supreme Court, the Office of the State Courts Administrator (OSCA) oversees court programs and initiatives and administrative functions necessary to the operation of the courts.⁶⁶⁷ The Supreme Court appoints a State Courts Administrator, who is in turn responsible for supervising the OSCA, employing other personnel as the Supreme Court deems necessary to aid in the administration of the court system, representing the courts before the legislative branch and other bodies, supervising preparation and submission to the Supreme Court of a tentative budget, assisting in the education and training of court personnel, submitting recommendations for the improvement of the court system to the Supreme Court, collecting statistical and financial data, and performing other duties as directed by the Supreme Court.⁶⁶⁸

Florida employs a Judicial Management Council charged with “[t]he comprehensive study and formulation of recommendations on issues related to the efficient and effective administration of justice that have statewide impact, affect multiple levels of the court system, or affect multiple constituencies in the court and justice community.”⁶⁶⁹ The Judicial Management Council is composed of twenty-one members appointed by the Chief Justice.⁶⁷⁰ A variety of other councils, committees, and commissions also play a role in the administration of Florida courts, including, among others, the Trial Court Budget Commission and the District Court of Appeal Budget Commission.⁶⁷¹ The Florida Constitution establishes a Judicial Qualifications Commission vested with the authority to investigate and recommend to the Supreme Court the removal or discipline of any justice or judge whose conduct warrants such action.⁶⁷² Additionally, the constitution establishes a separate judicial nominating commission for the Supreme Court, each district court of appeal, and each judicial circuit.⁶⁷³

Judicial Pay

The National Center for State Courts (NCSC) regularly publishes information about judicial compensation.⁶⁷⁴ NCSC’s salary survey covers all fifty states and the District of Columbia, and its most recent survey reports data as of January 1, 2006.

According to NCSC, the salary paid to the chief justice or judge of the highest court of each state ranges from \$102,466 to \$198,567, with a mean salary of \$138,234 and a median salary of \$133,600.⁶⁷⁵ The range for associate justices and judges on the highest courts is from \$100,884 to \$182,071, with a mean of \$133,602 and a median of \$128,018.⁶⁷⁶ For intermediate court judges, the range is from \$101,612 to \$170,694, with a mean of \$128,695 and a median of \$125,000.⁶⁷⁷ For judges on trial courts of general jurisdiction, the range is from \$69,100 to \$175,728, with a mean of \$118,834 and a median of \$115,384.⁶⁷⁸

Table 14 shows salaries paid, as reported by NCSC, by each of the ten most populous states to the chief justice of the states’ highest court, the associate justices of the states’ highest court, the judges of the states’ intermediate appellate courts, and the judges of the states’ trial courts of general jurisdiction. For all categories, Texas’s compensation of its judicial officers is above the national average but at the bottom end of the range of salaries paid by the ten most populous states.

| JUDICIAL COMPENSATION IN THE TEN MOST POPULOUS STATES | | | | |
|---|------------------------------------|--|---|--|
| State | Chief Justice Highest Court (Rank) | Associate Justice Highest Court (Rank) | Judge Intermediate Appellate Court (Rank) | Judge Trial Court of General Jurisdiction (Rank) |
| California | 199,000 (1) | 182,000 (1) | 171,000 (1) | 149,000 (1) |
| Texas | 152,500 (9) | 150,000 (9) | 145,000 (8) | 128,750 (9) |
| New York | 156,000 (8) | 151,000 (8) | 144,000 (9) | 137,000 (7) |
| Florida | 160,000 (5) | 160,000 (4) | 149,000 (7) | 139,000 (6) |
| Illinois | 177,000 (2) | 177,000 (2) | 167,000 (2) | 143,000 (2) |
| Pennsylvania | 160,000 (5) | 156,000 (7) | 151,000 (4) | 135,000 (8) |
| Ohio | 144,000 (10) | 135,000 (10) | 126,000 (10) | 116,000 (10) |
| Michigan | 165,000 (3) | 165,000 (3) | 151,000 (4) | 140,000 (4) |
| New Jersey | 164,000 (4) | 159,000 (5) | 150,000 (6) | 141,000 (3) |
| Georgia | 158,000 (7) | 158,000 (6) | 157,000 (3) | 113,000-166,000 Avg = 139,500 (5) |
| Mean | 163,550 | 159,300 | 151,100 | 136,850 |
| Median | 160,000 | 158,500 | 150,500 | 139,250 |

TABLE 14

Funding and Budgeting

Federal Courts. In recognition of the separation of powers, Congress grants the federal judiciary the authority to prepare and execute its own budget.⁶⁸¹ The budget is prepared annually by the Administrative Office of the United States Courts in consultation with the courts and various Judicial Conference committees.⁶⁸² The proposed budget is reviewed by the Judicial Conference and submitted to Congress with detailed justifications.⁶⁸³ The President is required to include without change the judiciary's budget in the budget that he submits to Congress.⁶⁸⁴ Congress is not required to approve the budget as submitted, but may and does appropriate the amounts of money it deems proper. Once Congress approves a budget, the Judicial Conference develops a plan to spend the money, and the Administrative Office disburses funds directly to each court, which have substantial flexibility regarding use of those funds.⁶⁸⁵

For the fiscal year ending September 30, 2005, the federal judiciary was appropriated \$5,131,436,000.⁶⁸⁶ Of that amount, the Supreme Court was appropriated \$54,797,000 for the justices, their supporting personnel, and the costs of operating the Supreme Court, excluding the care of the building and grounds.⁶⁸⁷ The courts of appeals, district courts, and other judicial services were appropriated \$3,975,504,000.⁶⁸⁸

State Courts. According to one observer, “[a] perennial issue in court financing is the relative responsibility of state and local governments for court financing. There has been a steady trend toward state financing of trial courts that is still in progress, but the debate over the relative merits of state and local financing still rages.”⁶⁸⁹ While state financing “is not necessarily linked to centralized judicial budgeting” because state financing can come in the form of grants or reimbursements to local governments, “there has been a strong tendency conceptually to link state financing and centralized budgeting.”⁶⁹⁰ “In actual practice, centralized judicial budgeting has been adopted by practically all states that have assumed responsibility for trial court financing.”⁶⁹¹ California, however, is an exception. It uses a system of grants to counties to cover part of the counties’ judicial system costs.⁶⁹² Idaho, Illinois, Minnesota, and Wisconsin have unified trial courts without adopting state financing of the entire judicial system.

According to the United States Department of Justice’s Bureau of Justice Statistics, a budget is submitted on behalf of all courts to the Governor or Legislature by the state’s administrative office of the courts in forty states, and by the state’s supreme court in five states.⁶⁹³ In South Carolina, the chief justice and the state’s finance office prepare and submit the judiciary’s budget.⁶⁹⁴ In Alaska, the trial court administrators prepare and submit the budget.⁶⁹⁵ In only five states—Hawaii, New Mexico, New York, Texas, and Wyoming—do at least some individual courts prepare and submit their own budgets.⁶⁹⁶

According to the Bureau of Justice Statistics, four states allocate 3% or more of their state budget to the judiciary—Connecticut (3%), Kentucky (3%), Utah (5%) and Washington (4%).⁶⁹⁷ Twelve states allocate less than 1% of their state budget to the judiciary—Arkansas (.5%), Florida (.6%), Illinois (“[l]ess than 1%”), Louisiana (.06%), Michigan (.6%), Nevada (.88%), Ohio (.4%), Pennsylvania (.59%), South Carolina (.33%), Tennessee (.05%), Texas (.4%), and Wisconsin (.85%).⁶⁹⁸ Only three states allocate a smaller percentage of their state budget to supporting the judiciary than does Texas.⁶⁹⁹

Typically, a large proportion of the money expended from state funds on the judiciary is used to pay salaries. For fiscal year 2005-06, California expended \$41 million for its Supreme Court, \$178 million for its courts of appeal, and \$2.9 billion for its trial courts.⁷⁰⁰ The total expenditure for the judicial branch was \$3.3 billion.⁷⁰¹ Of the \$41 million spent for its Supreme Court, \$15 million was for salaries, \$4.2 million for benefits and \$7.2 million for operating expenses and equipment.⁷⁰² For the courts of appeals \$81 million was for salaries, \$21 million for benefits, and \$24.5 million for operating expenses and equipment.⁷⁰³

In its 2006-07 budget, New York appropriated \$1.6 billion for the judiciary.⁷⁰⁴ Of that appropriation, \$1.4 billion was appropriated for the courts of original jurisdiction (the trial courts), \$14.7 million was appropriated for the “Court of Appeals and Law Reporting Bureau” and \$66 million was appropriated for “Appellate Court Operations.”⁷⁰⁵

For the 2005-06 budget year, the Florida Legislature appropriated nearly \$7 million for Supreme Court salaries and benefits and a total of about \$15.6 million for all Supreme Court operations.⁷⁰⁶ Salaries and benefits for the intermediate appellate courts were set at more than \$36 million, with total appropriations to the intermediate appellate courts of almost \$41.6 million.⁷⁰⁷ For the circuit courts, nearly \$311 million was appropriated for salaries and benefits, with total appropriations of over \$365 million.⁷⁰⁸ The total state appropriations to support Florida’s judiciary totaled almost \$442 million.⁷⁰⁹

According to one commentator, by 1995, thirty-one state-court systems (including New York, New Jersey, and Massachusetts) were funded primarily from their state's general fund.⁷¹⁰ According to the Bureau of Justice Statistics, Delaware, Massachusetts, North Carolina, and South Dakota use state revenue to provide 100% of the funds necessary to support their trial courts, and Connecticut and New York provide 100% of the funds necessary to support their general jurisdiction trial courts.⁷¹¹ Ninety-five percent and 92% of the money used to support Alaska's and California's trial courts, respectively, comes from state revenue.⁷¹²

On the other hand, a number of states rely primarily on local revenue to fund their judicial system. In Idaho, for example, local revenue provides about three-fourths of the money necessary to operate the trial courts, and Arizona, Indiana, Louisiana, Nevada, and Washington all rely heavily on local revenue to support their trial courts.⁷¹³

Complex or Business Litigation Courts

Federal Courts. The federal judicial system includes several special courts used to handle particular types of litigation.⁷¹⁴ The Court of International Trade, for example, hears civil actions against the United States, its officers, or its agencies arising out of any law pertaining to international trade.⁷¹⁵ The United States Court of Federal Claims primarily hears claims for money damages in excess of \$10,000 against the United States, and the United States Tax Court adjudicates disputes over tax deficiencies.⁷¹⁶

Additionally, the federal court system has a Judicial Panel on Multidistrict Litigation (MDL Panel) that consolidates factually similar cases in a single trial court for pretrial proceedings.⁷¹⁷ The purpose of the multidistrict litigation procedure is to eliminate the potential for conflicting pretrial rulings by trial and appellate courts considering the same issues in similar cases filed in multiple courts and to achieve a just, speedy, and inexpensive determination of every action.⁷¹⁸

The MDL Panel may transfer civil cases for pretrial proceedings if they involve common questions of fact and if transfer will be for the convenience of the parties and witnesses and promote the just and efficient conduct of the actions.⁷¹⁹ The courts in which these cases are consolidated are, in a sense, special courts handling a specific kind of litigation.

State Courts. Special courts for complex commercial or business matters are operating in thirteen states. In four of these states—Arizona, California, Connecticut and Georgia—these courts handle “complex cases” or “complex litigation.” In six states—Florida, Maryland, Massachusetts, Nevada, North Carolina and Rhode Island—special courts handle “business litigation” or “complex business litigation.” In the remaining three states—Illinois, New York and Pennsylvania—special courts handle “commercial litigation.” Additionally, special case management procedures for complex or business litigation have been established in ten states—Delaware, Kentucky, New Jersey, Ohio, Oregon, Tennessee, Texas,⁷²⁰ Vermont, Washington and Wisconsin.

Complex Litigation Courts. Courts in Arizona, California, Connecticut, and Georgia have established “complex litigation” programs by which certain “complex cases” are assigned to special courts for more intense judicial management.⁷²¹ In California, judges are selected, in part, for their expertise with complex litigation.⁷²²

In Arizona, the Arizona Supreme Court has extended the complex litigation program in Maricopa County through December 31, 2006.⁷²³ In California, the

Judicial Council of California began the Complex Civil Litigation Pilot Program in 2000 in six counties,⁷²⁴ and special courts for complex litigation are still in use.⁷²⁵ In Connecticut, the Complex Litigation Docket operates in six of the Superior Court Judicial Districts.⁷²⁶ In Georgia, the Fulton County Superior Court created the Complex Civil Case Division that operates only in Fulton County, Georgia.⁷²⁷

In both Arizona and California, “complex case” is defined as a civil action requiring continuous or exceptional “judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable,” and promote an effective decision-making process by the court, the parties, and counsel.⁷²⁸ Both Arizona and California provide factors to be considered in determining if a case is complex.⁷²⁹

In Connecticut, the Complex Litigation Docket is designed for cases involving “multiple litigants, legally intricate issues, lengthy trials or claims for damages that could total millions of dollars.”⁷³⁰ Negligence actions against health care providers are always considered for transfer to the Complex Litigation Docket.⁷³¹

Georgia focuses more on the length of trial in determining which cases are complex.⁷³² In Fulton County, Georgia, cases in which trial is expected to take over seven days, whether by jury or not, are assigned to the Complex Civil Case Division.⁷³³

In Arizona, California, and Connecticut, any party or the court may designate a case as “complex” or move to transfer the case to the complex litigation docket.⁷³⁴ Fulton County, Georgia, does not provide a procedure for designating cases as “complex.”⁷³⁵

Business Litigation Courts. Business litigation courts operate in Florida,⁷³⁶ Maryland,⁷³⁷ Massachusetts, Nevada, North Carolina, and Rhode Island.⁷³⁸

In Florida, Massachusetts, Nevada, and Rhode Island, the business courts operate only at a local county or local court level. In Florida, the complex business litigation court operates only at the Ninth Judicial Circuit Court in Orlando.⁷³⁹ In Massachusetts, the Business Litigation Sessions operate in Suffolk County, and cases from three other counties may be transferred to the Business Litigation Section.⁷⁴⁰ The Nevada Supreme Court’s Business Court Task Force encouraged the creation of business courts by Nevada’s Second and Eighth Judicial Districts, which encompass Reno and Las Vegas.⁷⁴¹ The business courts were subsequently created in those districts by local court rule.⁷⁴² In Rhode Island, the Superior Court of Providence and Bristol Counties established a Business Calendar.⁷⁴³

The business courts in Maryland and North Carolina operate on a statewide basis.⁷⁴⁴ The North Carolina business court sits in Greensboro, Charlotte and Raleigh, and recently passed legislation has expanded the business court.⁷⁴⁵ Cases assigned to the business court are tried in the county in which they are filed unless the parties request a transfer.⁷⁴⁶

In Maryland, the Business & Technology Case Management Program operates on a statewide basis. The Circuit Administrative Judge of the circuit in which the action is filed may assign a case to the program if he or she “determines that the action presents commercial or technological issues of such a complex or novel nature that special treatment is likely to improve the administration of justice.”

The courts in Florida, Massachusetts, Nevada, and Rhode Island provide great detail as to the types of claims that are handled in the business courts. In these jurisdictions, claims commonly assigned to the business courts include claims related to Uniform Commercial Code transactions, claims arising from the sale of a business, claims involving internal affairs or governance of business entities, securities litigation, shareholder derivative actions, insurance coverage disputes, and intellectual property claims.⁷⁴⁷ Only Florida includes amount in controversy requirements (\$75,000) for cases assigned to the business courts.⁷⁴⁸ Florida, Nevada and Rhode Island specifically prescribe claims not to be assigned to the business court.⁷⁴⁹ In Florida, those cases include personal injury, survivor or wrongful death matters, eminent domain, and employment law cases.⁷⁵⁰ In Nevada, those cases include personal injury, products liability, employment, and landlord/tenant claims.⁷⁵¹

The Maryland and North Carolina courts do not have such specific rules regarding jurisdiction. In those states, factors to be considered in the assignment of cases include the number and diverse interests of the parties; the nature and extent of anticipated pretrial discovery motions; whether the parties agree to waive venue for the hearing of pretrial motions; the complexity of the evidentiary matters and legal issues involved; whether it will promote the efficient administration of justice, and such other matters as the Chief Justice deems appropriate.⁷⁵² In Maryland, factors also include whether business or technology issues predominate over other issues presented in the action.⁷⁵³

Litigants in Massachusetts, Nevada, and Rhode Island may designate their cases for participation in the business courts, and the judge ultimately determines if assignment is appropriate.⁷⁵⁴ In Florida, Maryland, and North Carolina, litigants or a judge may transfer a case to the business court, and again the judge determines whether transfer is appropriate.⁷⁵⁵

Commercial Litigation Courts. Commercial litigation courts operate in Illinois, New York and Pennsylvania.⁷⁵⁶ These courts all operate at the local or county level. In Illinois, the commercial litigation court operates only in Cook County.⁷⁵⁷ In New York, the Commercial Division operates in the supreme courts of eight counties and a judicial district.⁷⁵⁸ The Pennsylvania commerce case management program operates only from the Court of Common Pleas for Philadelphia County.⁷⁵⁹

The jurisdiction of the commercial litigation courts in New York and Pennsylvania is similar to the jurisdiction of Florida's complex business litigation court in that a detailed list of claims is subject to the jurisdiction of both commercial courts.⁷⁶⁰ In New York, the minimum amount in controversy for the Commercial Division varies among counties from \$25,000 to \$100,000.⁷⁶¹ There is no amount in controversy requirement in Pennsylvania.⁷⁶²

Litigants in the New York and Pennsylvania courts may designate their case for the commercial court, and the judge ultimately decides whether the case is appropriate for assignment.⁷⁶³ In New York, a judge may transfer a case out of the Commercial Division if he or she decides it does not fall within the jurisdiction of the Division.⁷⁶⁴

RESTRUCTURING, ADMINISTERING AND FUNDING TEXAS COURTS

Overview

Texas's judicial system—with two high courts, fourteen intermediate appellate courts and seven layers of trial courts—is, at best, unnecessarily intricate and arcane. In addition, no single court or agency has sufficient authority to ensure the efficient administration of justice throughout the judicial system. And this problem is complicated by Texas's continued reliance on local, rather than State, revenue to fund the judicial system. This section of the paper considers and recommends changes to the Texas judicial system that are necessary to create a modern, efficient system.

Possible Structural Changes

Supreme Court and Court of Criminal Appeals

Introduction. The Legislature should consider three specific issues regarding the Supreme Court and Court of Criminal Appeals. First, should the two courts be merged into a single supreme court? Second, should the number of judges on the two courts (each have nine) be reduced? Finally, should the Texas Supreme Court have discretionary jurisdiction in all appellate matters rather than its current restricted jurisdiction?

Merge the Two High Courts? The citizens of Texas removed criminal jurisdiction from the Supreme Court in 1876 to relieve crowding on the Supreme Court's docket.⁷⁶⁵ At that time, the Supreme Court had three justices, little staff, and the obligation to decide all appeals presented to it.⁷⁶⁶ Today, the Supreme Court has nine justices, a professional staff, and discretionary jurisdiction, yet its criminal jurisdiction has not been restored. Instead, the Court of Criminal Appeals is the court of last resort for criminal cases in Texas.⁷⁶⁷

Given that forty-eight other states and the federal system have a single high court possessing both civil and criminal jurisdiction,⁷⁶⁸ it appears that the segregation of civil and criminal cases is not essential to a properly functioning judicial system. On the other hand, the mere fact that other systems use a particular structure does not make the Texas structure wrong.

Past reform efforts have sought to merge these two courts. All of those efforts have failed.⁷⁶⁹

Consistency in Decisions. One reason for merging the two high courts is to ensure consistency in decisions. From time to time, the two courts differ in their resolution of a particular question of law. When this happens, there is no method for resolving the conflict between the courts.⁷⁷⁰ This problem is ameliorated by two facts. First, Texas civil and criminal law does not overlap extensively, so the opportunity for conflicting decisions is present, but not frequent or constant.⁷⁷¹ Second, Texas's two high courts are aware of the other's decisions and often—but not always—follow their sister court's precedent.⁷⁷²

Lack of Voter Knowledge. The consensus among studies, surveys, and commentaries is that voters have difficulty evaluating judicial candidates' competence. Instead, voters tend to decide between judicial candidates on factors that may not indicate judicial quality.⁷⁷³ For example, voters who lack sufficient information to distinguish among judicial candidates often base their votes on the candidates' party label, name appeal, or ballot position.⁷⁷⁴ In almost every election there is a significant drop-off between high-profile political races and judicial races.⁷⁷⁵ This indicates that many voters do not think they possess the kind of information or knowledge needed to cast an informed vote in the judicial elections.⁷⁷⁶ As a result, judicial races tend to be decided by a small percentage of the electorate, some of whom may not base their vote on judicial quality.⁷⁷⁷

Common sense suggests that having a higher number of judicial races on the ballot is more likely to cause voter confusion and discourage voters from spending the time necessary to become knowledgeable about the candidates. With nine judges on each of the two high courts, and at least three of those judges running during each election cycle, Texas citizens vote in at least twelve state-wide judicial races (considering both primary and general elections) each cycle. At the same time, they are asked to select intermediate appellate court justices, district court judges, county court judges, and justices of the peace. In other words, having two high courts adds to the burden Texas places on its voters and likely contributes to voters' lack of knowledge about the candidates in judicial races.

Administrative Efficiency. In most states and in the federal system, the highest court has administrative supervision and control of the judicial branch.⁷⁷⁸ In Texas, the Supreme Court, the Court of Criminal Appeals, the regional presiding judges, and the local presiding judges all have administrative duties. The Supreme Court's administrative powers are similar to the powers possessed by other states' high courts, while the Court of Criminal Appeals' administrative responsibilities are limited to managing the state's judicial education programs. Both courts have some rulemaking authority.⁷⁷⁹

Having two courts with administrative and rulemaking power has the potential to create conflicts between the courts. In practice, there have not been many problems, largely because the administrative duties of the two courts do not much overlap and because the courts collaborate when promulgating rules.⁷⁸⁰

Opportunity for Review. During the past 10 years, the Supreme Court has granted an average of 110 petitions for review each year, or 11% of the number disposed. In fiscal year 2005, it granted 109 of the 823 petitions disposed, or 13%.⁷⁸¹ Over the past ten years, the Court of Criminal Appeals, on average, has granted 7.5% of the petitions for discretionary review it disposed each year while, at the same time, disposing of a large number of cases on its mandatory docket.⁷⁸²

These rates of granting discretionary review by Texas's high courts compare favorably to other large states' highest courts. The California Supreme Court

accepted review of 6.4% of the civil cases and 4.7% of the criminal cases it received; and the New York Court of Appeals discretionary grant rate in 2005 was 6.3% in civil cases and 1.8% in criminal cases.⁷⁸³

In sum, it appears that there is a significantly greater chance of obtaining discretionary review from the Texas Supreme Court and Court of Criminal Appeals than there is of obtaining review by the highest court in other states. This is especially true for criminal cases. From the point of view of persons participating in the judicial system, the increased opportunity for review is meaningful and is a significant reason to have separate high courts.

Judicial Expertise. Historically, criminal practitioners have been concerned that the Supreme Court, if given criminal jurisdiction, would not develop the expertise in criminal cases that the Court of Criminal Appeals already possesses. For their part, civil practitioners have been concerned that the number of criminal cases filed each year—many of which require mandatory review—would overwhelm the Supreme Court and negate its substantial experience in civil matters. These concerns are valid.

Acceptance by the Bar. Texas's division of civil and criminal appeals has been in place since 1876, and the Court of Criminal Appeals has been the highest criminal court since 1891.⁷⁸⁴ Texas attorneys and judges have accepted the current structure and are resistant to changing it. Indeed, over the past 90 years, there have been several proposals to merge the Supreme Court and Court of Criminal Appeals. All have met significant opposition from attorneys and judges, and all have failed.⁷⁸⁵

Need for Constitutional Amendments. Merger of the two courts would require amendments to Article V of the Texas Constitution.⁷⁸⁶ Amending the constitution requires a two-thirds vote of both houses of the Legislature and approval by a majority of Texas voters.⁷⁸⁷ Ninety years of efforts to amend Article V to merge the two courts have failed, some at the hands of the Legislature and some at the hands of the voters.⁷⁸⁸

Reduce the Number of Judges on the Two High Courts? Texas has the highest number of high court judges of any state. Most states have seven high court judges (including California, Florida and New York), and many have only five.⁷⁸⁹ All of those states' high courts have both civil and criminal jurisdiction. Even if Texas does not merge its two high courts, does it make sense for Texas to reduce the number of judges on each of the courts?

Texas's high court judges are paid a salary of \$150,000 per year, and the State contributes to their retirement plans and pays other employment-related expenses for each judge.⁷⁹⁰ If each of Texas's two high courts had seven rather than nine judges, Texas would save \$600,000 per year in salaries, plus additional amounts for related taxes, insurance and benefits.

As we have noted, when Texas is compared to other states, Texas's expenditures to support its two high courts do not appear unreasonable and the rates at

which Texas's two high courts grant discretionary review compares favorably to other states' highest courts.⁷⁹¹ Having fewer judges on the courts might result in the courts accepting fewer cases each year because the courts would have fewer justices to carry the workload. On the other hand, there is considerable opinion that a seven-judge appellate court more efficiently handles cases and enunciates legal principles more clearly and directly than does a larger court.

Reducing the number of judges on Texas's high courts will require a constitutional amendment.⁷⁹²

Give the Supreme Court Discretionary Jurisdiction in All Matters? An immediate appeal to the intermediate appellate court is available from many interlocutory trial court orders that have a significant effect on a party to a case. The Texas Supreme Court, however, has jurisdiction to hear a further appeal of some of those interlocutory trial court orders, but not all. More specifically, the Supreme Court has jurisdiction to hear an appeal from an interlocutory trial court order certifying or refusing to certify a class, denying a summary judgment to a media defendant who is asserting a First Amendment defense, or denying a defendant's motion relating to a plaintiff's failure to file an expert report, or an adequate expert report, in a medical malpractice case. But, unless dissent or conflict jurisdiction can be established, the Court does not have jurisdiction to hear a further appeal from any other appealable interlocutory trial court order. In those cases, the court of appeals' decision is final.⁷⁹³ Consequently, it is difficult for a person to obtain Supreme Court review of an order that, for example, appoints a receiver to take over the person's business, grants a temporary injunction preventing the person from continuing to work in a particular job, or compels the person to litigate in Texas courts even though the person has had little prior contact with Texas.

There is no clear rationale for giving the Supreme Court jurisdiction to hear an appeal from some appealable interlocutory trial court orders, but impeding its jurisdiction to hear appeals from other orders. The Texas Supreme Court should be given discretionary jurisdiction of all appealable interlocutory trial court orders. The Court then will have the ability to hear those cases deserving review, and to decline to hear those that do not, without regard to the matters in issue.⁷⁹⁴

The Texas Supreme Court should also be given the power to prescribe rules that would provide for interlocutory appeals from trial court rulings in situations not otherwise provided by statute. Such power is statutorily vested in the U.S. Supreme Court under the federal system,⁷⁹⁵ but no similar statute exists under the Texas system. Providing the Texas Supreme Court such power would facilitate the ability of the Court and intermediate appellate courts to timely review significant trial court decisions and oversee the proper administration of civil justice in the state.

Expanding the jurisdiction of the Texas Supreme Court does not require constitutional amendment.⁷⁹⁶ The constitution allows the Legislature to expand the Court's jurisdiction by statute.⁷⁹⁷

Courts of Appeals

Introduction. The Legislature⁷⁹⁸ should address three issues related to courts of appeals. Should the number of courts of appeals be reduced? Should overlapping appellate court districts be eliminated? Should docket equalization transfers be eliminated?

Reduce the Number of Courts of Appeals? Texas has fourteen intermediate appellate courts—one more than the entire federal system, eight more than California and New York, and nine more than Florida. In fact, Texas has the largest number of intermediate appellate courts in the nation.⁷⁹⁹ There are several reasons why the Legislature should reduce the number of intermediate appellate courts.

First, the rationale for fourteen geographically dispersed courts no longer exists. From 1876 through 1978, each court of appeals was limited by the constitution to three justices. Consequently, as population and caseloads increased, it was necessary to create new courts to handle the caseload because justices could not be added to existing courts.⁸⁰⁰ The first courts of appeals were located in larger cities, but as new courts were needed, they were added in smaller cities throughout the State. Eleven of Texas's fourteen courts of appeals were created more than 80 years ago.⁸⁰¹ Today, the constitution no longer limits the courts of appeals to three justices, making it possible to address caseload growth by increasing the number of justices on the busier courts.⁸⁰² In 1876, Texas was an agrarian society and travel was difficult. Today, a great majority of Texas's population is in its largest cities,⁸⁰³ and travel to those cities is reasonably easy from most points in the State.⁸⁰⁴

Second, using fewer courts of appeals with more justices on each court would eliminate the need for docket-equalization transfers because the three-judge courts could be merged into the busier courts, thereby reallocating judgeships to fit caseloads. At present, the constitution requires at least three justices on each court of appeals.⁸⁰⁵ This prevents the court system from addressing caseload disparity by permanently moving judges from the three-judge courts, which are not as busy on a per-judge basis, to the larger, busier courts.⁸⁰⁶ The only methods for addressing this problem are to continue to add judges to the larger courts, while judges on the smaller courts have idle time, to temporarily transfer judges from the smaller courts to the larger courts,⁸⁰⁷ or to transfer cases from larger courts to smaller courts. The Legislature has opted to require the redistribution of cases from the busy courts to the less-busy courts rather than let judges sit idle or make them serve away from home, but this practice is unpopular and inefficient and should be ended.⁸⁰⁸

Third, having fewer intermediate appellate courts would reduce the number of conflicting decisions. “[T]he large number of widely dispersed appellate courts has encouraged a proliferation in conflicts of law...[I]n a system with numerous separate but co-equal courts, the opportunity for conflicts increases, with few mechanisms to resolve them...[These] conflicts...often leave [] Texas law in confusion, or worse.”⁸⁰⁹

Finally, reducing the number of courts of appeals could reduce administrative costs if clerks' offices and administrative staffs were merged. The convenience of having facilities and personnel in geographically dispersed areas, however, should not be entirely discounted. Convenience is particularly important in criminal cases

in which attorneys often are court appointed and receive relatively little compensation for their work. In these cases, an attorney may not be compensated for travel time to and from the appellate court. If the attorney is compensated, the compensation is paid by a governmental entity that, in many instances, has limited resources for indigent defense. This problem could be ameliorated if the existing appellate court facilities and some personnel remained in place so that some cases could be heard in those locations.

There is precedent for basing an appellate court in one city but allowing it to hear argument in another. California has seven intermediate appellate court districts, but those seven districts are divided into twenty geographically dispersed divisions where the courts sit to hear argument. One of Texas's courts of appeals, the Thirteenth Court of Appeals, sits in both Corpus Christi and Edinburg.⁸¹⁰ And Judges on the United States Courts of Appeals often reside in cities other than the one in which the court sits. These judges work and have professional staff in the federal courthouse in the city in which the judge resides.

It is not likely, however, that reducing the number of intermediate courts of appeals would allow a reduction in the number of intermediate appellate court judges. As noted previously, comparing Texas to other large states indicates that Texas probably has the appropriate number of intermediate appellate court judges.⁸¹¹ Additionally, given the rapid growth in Texas's population—which might cause an increased demand on judicial resources—any reduction in the number of intermediate appellate court judges might be short-lived.

Eliminate Overlapping Courts of Appeals Districts? The two courts of appeals sitting in Houston have coextensive jurisdiction in districts that cover the same geographic area. They have a central clerk's office and central offices for the eighteen justices and their staff. The clerks of the two courts periodically equalize the courts' dockets by transferring cases from one to the other. In other words, the two courts almost function as a single entity, but exist as separate entities. The Dallas and Texarkana Courts of Appeals share Hunt County, and the Texarkana and Tyler Courts share Gregg, Rusk, Upshur, and Wood Counties.⁸¹² These overlapping districts cause a number of problems.

In 1995, a Rusk County trial court rendered a \$37.8 million judgment against Ford Motor Company.⁸¹³ Rusk County was and still is within both the Tyler and Texarkana Courts of Appeals' districts.⁸¹⁴ The day the trial court rendered judgment, the plaintiffs perfected an appeal to the Texarkana Court of Appeals, even though they had prevailed on almost every issue.⁸¹⁵ Twenty days later, Ford perfected an appeal to the Tyler Court of Appeals.⁸¹⁶

Ford petitioned the Supreme Court to transfer the plaintiffs' appeal to the Tyler Court under its authority to transfer cases from one court of appeals to another any time it finds good cause to do so.⁸¹⁷ Ford argued that its appeal was "primary" because it was appealing a \$37 million judgment, while the plaintiffs' claims had little comparative value.⁸¹⁸ Ford also argued that the Tyler court should hear the appeal because it previously had decided two mandamus actions

arising from the same litigation.⁸¹⁹ The Supreme Court refused to transfer the plaintiffs' appeal to Tyler, holding that the plaintiffs' appeal was predominate because it was filed first.⁸²⁰

The Supreme Court took the opportunity, however, to note that "this question arises only because the Legislature has chosen to create overlaps in the State's appellate districts. We have been unable to find any other state in the union which has crafted geographically overlapping appellate districts."⁸²¹ According to the Court, "the problems created by overlapping districts are manifest. Both the bench and bar in counties served by multiple courts are subjected to uncertainty from conflicting legal authority. Overlapping districts also create the potential for unfair forum shopping, allow voters of some counties to select a disproportionate number of justices, and create occasional jurisdictional conflicts like this one."⁸²² The Court further noted that it had recommended to the Legislature in 1986, 1993, and 1995 that overlapping districts be eliminated.⁸²³

As current Texas Supreme Court Justice Scott Brister noted when he was Chief Justice of the Fourteenth Court of Appeals, overlapping districts can create problems, even when the districts overlap entirely, as with the two Houston courts.

[T]he two Houston courts sometimes disagree about the law. On at least one occasion, their disagreements have led to different outcomes on the same facts. In *Reyes v. City of Houston*,⁸²⁴ the First Court held the city of Houston was not immune from suit by the families of three men who died when their car ran off a dead end road that had no warning barricade. Shortly thereafter, the Fourteenth Court held in *Montes v. City of Houston*⁸²⁵ just the opposite—the city was immune from suit by the surviving passenger in the same car. The supreme court chose to do nothing.⁸²⁶ ...[C]onflicting interpretations of the law are especially acute in Houston, due both to the volume of litigation in Harris County and the larger uncertainty as to who will hear the appeal.⁸²⁷

In 2003 and 2005, the Legislature eliminated some of the overlapping areas, but five counties in northeast Texas remain in two courts of appeals' districts, and the two Houston appellate court districts, consisting of ten counties, continue to overlap.⁸²⁸ The situation in northeast Texas allows, and probably encourages, forum shopping.⁸²⁹

No reason supports overlapping appellate court districts. The remaining instances of overlapping jurisdiction could be easily eliminated. Merging the two Houston courts into a single court would create a court with eighteen judges. By comparison, the United States Court of Appeals for the Ninth Circuit has twenty-eight judges, and the Fifth Circuit has seventeen.⁸³⁰ The merged court would be large, but manageable.

Prohibit Docket-Equalization Transfers? Each year, at the Legislature's command, the Texas Supreme Court moves a number of cases from one court of appeals to another to "equalize" the dockets of those courts.⁸³¹ These transfers create real

problems. In one instance, for example, three appeals filed in one case were heard by three different courts of appeals.⁸³²

Justice Brister recently described the objections to docket-equalization transfers as follows:

Transferring cases cures the docket disparity but creates other problems. First, it nullifies the reason for having a large number of widely dispersed courts--the savings in time, money, and convenience incurred by deciding appeals locally. Lawyers and clients who try a case in Houston may wonder about the efficiency of a system that transfers their appeal (but not others) to Amarillo.

Moreover, the impact on many dockets is substantial. In the last three years, transfers made up at least a quarter of appellate filings in several courts of appeals; in Eastland, transfers outnumbered all local appeals. This raises questions of burden and accountability. While the state funds most appellate operations, part of the cost is borne locally. Why should the citizens of one region bear the cost of deciding excess appeals from another? And what can citizens do in cases with political or economic consequences if the justices who decide an appeal are beyond their vote? To the extent Texans think electing judges ensures accountability, they are not getting what they think.

Finally, transfers worsen the problem of conflicts between the various appellate courts. Without transfers, a company with statewide operations may face uncertainty, but once a case is filed it should know what the law is. Not so with transfers. Transferee appellate courts apply their own view of the law, not that of the region where the case was tried. No one knows where any appeal will go until after the trial court phase is over. Thus, a summary judgment granted or a case tried under one assumption about the law may be decided on appeal under another.

In many Texas trial courts, this is a substantial problem. Fully one-third of the cases tried in Beaumont in recent years have been assigned elsewhere on appeal. Similarly, lawyers trying cases in Dallas and Houston run a ten to 20 percent chance that their appeals will land somewhere else. When the courts of appeal disagree about the pertinent law, it is impossible to make rational trial decisions without knowing which will be applied on appeal.⁸³³

Justice Brister's assertion that transferee courts apply their own view of the law is well taken, but, in fact, there is confusion and conflict on the question of which court's law to apply when there is a conflict of law between the transferor and transferee courts. Under one approach, used by the San Antonio Court of Appeals, the transferee court should not "blindly apply" the law of either the transferee or transferor court, but should instead "reach [its] best conclusion as to what the law of the State of Texas is on [the] issue."⁸³⁴ On the other hand, a panel of the Corpus Christi Court of Appeals has noted that attorneys should be able to look to the opinions

of the appellate court in their jurisdiction for guidance.⁸³⁵ Despite this pronouncement, a different panel of the same court, in a case decided only thirty-five days later, indicated it would follow the approach espoused by the San Antonio court if presented with the issue.⁸³⁶

Docket-equalization transfers are disliked for other reasons as well. Some commentators argue that different local rules or the unfamiliarity of arguing in a transferee court may affect litigants, and some attorneys believe that a transferee court is more apt to reverse a transferred case than a case arising in its own district.⁸³⁷ The uncertainty caused by the transfer of cases may affect judges as well. One appellate judge noted that it is “fundamentally unfair for the trial judge[’s] conduct to be determined by standards subject to the whims of the transfer system.”⁸³⁸

The Legislature should stop requiring docket-equalization transfers and, instead, should prohibit them. The better practice would be for the Supreme Court to use its administrative power to assign judges from the less-busy courts of appeals to the busier courts of appeals when necessary to address caseload disparity among the courts of appeals.

Trial Courts

Introduction. In 1876, when the current constitution was adopted, Texas had a rational three-tier trial court structure having no overlapping subject-matter jurisdiction in criminal cases, and very little overlapping subject-matter jurisdiction in civil cases.⁸³⁹ Today, “[t]he jurisdictional structure of the Texas court system is unimaginably abstruse.”⁸⁴⁰

Given Texas’s entangled jurisdictional scheme, what should be done? Should the Legislature structurally unify the trial courts by creating a single-trial-court system that handles variations in litigation by assigning tasks to specific trial courts? Second, if complete unification cannot be achieved, are there steps that can be taken to rationalize Texas’s trial court system? Finally, should the Legislature create a mechanism for Texas’s trial courts to handle modern, complex litigation?

Should the Trial Courts be Structurally Unified? In 1996, the National Center for State Courts published a paper on the funding of state courts. The paper provides such a cogent discussion about unification of trial courts that can be summarized as follows:

Better Use of Judges. It is rare that both courts in a two-tier system are operating at the same level. Generally, one is far busier than the other. The immediate effect of unification is to create a single pool of judges who can be assigned to areas of need without reference to jurisdictional boundaries. The pooling of judges usually reduces backlog, if one exists, and also reduces the need for additional judges.

Tighter Management Structure. There is rarely any justification for two adjacent courts having separate management structures: two presiding judges, two court administrators, and two sets of supervisors. Unification produces a single

administrative structure, which not only reduces costs of operation but also can provide a more effective decision-making process. Unification also tends to reduce the number of supervisors in proportion to the number of employees, reducing middle management costs.

Case Management. Having two courts with different subject matter jurisdiction creates an arbitrary division of workload, which often bears no relation to the resources of the two courts and which creates problems of redundancy, transfer, jurisdictional squabbling, and delay. One benefit of unification is that it ends this intrinsically inefficient division by creating one court of general jurisdiction. The benefits of unification for case management are numerous:

- There are fewer steps in case processing and fewer opportunities for delay;
- Filing of papers can be at one point, facilitating case control and reducing clerical needs;
- Cases are not transferred between courts for jurisdictional reasons or held up by jurisdictional disputes;
- Tracking cases and developing case management information systems is greatly simplified;
- Where the courts have areas of concurrent jurisdiction, the opportunity for forum shopping is reduced;
- Attorneys operate under one set of court rules, and the public finds it easier to deal with one court;
- A common scheduling system places case management under common goals and procedures, facilitating caseflow management;
- The incidence of attorney scheduling conflict is reduced because attorneys are not subject to two or more separate court calendars; and
- Disposition reporting to a state repository will be easier as there will not have to be two dispositions reported [i]n the same case and less likelihood that a case cannot be matched to a person through fingerprints.

Staffing Efficiencies. Unification leads to consolidation of two court staffs that generally have similar functions. This is particularly true of clerical staff... [S]taffs can be cross-trained and deployed more efficiently. This may lead to some diminution in the number of authorized positions, but the most likely benefit is in cost avoidance by being able to handle increased workload without having to increase staff.

Record Systems and Automation. Very often two or more adjacent courts in the same county have very different approaches to computers and record keeping and operate in splendid isolation...The unification of the systems may create efficiencies in personnel staffing and cost of computer usage. It may lead to the adoption of the best of the two existing systems, or perhaps

the creation of a third system that integrates the two courts. One of the most obvious savings is reduction in the number of lists and other outputs required of the computer system.

Good reasons exist to structurally unify Texas's trial courts, and there is evidence that it can be done by a large state like Texas. California successfully unified its trial courts, completing the task in the mid-1990s with the merger of its municipal courts into its superior courts. Florida simplified its trial court structure in the 1970s.

California now has a superior court in each its fifty-eight counties. It has over 400 courthouse locations and 1498 superior court judges. The superior courts have trial jurisdiction over all criminal and civil matters, but within each superior court there may be divisions that exclusively handle specific types of cases like family law matters, small claims, probate matters, mental health cases, traffic matters, criminal cases, and complex litigation. Specific divisions are not mandated by state law, but are determined on a county-by-county basis.⁸⁴¹ Illinois, Iowa, and Minnesota have similar single-tier trial court structures.⁸⁴²

Other states have opted for a two-tier trial court structure. The trial courts in Florida, for example, are the circuit courts and county courts. There are twenty circuits in Florida, each with a court. The number of judges on a circuit court varies depending on the population and caseload. The circuit courts have original jurisdiction over, among other things, civil matters involving more than \$15,000 and felonies. Each Florida county has a county court, and the number of judges on a particular county court depends on the population and caseload. These courts have jurisdiction of, among other things, civil disputes involving less than \$15,000, traffic offenses and misdemeanors.⁸⁴³ Ten other states have similar two-tier trial court structures.⁸⁴⁴

Achieving unification of the trial courts would require constitutional amendments, major statutory change, and a serious effort by the Legislature, county and city governments, and the judiciary. Describing the many steps necessary to achieve unification of Texas's trial courts is beyond the scope of this paper. But the experiences of other large states show that where there is a will to rationalize the court system, there is a way. Either a single tier of trial courts or a two-tier trial court system, without overlapping subject-matter jurisdiction, would greatly improve the Texas court structure. Unification of the trial courts is a worthy task.

Are There Steps Short of Comprehensive Unification to Rationalize the System?

While complete unification of the Texas trial court system is the most desirable goal, it is wise to consider steps short of complete unification that would help rationalize the trial court structure. The Legislature can take a number of steps that would improve the administration of justice without the need to amend the Texas Constitution.

Convert the County Courts at Law and Probate Courts into District Courts.

With respect to the State's trial courts, the constitution provides that the judicial power is vested in district courts, county courts, commissioners courts, and courts of justices of the peace.⁸⁴⁵ It specifies some elements of district court and justice court jurisdiction.⁸⁴⁶ As to constitutional county courts, it

provides they have jurisdiction “as provided by law,” and the county judge “has judicial functions as provided by law.”⁸⁴⁷ Because the constitution does not specify constitutional county court jurisdiction, the Legislature has the power to remove judicial authority from the constitutional county courts, and it has done so in some counties. Consequently, the trial courts that must exist and exercise judicial authority according to the constitution are the district courts and justice courts. The other trial courts in Texas’s judicial system (the county courts at law, probate courts, constitutional county courts, small claims courts and municipal courts⁸⁴⁸) can be merged into other courts or stripped of their judicial functions.

Whatever justification there may have been for a multi-tiered trial court system in the past, there currently is no sound reason to have county courts at law, statutory probate courts, and district courts. The Legislature should convert the county courts at law and statutory probate courts into district courts. This can be done through relatively simple statutory changes, without constitutional amendments. Criminal, civil, probate, guardianship, juvenile, appellate and other jurisdiction currently exercised by the county courts at law would be assumed by the district courts. Once these courts are merged by the Legislature, the Supreme Court, through its administrative powers, could designate particular district courts to handle specific types of cases (like family law, probate, and juvenile matters, mental health cases, criminal misdemeanors and felonies, small civil cases, or complex litigation) in counties having several district courts. If the Supreme Court chose not to designate the trial courts to handle specific types of cases, it could set up a mechanism for the regional or local administrative judges to make those designations.

Converting all statutory courts into district courts would require the State to assume additional funding of the court system. The State pays district judges a salary of \$125,000 per year. Consequently, if the statutory courts are converted to district courts, the State would be responsible for paying these new district judges’ salaries and withholding taxes, and for providing insurance and retirement benefits. There are 217 statutory county courts in operation—one-half the number of district courts—and seventeen statutory probate courts in operation. The Legislature appropriated over \$51 million for district judge salaries last year.⁸⁴⁹ Therefore, it is likely the State would be responsible for another \$29 million in district court salaries annually if 234 statutory judgeships were converted to district judgeships. It also would be responsible for approximately \$5 million for the State’s share of withholding taxes and for the cost of insurance and retirement benefits payable on behalf of the new district judges.⁸⁵⁰

On the other hand, an overall reduction in judicial expenditures might be achieved through a merger of these courts. “It is rare that both courts in a two-tier system are operating at the same level. Generally, one is far busier than the other. The immediate effect of unification is to create a single pool of judges who can be assigned to areas of need without reference to juris-

dictional boundaries. The pooling of judges usually reduces backlog, if one exists, and also reduces the need for additional judges.”⁸⁵¹ Merging courts probably would allow Texas to shrink the size of its trial court judiciary and, thus, save money.

Additionally, in fourteen Texas counties, the county courts at law have concurrent jurisdiction with the district courts in civil cases, so there is no upper monetary limit on the civil cases that may be brought in those courts.⁸⁵² When a vacancy occurs on these courts, it is filled by the county commissioners, not the Governor, and cases tried in these courts are tried to a six-person, rather than a twelve-person, jury.⁸⁵³ It does not make sense that these courts, which exercise the same jurisdiction as district courts in civil matters, operate separately and differently from district courts.

If county courts at law are not converted into district courts, the Legislature should at least cease creating new county courts at law having unlimited civil jurisdiction and enact legislation making county court at law jurisdiction uniform throughout the state. Currently, the generally applicable statute places the monetary limit on county court at law jurisdiction at \$100,000. If the Legislature does not convert the statutory county courts into district courts, then it should consider raising county court at law civil jurisdiction to \$200,000 and making that limit applicable to all county courts at law throughout the state.

Redistrict the District Courts. Texas’s district court districts overlap geographically throughout the State. Overlapping districts appear to be unique to Texas. Article V, § 7a of the Texas Constitution requires the reapportionment of district court districts after every decennial census.⁸⁵⁴ The Judicial Districts Board is supposed to convene during the third year following the year in which the federal decennial census is taken to reapportion the districts unless the Legislature already has reapportioned the districts following that census. If the Judicial Districts Board fails to make a statewide apportionment, the Legislative Redistricting Board is supposed to do the job. Unfortunately, since the adoption of § 7a, two decennial censuses have been conducted, but the district court districts have not been reconfigured.

Thus, another step in fixing Texas’s trial court structure is to redistrict the district courts, as the constitution requires, and eliminate overlapping districts. The need for comprehensive judicial redistricting would be made more pressing if the statutory county and probate courts were converted to district courts, as is recommended in this paper. But comprehensive redistricting should be done whether or not the statutory trial courts are merged into the district courts. The Legislature should appropriate funds to the OCA to provide staff to the Judicial Districts Board to accomplish its constitutionally mandated task.

Create a Mechanism for Handling Complex Cases. The federal court system has a four-tier structure, but it also has courts to deal with special kinds of litigation.⁸⁵⁵ California, New York, Florida and a number of other states recognize that some litigation requires focused or specialized treatment for fair and effi-

cient disposition. These states have created complex litigation courts, commercial litigation courts, or business litigation courts to provide focused treatment for the types of cases that often arise in modern litigation. They have found the courts to be a success.⁸⁵⁶ Texas has no uniform method for dealing with complex litigation, and another step in rationalizing Texas's trial court system would be to create such a method.⁸⁵⁷

Increase the Threshold for District Court Jurisdiction. Neither the current constitution nor any statute provides a minimum amount in controversy necessary to confer district court jurisdiction. Instead, the constitution provides that district courts do not have jurisdiction if “exclusive, appellate, or original jurisdiction” has been conferred on another court “by this Constitution or other law.”⁸⁵⁸ The constitution also provides that the Legislature can conform the jurisdiction of district courts and other courts inferior thereto.⁸⁵⁹

Currently, justice courts have *exclusive* jurisdiction of civil cases in which the amount in controversy is \$200 or below and *original* jurisdiction of civil cases in which the amount in controversy is up to \$5000.⁸⁶⁰ Consequently, it appears that the lower monetary limit of district court jurisdiction may be \$200, although some appellate courts have determined that it is \$500, and a literal interpretation of the constitution suggests it is \$5000.⁸⁶¹

The district courts should not have jurisdiction of cases with only \$200 or \$500 in controversy. Those cases should be handled by lower trial courts. Furthermore, any steps taken to eliminate overlapping subject-matter jurisdiction would decrease confusion and prevent forum shopping. Texas's trial court structure could be improved by increasing the lower limit of district court jurisdiction so that district court jurisdiction begins at the upper limit of justice court jurisdiction, which we are recommending be increased to \$10,000.⁸⁶² For purposes of defining the district court's jurisdiction, “amount in controversy” should be defined to mean “the amount sought by the plaintiff, including all amounts sought through statutory penalties or damages, exemplary damages, and all other kinds of penalties or damages, and attorney fees, but not including pre- or post-judgment interest or costs of court.”

Remove Judicial Authority from Some Constitutional County Courts. As stated earlier, there are two distinct courts commonly referred to as “county courts”—the statutory county courts (known as the county courts at law) and the constitutional county courts. Under Article V, § 16 of the Texas Constitution, the Legislature has the authority to define constitutional county court jurisdiction, and it can remove all judicial authority from these courts, either individually or universally.

Historically, constitutional county courts have had limited civil, probate, juvenile, and misdemeanor criminal jurisdiction.⁸⁶³ Most still have probate, juvenile, and misdemeanor criminal jurisdiction. Statutory county courts at law have overlapping subject-matter jurisdiction with the constitutional county courts, but only eighty-four of Texas's 254 counties have a statutory

county court at law. Consequently, in many small counties, the constitutional county court is responsible for probating wills, issuing letters testamentary, and resolving juvenile and misdemeanor criminal matters.

Another step in restructuring Texas's trial courts would be to remove judicial authority from constitutional county courts in counties currently having either a district court sitting only in that county or a county court at law (which courts would be converted to district courts under the proposals made in this paper) in that county. Thus, counties currently having a single-county district court or county court at law would continue to have a judge available to probate wills, issue letters testamentary, administer probate and guardianship estates, and handle other matters that sometimes require immediate attention but are outside justice court jurisdiction. The other counties would have the constitutional county court continue to handle those matters.

Under this proposal, a number of constitutional county courts will continue to exercise judicial functions. The jurisdiction of those courts should be made uniform. They should retain jurisdiction of those matters that, historically, justice of the peace courts have not handled, like probate and guardianship cases; but overlapping subject-matter jurisdiction between the justice courts and constitutional county courts should be eliminated.

Eliminate Small Claims Courts. All justices of the peace in Texas also serve as small claims court judges. Justice courts and small claims courts occupy the same facilities, have the same judge, and are served by the same staff.⁸⁶⁴ An outside observer cannot tell the difference between the two courts. This has an *Alice in Wonderland* quality, in which one peering through the looking glass can wonder whether the person at the court's desk is a small claims judge or a justice of the peace.

The two courts' jurisdiction is overlapping, but not identical.⁸⁶⁵ In regard to civil matters, the upper monetary limit is identical for the two courts in that both have jurisdiction of matters in which the amount in controversy does not exceed \$5000. The constitution, however, gives justice of the peace courts *exclusive* jurisdiction of matters in which the amount in controversy is \$200 or less.⁸⁶⁶ In other words, unless the constitution is ignored, a small claims court does not have jurisdiction to hear the smallest claims. Those must be heard by the justice court—of course, we are talking about the same person acting sometimes as a justice of the peace and sometimes as a small claims judge.

The purpose of a small claims court is to have a simplified, efficient procedure, with the "sole objective being to dispense speedy justice between the parties."⁸⁶⁷ Formal pleadings are not required and the hearing is informal. Supreme Court Justice Nathan Hecht, however, argues that "it is doubtful whether the [Small Claims Court] Act did much to facilitate the adjudication of small claims already being handled by the same justices of the peace in the justice courts."⁸⁶⁸ According to Justice Hecht:

The Act prescribed procedures that are less extensive than the rules applicable in justice courts but not appreciably simpler in actual practice. For example, the Act permits an action to be commenced by filing a simple, sworn statement, but does not permit oral pleadings, which are standard in justice court. Discovery is permitted in justice court, and while it was not expressly permitted at first in small claims courts, it is now.⁸⁶⁹

A losing litigant in a small claims court case can appeal to the constitutional county court or the county court at law (if there is one) if the amount in controversy exceeds \$20. The Government Code provides that the judgment of the constitutional county court or county court at law on the appeal “is final.” In this context, the Texas Supreme Court has interpreted “final” to mean that a further appeal cannot be taken from the constitutional county court or county court at law to the court of appeals if the case originated in the small claims court, even though the same judgment could be appealed to the court of appeals if the case had originated in a justice court, having the same judge sitting in the same courtroom.⁸⁷⁰

In other words, outside observers cannot tell the difference between justice courts and small claims courts; the procedure in small claims court is not particularly simpler than in justice court; small claims courts do not have jurisdiction of the smallest claims; and a small claims court judgment cannot be reviewed by the court of appeals, but the same judgment could be reviewed by the court of appeals if it had been rendered by the justice court sitting in the same courtroom. The same complexity that pervades the entire Texas judicial system applies to the very court that ought to be the most transparent and easy to comprehend.

Another step in fixing the current Texas structure would be for the Legislature to eliminate small claims courts as presently constituted, leaving the justice courts to fill that role, and to require the Texas Supreme Court to promulgate rules providing for an informal and inexpensive procedure for quickly disposing of “small claims.” The Legislature could either define “small claims” by statute or defer that determination to the Supreme Court.

Increase the Maximum Civil Jurisdiction of Justice of the Peace Courts.

By constitution, justice of the peace courts have exclusive jurisdiction in civil matters in which the amount in controversy is \$200 or less. By statute, they have original jurisdiction of civil matters in which the amount in controversy is not more than \$5000.⁸⁷¹ There is little uniformity among other states as to what constitutes a small claim or as to the lower monetary jurisdictional limit on courts having limited jurisdiction.⁸⁷² “Small claims” range from \$1500 to \$25,000, and the jurisdiction of other limited-jurisdiction trial courts ranges from \$2,500 to \$51,000.⁸⁷³ Florida’s limited-jurisdiction trial courts for example, have jurisdiction of civil disputes involving less than \$15,000, but the judges of those courts must be members of the Florida Bar.⁸⁷⁴ Justices of the peace in Texas are not required to be licensed attorneys, and most are not.⁸⁷⁵

In 1876, when the current constitution was adopted, justice courts' upper monetary jurisdiction was \$200. The United States Department of Labor's inflation calculator only goes back to 1913, but if one assumes that inflation during the thirty-seven years before 1913 was equal to inflation in the thirty-seven years after 1913, \$200 in 1876 is equal to \$10,030 today.⁸⁷⁶

Texas residents need an expeditious and convenient method for resolving relatively small civil disputes. Even without requiring that justices of the peace be licensed attorneys, the Texas Legislature should give justice courts civil jurisdiction of cases in which the amount in controversy does not exceed \$10,000. For purposes of this statute, "amount in controversy" should be defined to mean "the amount sought by the plaintiff, including all amounts sought through statutory penalties or damages, exemplary damages, and all other kinds of penalties or damages, and attorney fees, but not including pre- or post-judgment interest or costs of court." The statute should further provide that a justice court cannot render judgment in excess of its jurisdictional limit, except to the extent pre- or post-judgment interest or costs of court cause the judgment to exceed the court's jurisdictional limit.

Provide for District Court Jurisdiction of Larger Commercial Eviction Cases and for a Right of Appeal. Justice courts have exclusive jurisdiction of all eviction cases, without regard to the amount in controversy.⁸⁷⁷ An action to evict a tenant leasing 100,000 square feet of a "Class A" office building for a perceived lease violation is heard by the same justice of the peace who hears actions to evict tenants from \$200 per month residential units for failing to pay rent. In the context of significant commercial disputes, the eviction process is antiquated and inappropriate.

First, the expedited process, which may be appropriate when seeking the eviction of a person from residential property, is not appropriate in commercial lease disputes in which there is a great deal of money at stake. Second, the landlord who files an eviction action may obtain possession on the seventh day after posting a bond, unless the tenant posts a counterbond. Under the law, the amount of landlord's bond and the tenant's counterbond are not the same.⁸⁷⁸ In a significant commercial lease dispute, the amount of the bond may be substantial, and it is possible for the setting of the bond amounts to make it easier or more difficult for one party or the other to have possession of the property while the matter is in litigation. Third, the justice court's judgment awarding possession to one side or the other may be appealed to the constitutional county court or county court at law, but the county court's judgment is final in commercial cases and cannot be appealed to a court of appeals.⁸⁷⁹ This anomaly unfairly and unreasonably restricts the appeal rights of litigants in commercial eviction cases.

Texas statutes should be amended to: (1) give district courts concurrent jurisdiction of commercial eviction cases in which the amount in controversy is beyond the jurisdictional limits of the justice court; (2) provide a mechanism

by which a defendant can remove such a commercial case from justice court to district court; and (3) allow an appeal from a county court's judgment in a commercial eviction case, as in any other case. The Legislature also should direct the Supreme Court to promulgate rules: (1) providing for the removal of commercial eviction cases from, and remand of those cases to, justice courts; (2) for determining the amount in controversy in commercial eviction cases; (3) for the expeditious resolution of commercial eviction cases by district courts to ensure that removal is not taken for the sole purpose of slowing an appropriate eviction; and (4) for sanctions in the event of the inappropriate removal of an eviction case from a justice court.

Synopsis of Changes. If the steps suggested above are taken, Texas trial court structure would be reduced from seven types of trial courts to three in some counties and four in others.

- The counties that currently do not have a county court at law or district court sitting only in that county would have justice courts and a constitutional county court, and would be within at least one multi-county district court district. The justice courts' civil jurisdiction would be exclusive for cases with \$10,000 or less in controversy, at which point the district court's jurisdiction would begin. The constitutional county court's jurisdiction would encompass probate, guardianship, juvenile and other matters that might require immediate attention and over which those courts currently have, but the justice courts do not have, jurisdiction. The constitutional county courts would not have general civil jurisdiction.
- All other counties would have justice courts and would be within at least one district court district. The justice courts' civil jurisdiction would be exclusive for cases with \$10,000 or less in controversy, at which point district court jurisdiction would begin.
- District courts throughout Texas would have the jurisdiction they currently possess (except that the monetary threshold would be increased from \$200 to \$10,000) plus the jurisdiction currently held by the statutory county courts and probate courts, because those courts would be converted to district courts.
- District courts would have concurrent jurisdiction with justice courts of eviction cases in which the amount in controversy exceeds \$10,000.
- Municipal courts would remain in place throughout the State, with no changes to their jurisdiction or operation.

Possible Administrative and Financial Changes

Court Administration. Today, the Texas Supreme Court has most of the administrative powers possessed by other states' high courts.⁸⁸⁰ The major problem with Texas's administrative structure is that its nine regional administrative judges are appointed by the Governor, and the local administrative judges are elected by their peers, for a specified term of office.⁸⁸¹

Consequently, these administrative officers are not particularly accountable to the Supreme Court or any judicial officer or agency. The Legislature should amend the law to provide that the regional administrative judges are appointed, and can be removed, by the Texas Supreme Court. The regional administrative judge, in turn, should be empowered to appoint the local administrative judges in her district, in consultation with the local judges. These steps will enhance the Supreme Court's administrative control of the Texas judicial system.

Financial Matters

Should State Revenue be the Exclusive Source of Funds for the Texas Judicial System?

The State of Texas provides all funding for the Supreme Court and the Court of Criminal Appeals. For the courts of appeals, the State pays most of the salaries of the judges and all of the salaries for other court employees, but little else. The counties in the district supplement the justices' salaries and provide facilities for the court.⁸⁸²

For the district courts, the State pays most of the district judge's salary, but not the salaries of court personnel. The counties in the district typically supplement the judge's salary, and each county provides facilities for the court and pays court personnel working in that county. Individual counties pay all costs, including judges' salaries, associated with constitutional county courts, statutory county courts, probate courts, and justice courts sitting in that county, but the state may supplement some of these judges' salaries. Municipalities pay all costs associated with municipal courts.⁸⁸³ Because money is expended by 254 counties and hundreds of cities to support the judicial system, the total amount of money spent each year in Texas for this purpose is unknown.

What is known is that the Texas Legislature appropriated \$69.4 billion dollars for all state spending for fiscal year 2006, of which only \$261 million—less than 4/10th of one percent—was appropriated to support Texas's judicial system.⁸⁸⁴ According to the United States Department of Justice, Bureau of Justice Statistics, only three states—Ohio, South Carolina and Tennessee—allocate a smaller percentage of their state budget to supporting the judiciary than does Texas.⁸⁸⁵ Texas, however, is not the only state with a decentralized judicial funding system and a heavy reliance on local revenue. According to one source, by 1995, thirty-one state court systems were funded primarily from the state's general fund.⁸⁸⁶ The other seventeen were funded primarily from local revenue.

Should Texas join the majority of states and assume the obligation of being the primary funding source for its judicial system?

It first should be understood that state government financing of trial courts is not necessarily linked to structural unification of those courts.⁸⁸⁷ These are separate issues. Additionally, state government financing of trial courts is not necessarily tied to centralized judicial budgeting.⁸⁸⁸ California, for example, has moved from local funding to state funding for its trial courts, without centralizing budgeting, by using block grants to the counties.⁸⁸⁹ In other words, it is possible for the State of Texas to be the primary source of financial support for its judicial system without unifying the trial courts or centralizing budgeting, although this paper recommends both unifying the trial courts and centralizing budgeting.

Historically, local financing of the judicial system, except the appellate judiciary, was the norm among the states.⁸⁹⁰ The early impetus for state financing was to improve the court system and not to provide fiscal relief to local governments.⁸⁹¹ The perception was that state financing would help create uniform procedures and systems, increase professionalism in the judiciary, improve court management, effect a more equitable and efficient allocation of resources, remove judges from local fiscal politics, and secure a more stable and abundant funding base for the judicial system.⁸⁹² State funding was not without critics, however.

By the late 1970s, state financing started to come under critical examination. Critics of state funding made the following criticisms, among others:

- Removing courts from the local government orbit made them more remote from the local community and less service-oriented;
- Operating costs increased without any demonstrable gains in productivity;
- Trial courts were denied any real role in the budget process or purchasing and had little incentive to be efficient;
- Bureaucracy was increased, and too many petty matters of financial administration were centralized; [and]
- States are not immune to fiscal problems, but the trial courts placed all their eggs in the “state basket”[.]⁸⁹³

By the 1980s, local fiscal problems began to drive the movement toward state financing of the judicial system.⁸⁹⁴ In the late 1970s, for example, New York City had serious fiscal problems that contributed to its adoption of state financing of its courts.⁸⁹⁵ Additionally—

Constitutional requirements regarding indigent defense, treatment of juveniles, and protection of the mentally incompetent created a set of large and volatile expenditures that could be imposed by judicial mandate. The demands of modernized court administration...created demands for various new technologies...Breakdown in family structure caused large expenditures for social support services, counseling, juvenile detention facilities, foster care, and child support enforcement. A collateral effect of social disintegration was the need for more juvenile and adult probation officers. No longer did a court consist of a judge, a reporter, and some clerks. Courts were becoming complex administrative entities.⁸⁹⁶

In other words, judicial decisions and state and federal mandates have significantly increased the burden on the court system and on the local governments that support the court system. If decisions and conditions outside the control of local governments are going to drive the costs of the judicial system, fairness suggests that the local government be relieved of those costs.

Additionally, if the State were to assume the primary responsibility for funding the judicial system and the Supreme Court were given the task of preparing and submitting a budget to the Legislature on behalf of the entire judiciary, trial judges

likely would be more responsive to the Supreme Court, which could enhance the Court's ability to ensure "the efficient administration of the judicial branch"⁸⁹⁷ and exercise its "supervisory and administrative control over the judicial branch."⁸⁹⁸

In sum, the question of whether to shift to the state government the primary responsibility for funding the entire judicial system is both complex and important. A majority of states rely primarily on state funding because, on the whole, state funding is a much better alternative. The old system that relied primarily on local funding was appropriate to a simpler time, before courts became "complex administrative entities." Texas should follow the lead of a majority of other states and assume the primary responsibility for funding Texas's judicial system as part of an overall rationalization of the court system to achieve greater coherence, accountability and efficiency.

Should Compensation of Judges Be Increased? Texas's citizens are entitled to an independent and experienced judiciary. Attaining and retaining an independent and experienced judiciary requires, in part, that the judiciary be adequately compensated. In his address to the Texas Legislature at the beginning of the 2005 legislative session, Texas Supreme Court Chief Justice Wallace Jefferson argued for increased compensation for Texas's judges.

While strong, the judiciary currently faces a challenge that calls for legislative and executive action. The challenge is to fund the judiciary at a level sufficient to retain our most capable and experienced judges. Texas is losing judges at all levels of the judiciary due, at least in part, to salaries that have not kept pace with the times...[L]et us admit to ourselves that the judiciary suffers from the loss of their expertise, integrity, and experience. Teddy Roosevelt once said: "It is not befitting the dignity of the nation that its most honored public servants should be paid sums so small compared to what they would earn in private life that the performance of public service by them implies an exceedingly heavy pecuniary sacrifice." Those words are as true today as they were in 1908. Texans deserve to walk into a Texas courtroom knowing that their cases will be heard by women and men of talent and experience, judges who have been recruited from among the most capable and successful lawyers. I want all Texans in every area of the state, and all litigants from outside the state who are properly before Texas courts, to have access to a judiciary that includes the most capable, the most dedicated, and the most knowledgeable and experienced.⁸⁹⁹

At the time Chief Justice Jefferson delivered this address to the Legislature, Texas ranked thirty-ninth in its compensation of the judges on its courts of last resort, thirty-fourth in its compensation of intermediate appellate court judges, and twenty-eighth in its compensation of trial court judges.⁹⁰⁰

The Legislature heeded Chief Justice Jefferson's call for judicial compensation increases. Texas's appellate court, district court and county court judges were given a compensation increase effective December 1, 2005.⁹⁰¹ Today, the Chief Justice of

the Texas Supreme Court and the presiding judge of the Court of Criminal Appeals each are paid \$152,500 per year, and the other justices and judges on those courts are paid \$150,000 per year. The Chief Justice of each of the courts of appeals is paid \$147,500 per year and the other justices of those courts are paid \$145,000 per year. District court judges are paid between \$125,000 and \$132,500 per year, depending on local supplementation of the base salary.⁹⁰²

At the same time it enacted these increases, the Legislature commanded OCA to collect data relating to the reasons why Texas's judges resign from office or do not seek reelection, and to report its findings to the Governor, lieutenant governor, and the Legislature.⁹⁰³ The report also must include whether the compensation of state judges exceeds, is equal to, or is less than the compensation of judges at corresponding levels in the five states closest in population to Texas, and whether the compensation of state judges exceeds, is equal to, or is less than the average salary of lawyers engaged in the private practice of law.⁹⁰⁴ The purpose of the report is to ensure that the compensation of state judges is adequate and appropriate.⁹⁰⁵

Today, Texas judges receive higher compensation than the fifty-state average but lag behind the compensation paid to judges by other large states in judicial compensation.⁹⁰⁶ Texas's judges should receive additional compensation increases in the near future to ensure that Texas judges are compensated at the same level as their counterparts in other states and that the Texas judicial system can attract and retain the highest quality judges.

CREATING COMPLEX LITIGATION COURTS

Overview

This paper advocates a modernization of the Texas courts that will improve efficiency and establish a trial-assignment system that will coherently and rationally place legal proceedings before judges best able to conduct those proceedings. The paper contemplates that, for example, a family law case will be assigned to a judge whose career has provided him or her with knowledge and experience in that area of the law. Similarly, the paper envisions that a district judge who has experience in practice and on the bench in criminal matters would be assigned important or difficult criminal cases. For the same reason, this paper recommends that court reorganization include a system to properly assign complex civil litigation to judges who have the background and ability to handle litigation that needs specialized knowledge, extraordinary attention, or intensive management. This part of the paper discusses the options available for handling complex cases in Texas's judicial system.

Selecting the Court or Judge

Four options for selecting the court or judge to handle complex cases are available. In this section, we state those options and summarize of the relative merits of each. In the following sections, we discuss particular topics, like jurisdiction and venue, that impact the various alternative methods for handling complex lawsuits.

First, the Legislature could exercise its power under Article V, § 1 of the Texas Constitution to establish new complex litigation courts.⁹⁰⁷ Creating new courts would allow those courts to concentrate on complex cases, which might not be true if existing courts were used. On the other hand, this paper recommends unification of Texas's trial courts.⁹⁰⁸ Creation of a new tier of trial courts is contrary to that recommendation. Additionally, unless the Constitution is amended to allow the appointment of these judges,⁹⁰⁹ they would have to be elected by the voters in their regions. A significant reason for having complex litigation courts is to guarantee that difficult civil cases are handled by the most capable and knowledgeable judges, but it is proven that popular election produces uneven results in the quality of judges. Furthermore, because there would be only a few complex litigation courts, the election campaigns for these courts, for good or ill, probably would draw significant interest—and campaign contributions—from attorneys and actual or potential litigants who routinely are involved in complex litigation. They would be able to “concentrate fire” on a few judicial races, possibly to the detriment of other judicial races. Finally, creating new elected positions in Texas requires pre-clearance from the United States Department of Justice under the Voting Rights Act, which would not be required if existing courts were designated to handle complex cases.⁹¹⁰

Second, the Legislature could amend specific sections of Chapter 24 of the Government Code to designate existing district courts as complex litigation courts, which is similar to its designation of district courts as family, civil, or criminal courts. This option would allow the Legislature to identify specific judges who have the experience and knowledge to handle complex cases, and to identify specific courts having the time and resources to support complex litigation. It also would allow the Legislature to adjust the number of complex liti-

gation courts from time to time as needed to handle the caseload. But it also would require that the Legislature reevaluate complex court designations during each biennial legislative session. And, because of the difficulties intrinsic to passing legislation, there is no guarantee that the complex court designations would be changed in a timely manner as circumstances change. Consequently, if a “complex court” judge retires, dies or is defeated in an election and the Legislature does not designate a different court as the complex litigation court to assume that judge’s docket of complex cases, less skilled judges could end up handling the most complicated cases. As most legislators surely would agree, the Legislature probably is not well suited to making judgments about the relative abilities of trial judges.

Third, the Legislature could empower the Supreme Court to designate existing district courts as complex litigation courts. This alternative provides desirable flexibility. The Supreme Court, as supervisor of the Office of Court Administration, is in a good position to determine the number of courts needed to handle the caseload and to identify judges having the skills necessary to handle complex cases. Additionally, the Court, which functions year-around, has the ability to change complex court designations to immediately address the retirement, death or defeat of judges handling complex cases. This paper consistently recommends that the Texas judiciary should be subject to the administrative control of the Supreme Court, and having the Supreme Court involved in the assignment of complex trial courts is consistent with that recommendation.

Finally, the Legislature could create a procedure like the multidistrict litigation (“MDL”) procedure⁹¹¹ in which an MDL-like panel would designate courts on an ad hoc basis to receive complex cases. Under the current MDL procedure, any party to a case pending in a county, probate, or district court can file a motion with the Judicial Panel on Multidistrict Litigation (“MDL Panel”) asking it to assign the case to a judge for pretrial proceedings.⁹¹² The purpose of the MDL procedure is to allow the consolidation of factually related cases for efficient and consistent pretrial treatment. The MDL Panel evaluates the motion and either grants it and orders that the case be transferred to a specified court for pretrial proceedings, or denies it, in which event the case remains in the court in which it was filed.

In the context of complex litigation, the procedure would be the same—any party could request that the Complex Litigation Panel, which would be comprised of five judges appointed by the Supreme Court, transfer a case to an appropriate complex litigation trial court for further proceedings. The Panel then would decide, subject to rules promulgated by the Supreme Court, whether the case is complex. If so, the Panel would order the case transferred to an appropriate trial court to handle further proceedings in that case. Allowing an MDL-like panel to determine whether a case is complex and to select courts on an *ad hoc* basis provides more flexibility than any other option, but maintains administrative control by the Supreme Court through the exercise of its rule-making function and its appointment of judges to the Panel.

Kinds of Cases the Courts Could Handle

Whether existing district courts are used or new courts are created, the kinds of cases the courts will handle must be defined.

Other States' Definitions of "Complex Case." In Arizona and California, a "complex case" is defined as a civil action requiring continuous or exceptional "judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable," and "promote an effective decision making process by the court, the parties and counsel."⁹¹³ In both states, the factors to be considered include: (1) numerous pretrial motions raising difficult or novel legal issues that will be time consuming to resolve; (2) management of a large number of witnesses or a substantial amount of documentary evidence; (3) management of a large number of separately represented parties; (4) coordination with related actions pending in one or more courts in other counties, states or countries, or in a federal court; and (5) substantial post-judgment judicial supervision.⁹¹⁴ These factors, for the most part, are useful in managing a local docket because they essentially define a complex case as one that, in the opinion of a judge, will require exceptional resources.

Arizona also includes whether: (1) the case would benefit from permanent assignment to a judge who had acquired a substantial body of knowledge in a specific area of the law; (2) the case involves inherently complex legal issues; (3) factors justify the expeditious resolution of an otherwise complex dispute; and (4) any other factor in the interests of justice warrants a complex designation or as otherwise required to serve the interests of justice.⁹¹⁵ Here, Arizona's criteria recognize that a trial judge's ability and expertise can be important in resolving complex cases and that leeway in determining which cases are "complex" may be appropriate.

California provisionally designates as complex: antitrust or trade regulation claims, construction defect claims involving many parties or structures, securities claims or investment losses involving many parties, environmental or toxic tort claims involving many parties, claims involving mass torts, claims involving class actions, and insurance coverage claims arising out of any of these.⁹¹⁶ By "provisionally" designating these kinds of cases as complex, California recognizes that some kinds of cases typically are complex, but that they are not always complex.

In Connecticut, the Complex Litigation Docket is designed for cases involving multiple litigants, legally intricate issues, lengthy trials or claims for damages that could total millions of dollars. By this definition, Connecticut recognizes that a variety of criteria, some of which are unrelated to the claims presented, may make a case complex.

Defining "Complex Litigation" if New Courts are Created. The criteria used by other states for determining if a case is complex require that a judge exercise discretion in making the determination. Most of the criteria are not based on information that may be garnered from the face of the plaintiff's petition, although California recognizes that some kinds of cases typically (but not always) are complex. Thus, these definitions, and the wide discretion they afford, are not suited for use in a jurisdiction statute, which would be required if new courts are created, because a jurisdiction statute must be precise enough to allow courts and litigants to easily determine whether a court has jurisdiction.

If new courts are created and a jurisdiction statute is required, the simplest way to define the courts' jurisdiction would be to base jurisdiction on the amount in controversy. Obviously, basing jurisdiction on an amount in controversy requires that a somewhat arbitrary amount of money be prescribed. Federal diversity jurisdiction is based on an amount

in controversy greater than \$75,000,⁹¹⁷ but that amount seems substantially too low for “complex litigation.” The OCA does not collect data on the amount of damages alleged or the amount awarded in litigation. Consequently, comprehensive information is not available to determine how many cases are filed each year seeking a particular amount.

Additionally, jurisdiction based solely on the amount in controversy does not capture all litigation that reasonably could be considered complex. As an alternative to using only amount in controversy, the courts’ jurisdiction might be defined by looking to both the amount in controversy and the causes of action pleaded:

Complex litigation courts have jurisdiction of: (1) a case in which the matter in controversy exceeds an amount determined by the supreme court to be appropriate, (2) a case in which a party seeks certification of a class, (3) a shareholder derivative action, (4) a products liability action as defined in Section 82.001, Civil Practice and Remedies Code, (5) a case in which a claim under a state or federal securities or trade regulation law is asserted, or (6) a case in which a health care liability claim as defined in Section 74.001, Civil Practices and Remedies Code is asserted.

This definition is both over- and under-inclusive. Not all products liability or health care liability cases, for example, are complex, but all would be handled by complex litigation courts. On the other hand, a case having multiple parties or that presents novel or complicated scientific or technical issues may be complex, but those cases would not be handled by complex litigation courts. Any attempt to define complex litigation in a jurisdiction statute will present similar problems.

Defining “Complex Litigation” if Existing Courts are Used. If existing courts are used and, therefore, a new jurisdiction statute is not necessary, the Legislature should allow the Supreme Court to define “complex litigation” by rule. The Court has the expertise necessary to craft a rule distinguishing between complex cases and other cases, and, if its definition proves unsatisfactory, it can easily amend the rule. The statute could give the Supreme Court complete discretion, or it could provide that certain kinds of cases must be transferred to a complex litigation court. The following two alternatives are examples of what a statute might provide.

First Alternative: The Supreme Court shall promulgate rules of practice and procedure specifying the types of cases of that must be transferred under this [Chapter/Section] to a complex litigation court.

Second Alternative: The Supreme Court shall promulgate rules of practice and procedure specifying the types of cases to be transferred under this [Chapter/Section] to a complex litigation court. The rules must provide that the following factors are to be considered when determining whether a case is complex: (1) whether there are a large number of separately represented parties, (2) whether coordination with related actions pending in one or more courts in other counties, states or nations, or in a federal court, will be necessary, (3) whether the case will benefit from assignment to a judge who is knowledgeable in a specific area of the law, (4) whether it is likely that there will be numerous pretrial motions or pretrial

motions will raise difficult or novel legal issues that will be time consuming to resolve, (5) whether it is likely that there will be a large number of witnesses or a substantial amount of documentary evidence, (6) whether it is likely that substantial post-judgment judicial supervision will be required. The rules must provide that the following cases are presumed “complex”: (1) a case in which the matter in controversy exceeds an amount determined by the supreme court to be appropriate, (2) a case in which a party seeks certification of a class, (3) a shareholder derivative action, (4) a products liability action as defined in Section 82.001, Civil Practice and Remedies Code, (5) a case in which a claim under a state or federal securities or trade regulation law is asserted, (6) a case in which a health care liability claim as defined in Section 74.001, Civil Practices and Remedies Code is asserted, and (7) a case in which medical, scientific or technical evidence is central to the case. The rules may provide that other factors will be considered or that other types of cases are presumed to be “complex.”

The preciseness of the definition of “complex case” provided by the Supreme Court would depend in part on the mechanism used to decide which cases will be transferred to complex litigation courts.⁹¹⁸ If parties are entitled to file initially in, or remove a case to, a complex litigation court, the definition must be precise so that litigants can easily determine which cases are complex and, therefore, can be filed in or removed to a complex litigation court. On the other hand, if the transfer is accomplished through an MDL-like panel, the definition should leave reasonable discretion to that panel.

Number of Courts Needed if New Courts are Created

If new complex litigation courts are created, one challenge is estimating the number of courts to create. It is difficult to estimate how many “complex cases” will be filed each year because the number depends, in part, on the definition of “complex case.” About 613,000 civil matters were filed in Texas’s district courts last fiscal year, of which 124,000 were “show cause” motions that probably would not be considered complex.⁹¹⁹ Another 166,000 civil cases were filed in the county-level courts, with 9000 of those being show cause motions.⁹²⁰ The district courts disposed of 546,000 matters, or 1264 dispositions per district judge.

If the number of filings remains constant, and five percent of the new non-show cause filings meet the definition of complex case, the complex litigation courts would receive 32,000 cases per year. If two percent are complex cases, the courts would receive 13,000 cases per year. If each court disposed of 500 complex cases per year and 32,000 complex cases are filed each year, sixty-four new judges would be required to dispose of those cases. If 13,000 complex cases are filed each year, twenty-six new judges would be required.

The new judges would be doing work normally done by district and county court at law judges. Currently sitting judges could be appointed to complex litigation courts and existing courts could be dissolved so that the total number of trial courts would remain unchanged.

Geographic Scope of Complex Litigation Courts

Whether new courts are created or existing courts are used, an issue that must be resolved is whether the court will draw cases from the county in which it sits, from a multi-county district, or from throughout the State. One factor to consider in resolving this question is to determine the purpose these courts will serve. Would the courts be intended to help multi-county counties better manage their dockets, or to allow litigants in complex cases across the state to access courts having greater resources and more expertise in handling complex litigation? If the purpose is the former, only local transfers are necessary and the geographic scope of the complex litigation court would be the county in which the court sits. If the purpose is the latter, the complex litigation courts should have regional or statewide territories so any complex case, no matter where filed, could be transferred to a complex litigation court.

While local docket management is a good reason to have complex litigation courts, the greater purpose is to provide the expertise, knowledge and resources necessary to allow the judicial system and the litigants to efficiently process complex litigation. The more extensive the area covered by a complex litigation system, the larger the pool of capable judges available to serve as a complex litigation judge. If regional or statewide districts are used, all complex cases will have a greater opportunity to access a highly skilled judge. Limited local transfer (within a single county), on the other hand, might prevent complex cases from accessing courts with the capability to handle those kinds of lawsuits, especially in the smaller counties.

Texas, however, is a large state and statewide transfer of cases may not be practical. Moreover, the public has a recognizable interest in seeing cases properly filed in a geographic area resolved in that area. Thus, when deciding whether to draw judges from a local, regional or statewide pool one must consider the interest of the public, the courts and the litigants.

Drawing judges only from a local pool ignores the potential interest of litigants and the court in efficiently managing complex litigation. Drawing judges from a statewide pool fails to account for the interest of the public in seeing cases resolved in the area where they are properly filed. This paper, therefore, strikes a rational balance between these sometimes competing interests and recommends regional transfers using the court of appeals districts as “complex litigation districts.”⁹²¹

Venue Considerations

Texas’s Venue Scheme. If complex litigation courts operate on a regional or statewide basis, venue must be considered. Texas’s venue statutes place venue in a county in which property, a person, or an entity is located.⁹²² The general venue statute provides that, unless another venue statute applies,

all lawsuits shall be brought: (1) in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred; (2) in the county of defendant’s residence at the time the cause of action accrued if defendant is a natural person; (3) in the county of the defendant’s principal office in this state, if the defendant is not a natural person; or (4) if Subdivisions (1), (2), and (3) do not apply, in the county in which the plaintiff resided at the time of the accrual of the cause of action.⁹²³

Texas has a number of mandatory venue statutes.⁹²⁴ For example, actions for the recovery of real property, for partition of real property, or to remove encumbrances from the title to real property must be brought in the county in which all or a part of the property is located.⁹²⁵ If a mandatory venue statute applies, the action must be brought in the county designated by that statute and, if brought in another county, must be transferred to the county having mandatory venue.⁹²⁶

Texas also has a number of permissive venue statutes.⁹²⁷ For example, if a suit is filed against an executor, administrator, or guardian to establish a money demand against an estate that he or she represents, the suit may be brought in the county in which the estate is administered, in a county specified in the general venue statute, or in any other county of proper venue.⁹²⁸

Texas allows venue transfers in civil cases under several circumstances. A case may be transferred “[f]or the convenience of the parties and witnesses,” but the transfer must be to another county of proper venue.⁹²⁹ Similarly, a case must be transferred if “an impartial trial cannot be had in the county in which the action is pending” or if the parties consent to a transfer.⁹³⁰ In either case, the transfer must be to another county of proper venue.⁹³¹

Venue Considerations for Complex Courts. If complex cases are transferred to either existing district courts or new complex litigation courts and regional or statewide operation is permitted, these courts often will not be in a county of proper venue as currently defined by statute. The Legislature could amend the venue statutes to provide that venue of “complex cases” is proper in any county or region in which the complex litigation court sits and that the complex case venue provision overrides all other mandatory and permissive venue provisions. Thus, the transfer from a district court in a county of proper venue to a complex litigation district court would be a transfer between two courts of proper venue.⁹³²

Alternatively, the venue problem could be avoided if complex cases were transferred to a complex litigation district court for pretrial proceedings only, and returned to the original county for trial, as is done with cases transferred for coordinated pretrial proceedings under the multi-district litigation procedure.⁹³³ If this procedure were used, the complex litigation court judge should be required to go with the case to the originating county (assuming it was a county of proper venue) to sit as the trial judge.

Juries in Complex Litigation Cases

Texas law currently requires that a jury be drawn from the county in which the case is pending.⁹³⁴ Thus, unless the law is changed, the jury in a complex case will have to be drawn from the citizens of the county in which the case is tried, not from a region.⁹³⁵ It, however, is possible to change Texas law to provide for juries drawn from a region.⁹³⁶

If region-wide juries are permitted, the region cannot be too large or it becomes impractical to draw a jury from the entire district. The federal district court system provides a model. Texas is divided into four federal districts and subdivided into twenty-seven multi-county divisions. Most of the courts are located in major metropolitan areas and, in most instances, jurors do not have to travel more than 100 miles to attend court.⁹³⁷ The federal system, however, can be viewed from another perspective. The federal court system divides Texas into twenty-seven divisions, but some jurors still must travel over 100 miles to attend court.

Complex litigation court districts built on the fourteen court of appeals districts present the problem that some jurors would have to travel several hundred miles to attend trial, which could necessitate breaking the districts into divisions, as is done in the federal judicial system. Of course, the problem of drawing a multi-county jury is eliminated if complex cases are returned to their originating counties for trial and the jury is drawn from that county as in any other case.

Filing in or Transferring to Complex Litigation Courts

If existing courts are used as complex litigation courts, a procedural mechanism for transferring cases to those courts must be created. There are four possible procedures: (1) a motion to transfer filed in the court in which the case is pending; (2) a motion to transfer filed with the regional administrative judge; (3) removal of cases to a complex litigation court, subject to remand; or (4) a complex litigation transfer panel to receive motions to transfer. If new courts are created, cases will arrive in the courts one of two ways. The plaintiff could file the case in the complex litigation court, or the defendant could remove the case to the complex litigation court.

Moving Cases if Existing Courts are Used. The simplest method to achieve the transfer of a complex case to an existing court designated as a complex litigation court is to require a motion requesting a transfer be filed in the court in which the case is pending. To avoid abuse and satellite litigation over whether a case is complex, a very specific definition of “complex case” would be required. A specific definition coupled with a right to transfer would eliminate the ability of the court system to exercise administrative flexibility over this process, and complex litigation courts would be required to accept all transferred cases without regard to their ability to handle the cases and without regard to whether the cases, in fact, were complex.

As an alternative, the motion to transfer could be filed with the regional administrative judge. If given the authority to do so, the regional administrative judge could exercise discretion in transferring cases based on the caseloads and expertise of the complex litigation district courts in the region. Thus, if the regional administrative judge determined that a particular district court had capacity for an additional case and the ability to handle it, the regional administrative judge could transfer the case to that court. If no court had capacity or ability, the administrative judge could deny the transfer. The regional administrative judge also could consider the location of witnesses and counsel in making the transfer decision.

If motions to transfer are made to the regional administrative judge and that judge is given discretion to refuse to transfer cases, the definition of “complex case” becomes somewhat less important. While the administrative judge could transfer a case that meets the statutory definition of “complex case,” he or she might also be allowed to designate a case as complex that does not strictly fit the statutory definition but, by any reasonable standard, qualifies as a complex case. Making the regional administrative judge the arbiter of whether a case is “complex” and the assignor of a complex case to a particular trial judge places enormous responsibility, and power, in one person, and for that reason is not recommended.

As another alternative, the Legislature by statute, or the Supreme Court by rule, could create a procedure by which parties could remove complex cases to complex litigation courts, subject to remand to the original court if the case should not have been removed or later fails to meet the definition of “complex case.”⁹³⁸ The problems with a removal/remand procedure are similar to the problems of having the originating court decide transfer motions. A precise definition of “complex case” would have to be developed so that litigants and the courts could easily determine if a case could be removed to a complex litigation court. Additionally, specific district courts would have to be designated as complex litigation courts to which cases could be removed, and a strict geographic structure also would have to be in place to prevent parties from removing cases to their favorite complex litigation court. Again, this procedure does not provide the desirable degree of administrative flexibility.

Finally, the Legislature could create a complex litigation transfer panel like the MDL Panel created in 2003⁹³⁹ or redefine the existing MDL Panel as the Multidistrict and Complex Litigation Panel. Either way, the panel could be empowered to transfer complex cases to district courts throughout the state or within a region. In other words, an MDL-like panel may be used whether statewide or regional transfers are permitted.

A MDL-like panel would have the same flexibility as regional administrative judges, but would have the additional advantage of having statewide authority, if a statewide mechanism is authorized. The advantage over using the regional administrative judges is that power would not be concentrated in a single administrative judge, but would be given to a panel. Still, it would be necessary to require that the Supreme Court develop procedures for the panel to use in transferring cases and to give the Supreme Court administrative oversight of the Panel.⁹⁴⁰ An MDL-like panel appears to be the best method for transferring complex cases to qualified courts.

The currently existing MDL Panel is comprised of five judges, designated by the Supreme Court, who must be active court of appeals justices or administrative judges.⁹⁴¹ It operates according to rules prescribed by the Supreme Court,⁹⁴² and those rules provide, among other things, that the MDL Panel’s orders may be reviewed by an appellate court.⁹⁴³ Because the MDL Panel already exists and has procedures in place for transferring cases, it appears appropriate to expand its authority to include complex cases, rather than establishing another similar panel to handle complex cases.

The current MDL Panel does not receive any appropriation from the Legislature. Any complex litigation transfer panel could be expected to receive numerous transfer motions. That panel, whether it is a new panel or the MDL Panel is used, must be funded adequately to do its work. The panel should have a sufficient appropriation to employ administrative and professional staff and to operate and equip an office appropriate to its work.

Filing or Transferring Cases if New Courts are Created. If new courts are created and jurisdiction is defined solely by amount in controversy, the complex litigation courts would have concurrent jurisdiction with the district courts for all complex cases. If jurisdiction is defined by amount in controversy and by cause of action asserted, the complex litigation courts would have concurrent jurisdiction with most of Texas’s existing trial courts. In either circumstance, a plaintiff would be able to file a “complex case” in an

existing trial court or in a complex litigation court. To guarantee that the complex litigation courts serve their purpose, Texas's statutes would need to provide that cases within the jurisdiction of complex litigation courts could be removed by the defendant to those courts. The Legislature could specify the procedure for removal and remand, but it would be better for the Legislature to delegate the task of providing the removal and remand procedure to the Supreme Court. The removed case should be subject to remand to the original court if the case should not have been removed or if it later falls out of the complex litigation court's jurisdiction.⁹⁴⁴

Costs Associated with New Complex Litigation Courts

If new complex litigation courts were created, but no currently existing courts dissolved to make room for them in the budget for the judiciary, the State would have an additional financial burden in funding the judicial system. District judges are paid \$125,000 per year by the State.⁹⁴⁵ If sixty-four new complex litigation courts were created, without an equal reduction in district courts, the State would expend \$8 million per year in salaries alone for complex litigation court judges. Furthermore, clerks' offices, courtrooms and judges' chambers would have to be established, and personnel to staff the courts would have to be hired.

If existing courts were used, it would be important for the Legislature to appropriate sufficient funds to allow the designated courts to hire administrative and professional personnel to assist those courts in handling complex cases.

Synopsis and Recommendation

This paper recommends that the following steps be taken for handling complex litigation in Texas:

- Convert the currently existing Multidistrict Litigation Panel into the Complex and Multidistrict Litigation Panel (CMDL Panel).
- Give the CMDL Panel power to transfer complex cases to trial judges having the knowledge and resources to handle complex litigation, while retaining the MDL Panel's current power to transfer multiple factually similar cases to a single trial judge for pretrial proceedings.
- Provide a definition of "complex case" through a statute requiring the Texas Supreme Court to promulgate a rule for that purpose, such as:

The Supreme Court shall promulgate rules of practice and procedure specifying the types of cases to be transferred by the Complex and Multidistrict Litigation Panel to a trial court for treatment as a complex case. The rules must provide that the following factors are to be considered when determining whether a case is complex: (1) whether there are a large number of separately represented parties, (2) whether coordination with related actions pending in one or more courts in other counties, states or nations, or in a federal court, will be necessary, (3) whether the case will benefit from assignment to a judge who is knowledgeable in a specific area of the law, (4) whether it is likely that there will be

numerous pretrial motions or pretrial motions will raise difficult or novel legal issues that will be time consuming to resolve, (5) whether it is likely that there will be a large number of witnesses or a substantial amount of documentary evidence, (6) whether it is likely that substantial post-judgment judicial supervision will be required. The rules must provide that the following cases are presumed “complex”: (1) a case in which the matter in controversy exceeds an amount determined by the supreme court to be appropriate, (2) a case in which a party seeks certification of a class, (3) a shareholder derivative action, (4) a products liability action as defined in Section 82.001, Civil Practice and Remedies Code, (5) a case in which a claim under a state or federal securities or trade regulation law is asserted, (6) a case in which a health care liability claim as defined in Section 74.001, Civil Practices and Remedies Code is asserted, and (7) a case in which medical, scientific or technical evidence is central to the case. The rules may provide that other factors will be considered or that other types of cases are presumed to be “complex.”

- Require the Texas Supreme Court to promulgate rules governing the CMDL Panel’s work, for distinguishing between “complex cases” and “multidistrict cases,” and providing the procedure for requesting and attaining the transfer of a complex case by the CMDL Panel.
- Provide that complex cases must be assigned to a trial judge in the court of appeals district in which the case was originally filed (assuming it was a county of proper venue), but that multidistrict cases may be assigned to any judge in the state as is currently possible.
- Provide that the trial judge for a complex case may conduct pre-trial proceedings in his or her court or in any appropriate court in the complex court district. Pre-trial proceedings in multidistrict cases would continue to be handled as they are currently.
- Provide that in a complex case, the assigned judge must return with the case to the county in which it was originally filed (assuming it was a county of proper venue) for trial. The trial of multidistrict cases would continue to be handled as they are currently.
- Provide that any party to a multidistrict case, upon the conclusion of pretrial proceedings in that case, could request that the CMDL Panel designate the case as complex and assign it to a complex litigation court for trial.
- Provide that the Supreme Court may make rules for staying proceedings in the trial court after a motion to have a case treated as a complex case is filed with the CMDL Panel.
- Appropriate funds to support the CMDL Panel and the selected trial judges sufficient for them to employ professional and administrative staff to handle the transfer process, pre-trial proceedings and the trial of the cases themselves.

CONCLUSION

From the top to the bottom of the Texas judicial system, there are peculiarities, inconsistencies and complexities. At almost every level, Texas's courts have overlapping subject matter and geographic jurisdiction. Texas is the only state in the nation having trial courts that answer to more than one intermediate appellate court. It is the only state in the nation having intermediate appellate courts with overlapping geographic boundaries. It is one of only two states in the nation having two high courts. Its small claims courts do not have jurisdiction of the smallest claims, unless the Texas Constitution is ignored.

Texas's court structure was created in 1876, restructured somewhat in 1891, and expanded endlessly since then in an attempt to make an antiquated system fit a modern world. It has gone from a rational three-tier structure in 1876 to a Byzantine multi-tier structure today. The Supreme Court nominally has administrative and supervisory authority over Texas's court system, but, in reality, it lacks the authority, funding and mechanisms necessary to ensure the efficient administration of justice. And Texas's system for funding its judicial system is as complex, confusing, and antiquated as the court structure itself.

It is time for comprehensive reform and reorganization of the Texas judicial system. We recognize that this will take extraordinary commitment by government officials throughout our state. The reward for their efforts, however, will be a rationally organized, professional, efficient litigation system that will benefit all future generations of Texans.

ENDNOTES

- 1 Tex. CONST. art. V, § 1. Even though § 1 provides that judicial power is vested in Commissioners Courts, those courts are not judicial in nature. *See id.* § 18(b) (“The County Commissioners..., with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.”).
- 2 *See id.* §§ 2(a), 4(a); Tex. Gov’t Code §§ 22.001-.015, 22.101-.112.
- 3 *See* TEX. GOV’T CODE §§ 24.101-.578.
- 4 *See id.* §§ 24.101-.920. Six new district courts began operation on January 1, 2007. *See id.* §§ 24.569, 24.570, 24.571, 24.574, 24.577, 24.578.
- 5 *See* TEX. CONST. art. V, § 15; TEX. GOV’T CODE §§ 26.103-.353.
- 6 *See* TEX. GOV’T CODE §§ 25.0041-.2512. As many as seven statutory county courts have been authorized by the Legislature but not implemented by their county governments. *See* TEXAS JUDICIAL SYSTEM: SUBJECT-MATTER JURISDICTION OF THE COURTS, 11-13, http://www.courts.state.tx.us/oca/PublicInfo/AR2005/jud_branch/2a_Subject_Matter_Jurisdiction_of_Courts_FY_2005_0905.pdf (county courts at law in Bee, Brazoria, Collin, Hidalgo, Kaufman, Randall, and Wilbarger Counties not implemented) [document attached as Appendix 1 and hereinafter referred to as App. 1].
- 7 *See* TEX. GOV’T CODE §§ 25.0171(c), 25.0591(d), 25.0631(b), 25.0731(b), 25.0861(b), 25.1031(c), 25.1101(b), 25.2221(c), 25.2291(c). Probate Court No. 2 in El Paso County has not been implemented. *See* App. 1, note 6 above, at 12.
- 8 *See* TEX. GOV’T CODE §§ 29.002, 30.00003; *see also* Court Structure of Texas (March 1, 2006), http://www.courts.state.tx.us/oca/PublicInfo/2006_Judicial_Directory/Court_Structure_Chart_March_2006.pdf.
- 9 *See* TEX. CONST. art. V, § 18(a); *see also* Court Structure of Texas, note 8 above.
- 10 *See, e.g.*, TEX. CONST. art. V, § 1; *see also* REPUB. TEX. CONST. OF 1836, art. IV, § 1.
- 11 REPUB. TEX. CONST. OF 1836, art. IV, §§ 1, 8.
- 12 TEX. CONST. OF 1845, art. IV, § 3.
- 13 TEX. CONST. OF 1861, art. IV, § 3; TEX. CONST. OF 1866, art. IV, § 3; TEX. CONST. OF 1869, art. V, § 3.
- 14 TEX. CONST. art. V, §§ 3, 5, 6 (amended 1891).
- 15 *Id.* § 6.
- 16 *Id.* §§ 3, 4, 5.
- 17 *Id.* § 6 (amended 1980).
- 18 *Id.* §§ 3, 5; TEX. GOV’T CODE § 22.001 (Supreme Court); TEX. CODE CRIM. PROC. art. 4.01 (Court of Criminal Appeals).
- 19 *See* TEX. CONST. art. V, §§ 5(b), 6.
- 20 *See* OKLA. CONST. art. VII, §§ 1, 4.
- 21 *Id.* § 4 (“The appellate jurisdiction of the Supreme Court shall be co-extensive with the State and shall extend to all cases at law and in equity; except that the Court of Criminal Appeals shall have exclusive appellate jurisdiction in criminal cases until otherwise provided by statute”).
- 22 U.S. CONST. art. III, § 1 (judicial power vested in one supreme court and in inferior courts); *see, e.g.*, CAL. CONST. art. VI, § 1 (judicial power vested in a supreme court and other courts).
- 23 *See* U.S. Department of Justice, State Court Organization 2004, 12-15, <http://www.ojp.usdoj.gov/bjs/pub/pdf/sco04.pdf>. Oklahoma has fourteen high-court judges. *Id.* No other state has more than nine. *Id.*
- 24 Tex. Const. art. V, § 2(a), (c). The concurrence of five justices is necessary to decide a case, but the Court may sit “in sections” to “hear argument of causes and to consider applications for writs of error or other preliminary matters.” *Id.* § 2(a). The Court has not chosen to sit “in sections” but hears all cases with the full complement of justices.
- 25 *Id.* § 2(b).
- 26 *Id.* § 2(c). The eight justices other than the chief justice hold “places numbered consecutively beginning with Place 2,” which are used for identification on the primary and general election ballots. TEX. GOV’T CODE § 22.015.
- 27 TEX. CONST. art. V, § 2(c). The constitution does not require partisan elections, but requires only that the justices be “elected...by the qualified voters of the state at a general election.” *Id.*
- 28 *Id.* art. IV, § 12; art. V, § 28(a).
- 29 *Id.* art. V, § 3(a); TEX. GOV’T CODE § 22.001(a); *Head v. State*, 147 Tex. Crim. 594, 595, 183 S.W.2d 570, 571 (1944) (Juvenile Delinquency Act is a civil statute and cases arising under the act are civil); *see also Dendy v. Wilson*, 142 Tex. 460, 468, 179 S.W.2d 269, 273 (1944) (Juvenile Delinquency Act does not undertake to convict and punish a child for commission of a crime).
- 30 TEX. CONST. art. V, § 3(a).
- 31 *Martinez v. Humble Sand & Gravel, Inc.*, 875 S.W.2d 311, 312 (Tex. 1994).
- 32 *Farmer v. Ben E. Keith Co.*, 907 S.W.2d 495, 496 (Tex. 1995).
- 33 *See Fruehauf Corp. v. Carrillo*, 848 S.W.2d 83, 84 (Tex. 1993); *see also* TEX. CIV. PRAC. & REM. CODE § 51.014(a) (listing some interlocutory trial court orders from which an appeal may be taken).
- 34 *See* TEX. GOV’T CODE §§ 22.220(a), 26.042(c), 28.053(d); TEX. CIV. PRAC. & REM. CODE §§ 51.011, 51.012.
- 35 *See* TEX. GOV’T CODE § 22.001(a).
- 36 *Id.* § 22.001(a)(6).
- 37 TEX. CONST. art. V, § 3-b; TEX. GOV’T CODE § 22.001(c); *see also* TEX. R. APP. P. 57.

- 38 TEX. GOV'T CODE § 22.225(d) (giving Supreme Court jurisdiction of certain interlocutory trial court orders); TEX. CIV. PRAC. & REM. CODE § 51.014(a)(3), (6), (11) (making certain interlocutory trial court orders appealable).
- 39 See TEX. CIV. PRAC. & REM. CODE § 51.014(a) (listing some appealable interlocutory trial court orders).
- 40 TEX. GOV'T CODE § 22.225(c).
- 41 See *id.* § 22.225(e) (defining conflict jurisdiction); see also *Wagner & Brown, Ltd. v. Horwood*, 53 S.W.3d 347, 350 (Tex. 2001) (Hecht, J., dissenting from denial of motion for rehearing) (quoting motion for rehearing as saying: "This Court's exercise of conflicts jurisdiction is thus more rare than a blue moon (5 in the last 10 years), a total eclipse of the sun (6 in the past decade), or the birth of a Giant Panda in captivity (18 in 1999 alone, 15 of which survived)."). The definition of a jurisdictional conflict was changed by the Legislature in 2003, making conflict jurisdiction somewhat easier to establish. See Act of June 11, 2003, 78th Leg., R.S., ch. 204, §§ 1.02, 1.04, 2003 Tex. Gen. Laws 847, 848-50 (codified as Tex. Gov't Code §§ 22.001(e), 22.225(e)).
- 42 TEX. GOV'T CODE § 22.225(a), (b).
- 43 *Id.*
- 44 See *Sw. Bell Tel. Co. v. Garza*, 164 S.W.3d 607, 619-21 (Tex. 2004) (discussing origins and meaning of the "factual conclusivity clause" providing that a court of appeals' judgment is conclusive on the facts of a case); *Cropper v. Caterpillar Tractor Co.*, 754 S.W.2d 646, 648 (Tex. 1988) (factual conclusivity clause "functions not as a grant of authority to the courts of appeals but as a limitation upon the judicial authority of this court").
- 45 TEX. GOV'T CODE § 22.002(a).
- 46 *Id.* § 22.002(c); see also TEX. CONST. art. IV, § 1 (listing members of the executive branch).
- 47 TEX. CONST. art. V, § 3-c(a).
- 48 See TEX. R. APP. P. 53.
- 49 See OFFICE OF COURT ADMINISTRATION, ANNUAL STATISTICAL REPORT FOR THE TEXAS JUDICIARY: FISCAL YEAR 2005, 23, http://www.courts.state.tx/us/oca/PublicInfo/AR2005/2005_Annual_Report.pdf [hereinafter 2005 OCA Annual Report].
- 50 *Id.*
- 51 *Id.*
- 52 See *id.*
- 53 See *id.* at 21, 23.
- 54 See *id.*
- 55 *Id.* at 21. This number includes opinions in both appeals and original proceedings and includes concurring and dissenting opinions.
- 56 U.S. CONST. art. III, § 1; TEX. CONST. art. V, § 1.
- 57 TEX. CONST. art. V, § 31(a); TEX. GOV'T CODE § 74.021.
- 58 See Pages 36-44.
- 59 See TEX. CONST. art. V, § 31 (giving the Supreme Court the authority to promulgate rules of administration, rules of civil procedure, and "such other rules as may be prescribed by law."); TEX. GOV'T CODE §§ 22.004(a) (giving the Supreme Court "full rulemaking power in the practice and procedure in civil actions"), 22.108, 22.109 (giving the Court of Criminal Appeals authority to promulgate rules of appellate procedure and evidence in criminal cases). Neither the Constitution nor the Government Code specifically gives the Supreme Court the authority to promulgate rules of evidence. See TEX. CONST. art. V, § 31(b); TEX. GOV'T CODE § 22.004(a). The Supreme Court, however, has viewed the power to promulgate rules of evidence as being part of its constitutional or statutory power to promulgate rules.
- 60 For example, the Rules of Evidence provide that in a civil case a court "shall instruct the jury to accept as conclusive any fact judicially noticed," while a court "shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed" in a criminal case. TEX. R. EVID. 201(g); see also TEX. R. EVID. 101(d) (providing special rules of applicability in criminal cases); TEX. R. EVID. 412 (rule regarding evidence of previous sexual conduct applicable only to criminal cases); TEX. R. APP. P. 20 (providing different rules in civil and criminal cases involving indigent parties).
- 61 TEX. GOV'T CODE § 22.002(c); see also TEX. CONST. art. IV, § 1 (listing members of the executive branch).
- 62 TEX. GOV'T CODE § 22.002(a).
- 63 TEX. CONST. art. V, §§ 3(a) (Supreme Court), 5(a) (Court of Criminal Appeals); TEX. GOV'T CODE § 22.001(a) (Supreme Court).
- 64 For example, in *Hyundai Motor Co. v. Vasquez*, the Supreme Court noted that its decision regarding questions asked of jurors in voir dire was consistent with a Court of Criminal Appeals decision. See 189 S.W.3d 743, 752-53 (Tex. 2006)(citing *Standefor v. State*, 59 S.W.3d 177, 183 (Tex. Crim. App. 2001)). In *E.I. du Pont de Nemours & Co. v. Robinson*, the Supreme Court followed the Court of Criminal Appeals on the standards for admissibility of scientific expert testimony. See 923 S.W.2d 549, 556 (Tex. 1995)(citing *Kelly v. State*, 824 S.W.2d 568, 573 (Tex. Crim. App. 1992)). In *Star-Telegram, Inc. v. Walker*, the Supreme Court noted that its decision was consistent with Court of Criminal Appeals precedent going back to 1903. See 834 S.W.2d 54, 57-58 (Tex. 1992)(citing, among others, *Ex parte Foster*, 44 Tex. Crim. 423, 71 S.W. 593 (1903)). In *Clewis v. State*, the Court of Criminal Appeals followed the standard set out by the Texas Supreme Court for determining whether evidence is sufficient to uphold a verdict. See 922 S.W.2d 126, 135-36 (Tex. Crim. App. 1996) (quoting *Pool v. Ford Motor Co.*, 715 S.W.2d 629, 635 (Tex. 1986)).

- 65 Compare *Phelps v. State*, 594 S.W.2d 434, 437 (Tex. Crim. App. 1980), with *Ass'n of Tex. Prof'l Educators v. Kirby*, 788 S.W.2d 827, 829-30 (Tex. 1990) (Court of Criminal Appeals views an enrolled bill (the version of a bill that has been passed by both houses of the Legislature) as the conclusive record of a statute; Texas Supreme Court has held that such a conclusive presumption "is contrary to modern legal thinking" because it "may produce results which do not accord with fact," and it recognizes as an exception to the enrolled bill rule "that when the official legislative journals, undisputed testimony by the presiding officers of both houses, and stipulations by the attorney general acting in his official capacity conclusively show the enrolled bill signed by the governor was not the bill passed by the legislature, the law is not constitutionally enacted"); see also *City of San Antonio v. Hartman*, 201 S.W.3d 667, 669-71 (Tex. 2006) (Texas Supreme Court held that the filing of a document entitled "Motion for Rehearing En Banc" was sufficient under the Texas Rules of Appellate Procedure to extend the time to pursue an appeal to the Supreme Court, but noted that the Court of Criminal Appeals might not reach the same conclusion when interpreting the Appellate Rules).
- 66 See TEX. CONST. art. V, §§ 1, 3, 5; OKLA. CONST. art. VII, §§ 1, 4. Oklahoma differs from Texas in that the Oklahoma constitution provides that, in the event of a conflict between the Oklahoma Supreme Court and Oklahoma Court of Criminal Appeals as to which court has jurisdiction of a case, the Supreme Court "shall determine which court has jurisdiction and such determination shall be final." See OKLA. CONST. art. VII, § 4.
- 67 TEX. CONST. art. V, § 4(a).
- 68 *Id.* Thus, to be eligible to serve on the Court of Criminal Appeals, a person must be licensed to practice law in Texas, a citizen of the United States and of Texas, at least thirty-five years of age, and, as of the date of election, must have been a practicing lawyer, or a lawyer and judge of a court of record, for at least ten years. *Id.* § 2(b).
- 69 Texas law no longer requires rotating terms for Court of Criminal Appeals judges, but it is clear that the terms rotate. See Office of the Secretary of State, 1992 – 2006 Election History, <http://elections.sos.state.tx.us/elchist.exe>. (follow "General Election" hyperlinks from pull-down menu) (last visited Nov. 14, 2006) (historic election results show election of Court of Criminal Appeals judges rotates); see also TEX. CONST. art. V, § 4 historical notes (before 1977 amendment, section provided that terms of two new judges were to begin on different years such that they would rotate). The eight judges other than the Presiding Judge hold "places numbered consecutively beginning with Place 2," which are used for identification on the primary and general election ballots. TEX. GOV'T CODE § 22.112.
- 70 TEX. CONST. art. V, § 4(a). The constitution does not require partisan elections. It requires only that the justices be "elected by the qualified voters of the state at a general election." *Id.*
- 71 *Id.* art. IV, § 12; art. V, § 28(a).
- 72 *Id.* art. V, § 4(b) (allowing court to sit in panels).
- 73 *Id.*
- 74 *Id.*; TEX. GOV'T CODE § 22.106(a).
- 75 TEX. GOV'T CODE § 22.107(a).
- 76 *Id.* § 22.107(c).
- 77 See Joe R. Greenhill, *The Constitutional Amendment Giving Criminal Jurisdiction to the Texas Courts of Civil Appeals and Recognizing the Inherent Power of the Texas Supreme Court*, 33 TEX. TECH. L. REV. 377, 389 (2002) (describing the Court of Criminal Appeals' overwhelming workload before the 1981 constitutional amendments); Robert W. Higgason, *A History of Texas Appellate Courts: Preserving Rights of Appeal Through Adaptations to Growth, Part 1 of 2: Courts of Last Resort*, 39 HOUS. LAW. 21, 25-26 (March/April 2002).
- 78 TEX. CONST. art. V, § 5(a).
- 79 *Id.* § 5(b).
- 80 *Id.*
- 81 *Id.* § 5(c).
- 82 *Id.* § 3-c(a).
- 83 2005 OCA Annual Report, note 49 above, at 26. A petition for discretionary review is the document by which parties appeal to the Court of Criminal Appeals. TEX. R. APP. P. 66. Direct appeals, applications for writ of habeas corpus, and original proceedings are part of the Court's mandatory caseload. 2005 OCA Annual Report, note 49 above, at 24.
- 84 See 2005 OCA Annual Report, note 49 above, at 24-26.
- 85 *Id.* at 26.
- 86 See *id.* at 25.
- 87 See *id.*
- 88 See Pages 36-44.
- 89 TEX. CONST. art. V, §§ 3, 5, 6 (amended 1891).
- 90 *Id.* § 6 (amended 1980 and 1985).
- 91 *Id.* (amended 1978).
- 92 Robert W. Higgason, *A History of Texas Appellate Courts: Preserving Rights of Appeal Through Adaptations to Growth, Part 2: Intermediate Appellate Courts*, 40 HOUS. LAW. 12, 12-16 (July/August 2002); see also Higgason (Part 1), note 77 above, at 26. Additional historical information about each of the courts of appeals can be found on the courts' websites. The Houston First Court of Appeals' website is located at <http://www.1stcoa.courts.state.tx.us>. Other courts of appeals' websites can be located by changing the court designation found in the base Uniform Resource Locator. For example, the Fort Worth court's website is located at <http://www.2ndcoa.courts.state.tx.us>.
- 93 The First Court of Appeals relocated to Houston in 1957. Higgason (Part 2), note 92 above, at 13.

- 94 *Miles v. Ford Motor Co.*, 914 S.W.2d 135, 139 (Tex. 1995) (“We have been unable to find any other state in the union which has created geographically overlapping appellate districts.”).
- 95 *Id.* at 137 n.3.
- 96 *Id.* Apparently, this was done as an accommodation to Justice Ben Looney, who served on the Dallas Court of Appeals but was from Hunt County. Justice Looney may have thought he would need Hunt County voters to help him get elected. James T. (“Jim”) Worthen, *The Organizational & Structural Development of Intermediate Appellate Courts in Texas, 1892-2003*, 46 S. TEX. L. REV. 33, 64 (2004) (citing an unpublished article by Chief Justice Thomas R. Phillips).
- 97 *Miles*, 914 S.W.2d at 137 n.3.
- 98 *Id.*
- 99 *Id.*
- 100 *Id.*
- 101 *Id.*
- 102 *Id.* A second court of appeals was established in Houston because the Legislature could not at that time expand the number of justices on the then-existing court of appeals in Houston. *Id.*
- 103 TEX. CONST. art. V, § 6 historical notes.
- 104 See Act of June 8, 1981, 67th Leg., R.S., ch. 291, § 31, 1981 TEX. GEN. LAWS 761, 776-77; see also Greenhill, note 77 above, at 397-98.
- 105 Act of May 15, 2003, 78th Leg., R.S., ch. 44, § 1, 2003 TEX. GEN. LAWS 81; see also TEX. GOV’T CODE § 22.201.
- 106 Act of June 20, 2003, 78th Leg., R.S., ch. 662, § 1, 2003 TEX. GEN. LAWS 2081-82; see also TEX. GOV’T CODE § 22.201.
- 107 Act of June 20, 2003, 78th Leg., R.S., ch. 662, § 2, 2003 TEX. GEN. LAWS 2081-82; see also TEX. GOV’T CODE § 22.216.
- 108 Act of June 17, 2005, 79th Leg., R.S., ch. 542, § 1, 2005 TEX. GEN. LAWS 1466; see also TEX. GOV’T CODE § 22.201.
- 109 TEX. GOV’T CODE § 22.201(f), (g), (m).
- 110 *Id.* § 22.201(b), (o); see also Map 1.
- 111 See TEX. GOV’T CODE §§ 22.201-.215.
- 112 See *id.* § 22.216.
- 113 *Id.*; see also Table 2.
- 114 TEX. CONST. art. V, § 6(a). Thus, they must be licensed to practice law in Texas, a citizen of the United States and Texas, at least thirty-five 35 years of age, and they must have been a practicing lawyer, or a lawyer and judge, for at least ten years. *Id.* § 2(b).
- 115 *Id.* art. IV, § 12; art. V, § 28(a).
- 116 TEX. GOV’T CODE § 22.202(f).
- 117 *Id.* § 22.202(i).
- 118 *Id.* § 22.202(h).
- 119 *Id.* § 22.201(f), (g).
- 120 *Id.* § 22.201(g), (m).
- 121 *Miles*, 914 S.W.2d at 137.
- 122 *Id.* at 137-39.
- 123 TEX. GOV’T CODE § 22.220(a); see also TEX. CIV. PRAC. & REM. CODE § 51.012.
- 124 TEX. GOV’T CODE § 22.220(a); see also TEX. CIV. PRAC. & REM. CODE § 51.014(a) (permitting appeal from some interlocutory trial court orders).
- 125 TEX. CODE CRIM. PROC. art. 4.03.
- 126 *Id.* art. 4.04, § 2.
- 127 See TEX. GOV’T CODE §§ 22.222(a) (court of appeals may sit in a panel of not fewer than three justices for the purpose of hearing cases), 22.223(a) (court may be convened *en banc*).
- 128 *Id.* § 22.222(b).
- 129 *Id.* § 22.222(c).
- 130 *Id.* § 22.223(a). A court’s “other business” might include, for example, employment decisions and promulgating local rules of practice for the court.
- 131 2005 OCA Annual Report, note 49 above, at 29.
- 132 See *id.*
- 133 See ACTIVITY FOR THE FISCAL YEAR ENDED AUGUST 31, 2005, http://www.courts.state.tx.us/oca/PublicInfo/AR2005/coas/4_Activity_Detail_2005.xls (last visited Nov. 15, 2006) [hereinafter 2005 Fiscal Year Activity Report] (showing new cases filed in each court of appeals). OCA’s 2005 Annual Report shows civil and criminal cases “added” each year in each court of appeals. See 2005 OCA Annual Report, note 49 above, at 30. When computing the number of “cases added” to a court’s docket, OCA includes rehearings granted, cases reinstated, cases remanded from higher courts, cases transferred in, and cases transferred out. See *id.* The purpose of Table 2 is to show the disparity in workload among the courts of appeals before cases are transferred in or out. Thus, we have used in Table 2 “new cases filed” from the 2005 Fiscal Year Activity Report rather than using “cases added” from the 2005 OCA Annual Report.
- 134 TEX. GOV’T CODE § 73.001.

- 135 See Act of June 18, 2005, 79th Leg., R.S., ch. 1369, § 1, 2005 TEX. GEN. LAWS 4324, 4805 (IV-2) (“It is the intent of the Legislature that the Supreme Court equalize the dockets of the 14 Courts of Appeals. Equalization shall be considered achieved if the new cases filed each year per justice are equalized by 10 percent or less among all the courts of appeals.”). The Texas Legislative Budget Board (“LBB”) has published on its official website the Texas General Appropriations Act for the 2006-07 Biennium. See http://www.lbb.state.tx.us/Bill_79/8_FSU/79-8_FSU_0905.pdf. As the LBB notes, the primary bill was S.B. 1, passed during the Legislature’s Regular Session. The Governor vetoed certain parts of the bill, and the Legislature passed additional appropriations in the First Called Session (H.B. 1) and the Second Called Session (H.B. 11). The LBB’s version of the General Appropriations Act incorporates all changes made to S.B. 1, whether by Governor’s veto or by subsequent legislation. Therefore, this paper cites to the Texas General Appropriations Act published by the LBB as “2006-07 Appropriations Act” with a reference to the page numbering in the Act itself (e.g., IV-2) rather than the page numbering in Texas General Laws.
- 136 See, e.g., TEX. SUP. CT. Misc. Docket No. 06-9101, <http://www.supreme.courts.state.tx.us/MiscDocket/06/06910100.pdf> (ordering transfer of cases between courts of appeals).
- 137 See 2005 Fiscal Year Activity Report, note 133 above. It is not unusual for a court of appeals to transfer cases in and out. For example, the Houston (First) Court of Appeals transferred twenty-one civil cases in, while transferring sixty-three civil and eighty-four criminal cases out, for a net of 126 cases transferred out. See *id.*
- 138 See *id.*; but see 2005 OCA Annual Report, note 49 above, at 28 (“A total of 555 cases were transferred among the intermediate appellate courts during the year...”). It is unclear from the OCA’s materials why the number transferred in does not equal the number transferred out, or why OCA’s two reports provide different information.
- 139 See TEX. CONST. art. V, §§ 6-8, 15, 16, 18, 19 (1876). The original version of the current Texas Constitution is located on the website of The University of Texas School of Law’s Tarlton Law Library. Tarlton Law Library, Constitution of the State of Texas (1876), <http://tarlton.law.utexas.edu/constitutions/text/1876index.html> (last visited Nov. 15, 2006).
- 140 TEX. CONST. art. V, §§ 18, 19.
- 141 *Id.* § 15.
- 142 *Id.*
- 143 *Id.* § 16 (amended 1985).
- 144 *Id.* § 16 (amended 1978, 1985).
- 145 *Id.* §§ 6, 16. If the county court held a new trial on appeal from a justice court, a subsequent appeal could be taken to the court of appeals only if the judgment rendered by the county court exceeded \$100. *Id.* § 16 (amended 1891).
- 146 *Id.* §§ 8 (amended 1985), 16 (amended 1985).
- 147 *Id.* § 7.
- 148 *Id.* § 8 (amended 1985); see also *id.* § 16 (amended 1985).
- 149 *Id.* §§ 3, 6.
- 150 See *id.* § 1; TEX. GOV’T CODE chs. 24-30. Not included in this list are County Commissioners Courts because they generally do not provide a forum for parties to litigate disputes. See TEX. LOC. GOV’T CODE § 81.028, see also note 1.
- 151 Municipal court jurisdiction does not overlap with either district court or probate court jurisdiction.
- 152 See Pages 23-25, 27-29.
- 153 *Sultan v. Mathew*, 178 S.W.3d 747, 753 (Tex. 2005) (Hecht, J., dissenting).
- 154 *Id.*
- 155 See Map 2.
- 156 See Pages 19-20.
- 157 See *id.*
- 158 See *id.*
- 159 Compare Map 1 with Map 3.
- 160 See App. 1, note 6 above, at 3-19.
- 161 TEX. CONST. art. V, §§ 1, 7.
- 162 The 438 district courts include the 1st through 434th District Courts (excluding the 373rd through 376th, 397th, 418th, 423rd, 429th, 431st, and 432nd, which do not currently exist, but including District Court 1-A and the 2nd 25th District Court) and twelve criminal district courts. See Court Structure of Texas, note 8 above; District Judges by Judicial District, http://www.courts.state.tx.us/oca/PublicInfo/2006_Judicial_Directory/Dist Js_by_Jud_Dist_2006.pdf; see also TEX. GOV’T CODE §§ 24.101-.920.
- 163 The 425th (Williamson County), 426th (Bell County), 427th (Travis County), 430th (Hidalgo County), 433rd (Comal County), and 434th (Fort Bend County) are authorized to commence on January 1, 2007. TEX. GOV’T CODE §§ 24.569, 24.570, 24.571, 24.574, 24.577, 24.578.
- 164 TEX. CONST. art. V, § 7; TEX. GOV’T CODE § 24.001.
- 165 TEX. CONST. art. V, § 7.
- 166 *Id.*
- 167 *Id.* art. IV, § 12; art. V, § 28(a).
- 168 See *Women’s Cmty. Health Ctr. of Beaumont, Inc. v. Tex. Health Facilities Comm’n*, 685 F.2d 974, 981 (5th Cir. 1982); see also TEX. CONST. art. V, § 8; TEX. GOV’T CODE § 24.008.
- 169 TEX. CONST. art. V, § 8.
- 170 TEX. GOV’T CODE § 24.008.
- 171 TEX. CONST. art. V, § 8.

- 172 *Id.* § 19.
- 173 *See Sultan*, 178 S.W.3d at 756 & n.24 (Hecht, J., dissenting) (“The Constitution has been amended to omit a minimum monetary limit on the district court’s jurisdiction, and whether any such limit remains is an unresolved question (footnotes omitted).”); *but see Peek v. Equip. Serv. Co. of San Antonio*, 779 S.W.2d 802, 803-04 (Tex. 1989); TEX. GOV’T CODE §§ 25.0003(c)(2) (statutory county courts have concurrent jurisdiction with district courts in civil cases in which the amount in controversy exceeds \$500), 26.042(d) (constitutional county courts have concurrent jurisdiction with district courts in civil cases in which the amount in controversy exceeds \$500). Arguably, the district courts do not have jurisdiction of cases in which the amount in controversy is equal to or below \$5000 because the justice of the peace courts are given “original jurisdiction of civil matters in which . . . the amount in controversy is not more than \$5000.” and district courts do not have jurisdiction of any case in which original jurisdiction has been conferred on another court. *See* TEX. CONST. art. V, § 8; TEX. GOV’T CODE § 27.031(a)(1).
- 174 TEX. CODE CRIM. PROC. arts. 4.05, 4.17.
- 175 *See* TEX. GOV’T CODE § 24.601.
- 176 *Id.* §§ 24.901, 24.902, 24.903, 24.904, 24.905, 24.906, 24.907, 24.910, 24.911, 24.912, 24.913, 24.920.
- 177 *Id.* § 23.001.
- 178 *See id.* §§ 74.161-.164; *see also Union Carbide v. Adams*, 166 S.W.3d 1, 1 (Tex. Jud. Panel Multidist. Litig. 2003) (consolidating asbestos cases for pretrial proceedings); *In re Silica Prod. Liab. Litig.*, 166 S.W.3d 3, 4-8 (Tex. Jud. Panel Multidist. Litig. 2004) (consolidating silica cases for pretrial proceedings); Sup. Court of the State of Tex., Multidistrict Litig. Orders, http://www.supreme.courts.state.tx.us/MDL_Orders/current.asp (last visited Nov. 15, 2006)(providing links to the orders of the Judicial Panel on Multidistrict Litigation).
- 179 *See, e.g.,* TEX. GOV’T CODE §§ 24.101 (1st district covers Jasper, Newton, Sabine and San Augustine Counties), 24.132, 24.180, 24.191 (30th, 78th, and 89th district courts are in Wichita County only).
- 180 *Id.* § 24.303(a).
- 181 *Id.*; *see also* TEX. R. CIV. P. 330(e).
- 182 *See* TEX. GOV’T CODE §§ 24.103, 24.189, 24.495, 24.514; *see also* Map 2.
- 183 *See* Map 2.
- 184 TEX. GOV’T CODE §§ 22.201(k), (m), 24.189.
- 185 The decisions of the 25th and the 2nd 25th District Courts, are reviewed by the San Antonio Court of Appeals when sitting in Guadalupe County, the Corpus Christi court when sitting in Gonzales and Lavaca Counties, and either of the two Houston courts when sitting in Colorado County. *Id.* §§ 22.201(b), (e), (n), (o), 24.126, 24.127.
- 186 *See, e.g., Jaubert v. State*, 65 S.W.3d 73, 91 n.1 (Tex. App.—Waco 2000), *rev’d*, 74 S.W.3d 1 (Tex. Crim. App. 2002) (Gray, J., dissenting) (“Whether we like it or not, there are differences that develop among the way the courts of appeals interpret and apply the law” and “it is fundamentally unfair for the trial judges conduct to be determined by standards subject to the whims of the transfer system”).
- 187 *See* TEX. GOV’T CODE §§ 24.254 (155th District Court sits in Austin, Fayette and Waller Counties), 24.377(198th District Court sits in Kerr, Kimball, McCulloch, Mason and Menard Counties), 24.450 (273rd District Court sits in Sabine, San Augustine and Shelby Counties); *compare* Map 2 with Map 3.
- 188 TEX. CONST. art. V, § 7a(a).
- 189 *Id.* § 7a(b).
- 190 *Id.*
- 191 *Id.* § 7a(e).
- 192 *Id.*
- 193 *Id.* § 7a(f).
- 194 *Id.* § 7a(h).
- 195 *See* 2005 OCA Annual Report, note 49 above, at 37.
- 196 *Id.*
- 197 *Id.* at 38.
- 198 *Id.*
- 199 *Sultan*, 178 S.W.3d at 754 n.8 (Hecht, J., dissenting).
- 200 *See id.*
- 201 *See id.*
- 202 *See* TEX. GOV’T CODE §§ 25.0041-.2512. These sections of the Government Code authorize 224 statutory county courts in eighty-six counties, and eighteen statutory probate courts. *See id.* As many as six of the authorized statutory county courts and one authorized probate court have not been implemented as of September 1, 2006. *See* App. 1, note 6 above, at 11-13.
- 203 *See* TEX. CONST. art V, § 8 (district court jurisdiction).
- 204 TEX. GOV’T CODE § 25.0003(a).
- 205 TEX. CODE CRIM. PROC. arts. 4.07, 4.08.
- 206 TEX. GOV’T CODE § 26.050.
- 207 *Id.* § 26.042(a), (e).
- 208 *Id.* § 26.043.
- 209 *Id.* § 25.0003(c).
- 210 *Id.* § 25.0003(c), (d).

- 211 See *id.* §§ 25.0041-.2512.
- 212 See *id.* §§ 25.0212(a), 25.0312(a), 25.0362(a), 25.0592(a), 25.0732(a), 25.0862(a)(1), 25.0942(a), 25.1322(a), 25.1802(a)(1), 25.1852(a), 25.1862(a), 25.2012(a), 25.2032(a), 25.2142(a) (providing the county courts at law in Bowie, Calhoun, Cass, Dallas, El Paso, Galveston, Gregg, Kendall, Nueces, Panola, Parker, Rockwall, Rusk and Smith Counties concurrent jurisdiction with district courts in all civil cases).
- 213 See, e.g., *id.* §§ 25.0152 (Bee County Court at Law has concurrent jurisdiction with the district court in family law and criminal cases), 25.0222 (Brazoria County Courts at Law have family law and juvenile jurisdiction).
- 214 *Id.* §§ 25.0007 (county court at law to conduct trial as would a district court, except with regard to the number of jurors), 62.301 (county court jury composed of six persons).
- 215 TEX. CONST. art. V, § 13 (providing for twelve-person juries in district court); TEX. GOV'T CODE § 62.201 (district court jury composed of twelve persons).
- 216 TEX. GOV'T CODE § 25.0003(e).
- 217 *Id.* § 25.0003(d).
- 218 *Id.* § 25.0014.
- 219 *Id.* § 25.0009(a).
- 220 *Id.* § 25.0009(b).
- 221 See TEX. CONST. art. V, § 1.
- 222 TEX. GOV'T CODE §§ 25.0171(c), 25.0591(d), 25.0631(b), 25.0731(b), 25.0861(b), 25.1031(c), 25.1101(b), 25.2221(c), 25.2291(c). Another probate court has been authorized in El Paso County, but has not been implemented by the county commissioners. See *id.* § 25.0731; see also App. 1, note 6 above, at 12.
- 223 TEX. GOV'T CODE § 25.0014.
- 224 TEX. GOV'T CODE § 25.0021(b)(1).
- 225 *Id.* § 25.0021(b)(2).
- 226 TEX. PROB. CODE § 5(d).
- 227 *Id.* § 606(d).
- 228 *Id.* § 5(e).
- 229 *Id.* § 606(h).
- 230 *Id.* §§ 5(f), 606(e).
- 231 *Id.* §§ 5(h), 606(i). Constitutional and statutory county courts also have the power to hear matters “appertaining to an estate” or “incident to an estate.” See *id.* §§ 5A(a), 607(a).
- 232 *Id.* §§ 5A(b), 607(b).
- 233 *Id.* §§ 5A, 607.
- 234 *Id.* §§ 5A, 607; see *Am. Fin. & Inv. Co. v. Herrera*, 20 S.W.3d 829 (Tex. App.—El Paso 2000, no pet.) (statutory probate court exercised jurisdiction over suit to try title to land).
- 235 TEX. PROB. CODE §§ 5A, 607; *Henry v. Lagrone*, 842 S.W.2d 324, 327 (Tex. App.—Amarillo 1992, no writ).
- 236 TEX. PROB. CODE § 5A; *Parker v. Parker*, 131 S.W.3d 524 (Tex. App.—Fort Worth 2004, pet. denied).
- 237 TEX. PROB. CODE § 5A(b).
- 238 *Id.* §§ 5A, 607.
- 239 *Id.* §§ 5(i), 606(j). Other courts exercising probate or guardianship jurisdiction do not have statute-based “pendent and ancillary jurisdiction,” likely because they do not need it. Their jurisdiction is not limited to probate or guardianship matters, so they already may have jurisdiction to hear ancillary matters.
- 240 See *Milton v. Herman*, 947 S.W.2d 737, 741 (Tex. App.—Austin 1997, orig. proceeding), *mand. granted*, *In re Graham*, 971 S.W.2d 56 (Tex. 1998).
- 241 *Shell Cortez Pipeline Co. v. Shores*, 127 S.W.3d 286, 294-95 (Tex. App.—Fort Worth 2004, no pet.).
- 242 TEX. PROB. CODE § 5B(a).
- 243 *Id.* § 608.
- 244 See *In re Azle Manor, Inc.*, 83 S.W.3d 410, 413 (Tex. App.—Fort Worth 2002, orig. proceeding).
- 245 *Id.*
- 246 See *Gonzalez v. Reliant Energy, Inc.*, 159 S.W.3d 615, 621-22 (Tex. 2005).
- 247 TEX. GOV'T CODE § 25.00222(b).
- 248 TEX. CONST. of 1836, art. IV, § 10.
- 249 TEX. CONST. of 1845, art. IV, § 15; TEX. CONST. of 1861, art. IV, § 15.
- 250 TEX. CONST. of 1866, art. IV, § 15.
- 251 *Id.* § 16.
- 252 *Id.* § 6.
- 253 *Id.* § 16.
- 254 *Id.* § 17.
- 255 *Id.*
- 256 TEX. CONST. of 1869, art. V, §§ 19, 20.
- 257 TEX. CONST. art. V, § 1.
- 258 *Id.* § 15.

- 259 *Id.* § 8 (amended 1985).
- 260 *Id.* § 16 (amended 1985).
- 261 *Id.* § 18(b). In counties with a population of 225,000 or less, the county judge may serve as the budget officer for the commissioners court and must prepare the county's budget each fiscal year. *See* TEX. LOC. GOV'T CODE §§ 111.002-.004.
- 262 *See* TEX. CONST. art. V, § 16; *see also* TEX. GOV'T CODE § 26.041.
- 263 TEX. GOV'T CODE § 26.050.
- 264 *Id.* § 26.042(a), (e).
- 265 *Id.* § 26.043.
- 266 TEX. PROB. CODE § 4.
- 267 *Id.* § 5(b).
- 268 *Id.*
- 269 *Id.* § 5(c).
- 270 *Id.*
- 271 TEX. CODE CRIM. PROC. arts. 4.07, 4.08.
- 272 *Id.* art. 4.09.
- 273 *See* TEX. GOV'T CODE §§ 26.103-.353. A number of counties have county judges with no judicial authority. *See, e.g., id.* §§ 26.104 ("The County Court of Aransas County has no probate, juvenile, civil, or criminal jurisdiction."), 26.149 ("The County Court of Cooke County does not have probate, guardianship, mental health, juvenile, civil, criminal, or appellate jurisdiction.").
- 274 *See, e.g., id.* § 26.119 (County Court of Bowie County has the general jurisdiction of a probate court and juvenile jurisdiction as provided by Government Code § 26.042(b) but has no other civil or criminal jurisdiction).
- 275 TEX. CONST. art. V, § 15.
- 276 *See* 2005 OCA Annual Report, note 49 above, at 13.
- 277 *See* TEX. LOC. GOV'T CODE § 81.001.
- 278 TEX. CONST. art. V, § 15.
- 279 *Id.* § 28(b).
- 280 *See* 2005 OCA Annual Report, note 49 above, at 41.
- 281 *Id.* at 42.
- 282 *Id.* at 43.
- 283 *Id.*
- 284 REPUB. TEX. CONST. OF 1836, art. IV, §§ 10, 12; TEX. CONST. OF 1845, art. IV, § 13; TEX. CONST. OF 1861, art. IV, § 13; TEX. CONST. OF 1866, art. IV, § 19; TEX. CONST. OF 1869, art. V, § 19; TEX. CONST. art. V, § 1.
- 285 *See, e.g.,* TEX. CONST. art. V, § 19 (providing jurisdiction); TEX. GOV'T CODE § 26.042(e) (providing for appeal).
- 286 TEX. CONST. art. V, § 18(a).
- 287 *Id.*; *id.* art. XVI, § 65 (amended 1999).
- 288 The general eligibility provisions include, among others, the requirement that an elected official be at least eighteen years old on the first day of service, not have been convicted of a felony or determined mentally incompetent, and otherwise not have been declared ineligible to hold office. *See* TEX. ELEC. CODE § 141.001.
- 289 2005 OCA Annual Report, note 49 above, at 13.
- 290 TEX. CONST. art. V, § 28(b).
- 291 *Id.* § 19.
- 292 TEX. CODE CRIM. PROC. art. 4.11(a).
- 293 TEX. GOV'T CODE § 27.031(a); *see also* TEX. PROP. CODE § 24.004 (justice court has jurisdiction in eviction suits, which include forcible entry and detainer suits).
- 294 TEX. GOV'T CODE § 27.034.
- 295 *Id.* § 27.031(b).
- 296 TEX. PROP. CODE § 24.005(a). Unless a written lease provides for the recovery of attorney fees, ten days' notice must be given if the landlord wishes to obtain a judgment for attorney fees. *Id.* § 24.006(a).
- 297 TEX. R. CIV. P. 739.
- 298 *Id.* 740.
- 299 *Id.*
- 300 *Id.*
- 301 *Id.*
- 302 *Id.* 740, 748; TEX. PROP. CODE § 26.0061.
- 303 TEX. R. CIV. P. 749.
- 304 TEX. CODE CRIM. PROC. art. 4.08; TEX. GOV'T CODE § 26.046.
- 305 TEX. GOV'T CODE § 26.042(e); TEX. CIV. PRAC. & REM. CODE § 51.001(a).
- 306 TEX. GOV'T CODE § 25.0003(a).
- 307 TEX. CODE CRIM. PROC. art. 4.09; *see also* TEX. CIV. PRAC. & REM. CODE § 51.001(b).
- 308 TEX. R. CIV. P. 574b.
- 309 *Id.* 571, 572, 573, 749c; TEX. PROP. CODE § 24.0052.

- 310 See *In re Garza*, 990 S.W.2d 372, 374 (Tex. App.—Corpus Christi 1999, no pet.); see also *Roberts v. McCamant*, 70 Tex. 743, 8 S.W. 543, 543-44 (Tex. 1888) (when an appeal is taken, it operates to avoid the judgment, and the subsequent dismissal of the county court case does not restore it).
- 311 TEX. R. CIV. P. 571.
- 312 *Id.*
- 313 *Id.* 749, 752.
- 314 TEX. CIV. PRAC. & REM. CODE §§ 22.220(a), 51.012; *Sultan*, 178 S.W.3d at 748, 751-52, 753 (Jefferson, C.J.; Hecht, J., dissenting).
- 315 TEX. PROP. CODE § 24.007.
- 316 *Id.*
- 317 *Id.*
- 318 2005 OCA Annual Report, note 49 above, at 49. OCA received 9532 out of 9912 reports due from justice courts in fiscal year 2005.
- 319 *Id.*
- 320 *Id.*
- 321 *Id.*
- 322 *Id.*
- 323 *Id.*
- 324 TEX. GOV'T CODE §§ 28.001, 28.002.
- 325 *Sultan*, 178 S.W.3d at 750.
- 326 *Id.* (quoting Act of May 27, 1953, 53rd Leg., R.S., ch. 309, § 17, 1953 TEX. GEN. LAWS 778, 780); see also *id.* (quoting O.L. Sanders, Jr., *The Small Claims Court*, 1 S. TEX. L.J. 80, 85-86 (1954) (“Viewing the Small Claims Court Act as a whole, it must be concluded that the main object and purpose of the law was to place justice within the reach of many Texas citizens, who were previously denied such relief because the litigation expense and delay overshadowed their small claim.”)).
- 327 TEX. GOV'T CODE § 28.012.
- 328 *Id.* § 28.033(b).
- 329 *Id.* § 28.033(c).
- 330 *Id.* § 28.033(d).
- 331 *Id.* § 28.034.
- 332 *Id.* § 28.003(a).
- 333 *Id.* § 28.003(b).
- 334 *Id.* § 28.003(c), (e).
- 335 Compare *id.* § 27.031(a), with *id.* § 28.003(a).
- 336 Compare *id.* § 27.034, with *id.* § 28.003(a).
- 337 *Id.* § 28.052(a), (b).
- 338 *Id.* § 28.053(a).
- 339 *Id.* § 28.053(b), (d).
- 340 *Sultan*, 178 S.W.3d at 752.
- 341 *Id.*
- 342 *Id.* (quoting *State v. Jackson*, 376 S.W.2d 341, 346 (Tex. 1964)).
- 343 TEX. GOV'T CODE § 29.002. A reference in state law to a “corporation court” means a “municipal court.” *Id.*
- 344 *Id.* §§ 30.00002(2), 30.00003(a).
- 345 *Id.* §§ 29.004(b), 29.101(d)(1), 29.102(d)(1), 29.103(d)(1).
- 346 *Id.* § 30.00006(c).
- 347 *Id.*
- 348 See, e.g., *id.* § 30.00734(g).
- 349 *Id.* § 29.004(a).
- 350 *Id.* § 30.00006(b).
- 351 *Id.* § 29.003(a).
- 352 *Id.* § 29.003(b).
- 353 *Id.* § 29.003(e).
- 354 *Id.* § 30.00005(a).
- 355 *Id.* § 30.00005(b).
- 356 *Id.* § 30.00005(c).
- 357 *Id.* § 30.00005(d).
- 358 See 2005 OCA Annual Report, note 49 above, at 52.
- 359 *Id.*
- 360 TEX. CONST. art. V, § 31(a).
- 361 TEX. GOV'T CODE § 74.021.
- 362 *Id.* § 82.021.
- 363 *Id.* § 82.022(a); see also *id.* § 81.061 (rules governing the admission to the practice of law in Texas are within the exclusive jurisdiction of the Supreme Court).

- 364 *Id.* § 82.001(b).
- 365 *Id.* § 82.004.
- 366 *Id.* § 81.011(c).
- 367 *Id.* § 81.051.
- 368 *Id.* §§ 81.071, 81.076(b).
- 369 *Id.* § 81.072(a), (b).
- 370 *Id.* § 81.072(c).
- 371 TEX. R. DISCIPLINARY P. 7.01, *reprinted in* TEX. GOV'T CODE, tit. 2, subtit. G app. A-1.
- 372 TEX. GOV'T CODE § 81.072(d).
- 373 TEX. CONST. art. V, § 1-a(11).
- 374 *See* TEX. CODE JUD. CONDUCT, *reprinted in* TEX. GOV'T CODE, tit. 2, subtit. G app. B.
- 375 TEX. CONST. art. V, § 1-a(2).
- 376 *Id.* § 31(b).
- 377 TEX. GOV'T CODE § 22.004(a). The Legislature also may delegate to the Supreme Court the power to promulgate other rules as may be prescribed by law or by the constitution. TEX. CONST. art. V, § 31(c); *see also* TEX. GOV'T CODE § 22.003(b) (allowing the court to “make and enforce all necessary rules of practice and procedure...for the government of the supreme court and all other courts of the state to expedite the dispatch of business in those courts.”)
- 378 *See* TEX. R. CIV. P. 2 (providing for applicability of rules of civil procedure to “all actions of a civil nature” after September 1, 1941); 3 TEX. B.J. 517 (Oct. 1940) (publication of original Rules of Civil Procedure); Sup. Ct. of Tex., Order re: New Rules of Evidence, 641 S.W.2d XXXV (Nov. 23, 1982); 46 TEX. B.J. 196-217 (Feb. 1983) (publishing Texas Rules of Civil Evidence).
- 379 *See* Act of May 15, 1939, 46th Leg., R.S., ch. 25, 1939 Tex. Gen. Laws 201, 201-202 (giving Texas Supreme Court rulemaking authority in civil cases). This provision initially was codified as Texas Revised Civil Statute art. 1731a, but that article was repealed in 1985, and a similar provision was codified as section 22.004 of the Texas Government Code. *See* Act of June 12, 1985, 69th Leg., R.S., ch. 480, §§ 1, 26(1), 1985 Tex. Gen. Laws 1720, 1724, 2048; Court to Appoint Rules Committee, 3 TEX. B.J. 18 (Jan. 1940); Committee Begins Work on Rules, 3 TEX. B.J. 53 (Feb. 1940).
- 380 TEX. CONST. art. V, § 31(a); *see also* TEX. GOV'T CODE § 74.024(a). The Court must request the advice of the Court of Criminal Appeals before adopting rules affecting the administration of criminal justice. TEX. GOV'T CODE § 74.024(b).
- 381 *See* TEX. R. JUD. ADMIN. 6, 12, 13, *reprinted in* TEX. GOV'T CODE, tit. 2, subtit. F app.
- 382 TEX. GOV'T CODE § 21.004(a).
- 383 *Id.* § 74.022.
- 384 TEX. CONST. art. V, § 7a(a), (b), (e).
- 385 TEX. GOV'T CODE § 74.023. The duties of the OCA are described in Pages 43-44.
- 386 *Id.* § 74.004.
- 387 *Id.* §§ 71.012, 71.018, 71.031.
- 388 *Id.* § 74.003(a), (b). In addition, “the chief justice or any two justices of the supreme court may designate three justices of the courts of appeals to act on [petitions for review]” pending in the Supreme Court. *Id.* § 22.007.
- 389 *Id.* § 73.001.
- 390 *See* notes 137, 138.
- 391 TEX. GOV'T CODE § 74.057(a).
- 392 *Id.* § 74.001(a), (b).
- 393 *Id.* § 74.005.
- 394 TEX. SUP. CT. Misc. Docket No. 06-9057 (Order Creating Task Force on Jury Assembly & Administration), <http://www.supreme.courts.state.tx.us/MiscDocket/06/06905700.pdf>.
- 395 TEX. GOV'T CODE §§ 56.001(a), 74.025.
- 396 *Id.* § 22.110(a). The Supreme Court has the same obligation. *Id.* § 22.011(a).
- 397 *Id.* § 22.111.
- 398 *Id.* § 22.108.
- 399 *See Final Approval of Revisions to the Texas Rules of Appellate Procedure*, 60 TEX. B.J. 876 (Oct. 1997).
- 400 TEX. GOV'T CODE § 22.109.
- 401 *See Final Approval of Revisions to the Texas Rules of Evidence*, 61 TEX. B.J. 373 (Apr. 1998).
- 402 *See* TEX. CODE CRIM. PROC. art. 1.03 (code is intended to make the rules of procedure in respect to the prevention and punishment of offenses).
- 403 TEX. GOV'T CODE § 74.042.
- 404 *Id.* § 74.005.
- 405 *Id.* § 74.044.
- 406 *Id.* § 74.045(a).
- 407 *Id.* § 74.045(b).
- 408 *Id.* § 74.046.
- 409 *Id.* § 74.056(a).
- 410 *Id.* § 74.059(a).

- 411 See TEX. CONST. art. V, § 11 (grounds for disqualification of a judge); TEX. GOV'T CODE § 21.005 (same); TEX. R. CIV. P. 18a (grounds for disqualification or recusal of a judge). Black's Law Dictionary defines *recusal* as the process by which a judge is removed from a lawsuit because of self interest, bias or prejudice. See BLACK'S LAW DICTIONARY (8th ed. 2004). Texas law distinguishes between *disqualification* and *recusal*, although both refer to the circumstance in which a judge is incompetent to sit in a particular case. William W. Kilgarlin & Jennifer Bruch, *Disqualification and Recusal of Judges*, 17 ST. MARY'S L.J. 599, 601 (1986) (hereinafter Kilgarlin & Bruch). The grounds for disqualification are set out in the Constitution. *Id.*; see also TEX. CONST. art. V, § 11. A judge who is disqualified is absolutely without jurisdiction and any judgment rendered by him is void. Kilgarlin & Bruch at 601-02. Recusal includes those instances when a judge voluntarily steps down and those instances when a judge is required to step down on motion of a party for reasons other than those enumerated in the Constitution as grounds for disqualification. *Id.* at 602.
- 412 TEX. R. CIV. P. 18a(c).
- 413 *Id.* 18a(d).
- 414 TEX. GOV'T CODE § 74.048(a), (b).
- 415 *Id.* § 74.056(b).
- 416 *Id.* § 74.057(a).
- 417 *Id.* § 74.049.
- 418 *Id.* §§ 74.091(a), 74.0911(a).
- 419 *Id.* § 74.091(b).
- 420 *Id.* § 74.091(c).
- 421 *Id.* § 74.0911(b).
- 422 *Id.* § 74.0911(c).
- 423 *Id.* § 74.092; see also *id.* § 74.093 (requiring local judges to adopt rules of administration by majority vote).
- 424 *Id.* § 74.094(b), (c).
- 425 TEX. CONST. art. V, § 11; TEX. R. CIV. P. 330(e).
- 426 TEX. GOV'T CODE § 74.094(a).
- 427 *Id.*
- 428 *Id.*
- 429 *Id.* § 74.121(b)(1).
- 430 *Id.* § 74.121(a).
- 431 *Id.*
- 432 *Id.* § 74.094(e).
- 433 *Id.* § 25.0022(b), (c).
- 434 *Id.* § 25.0022(d).
- 435 See *id.* §§ 71.031-.036; see also Office of Court Administration, Texas Judicial Council, <http://www.courts.state.tx.us/oca/tjc/index.asp> (last visited Nov. 17, 2006). The Texas Judicial Council is composed of the Chief Justice of the Supreme Court and the Presiding Judge of the Court of Criminal Appeals, the chair of the Senate Jurisprudence Committee, one member of the Senate appointed by the Lieutenant Governor, the chair of the House Judicial Affairs Committee, one member of the House of Representatives appointed by the speaker of the House, two justices of the courts of appeals and two district judges designated by the Chief Justice, two judges of county courts, statutory county courts, or statutory probate courts appointed by the Chief Justice, two justices of the peace, two municipal court judges selected by the Chief Justice, and six citizen members, including three attorneys and two non-lawyers, appointed by the Governor. TEX. GOV'T CODE §§ 71.011, 71.012, 71.014; see also Office of Court Administration, Texas Judicial Council: Members, <http://www.courts.state.tx.us/oca/tjc/jcmemb.asp> (last visited Nov. 17, 2006).
- 436 TEX. GOV'T CODE §§ 71.031-.036.
- 437 See *id.* §§ 72.012(a), 72.022, 72.025, 72.083-.086; see also Office of Court Administration, Divisions and Contacts, <http://www.courts.state.tx.us/oca/dept.asp> (last visited Nov. 17, 2006).
- 438 See Office of Court Administration, www.courts.state.tx.us/oca (last visited Nov. 17, 2006).
- 439 TEX. GOV'T CODE § 72.011(a).
- 440 *Id.* § 72.021.
- 441 *Id.*
- 442 *Id.* § 72.022(b).
- 443 *Id.* § 72.023.
- 444 *Id.*
- 445 *Id.* § 72.024.
- 446 *Id.* § 72.025.
- 447 *Id.* § 72.030.
- 448 *Id.* § 72.042.
- 449 *Id.* § 72.082.
- 450 *Id.* §§ 72.083-.086.
- 451 *Id.* § 72.083. "Clearance rate" means the number of cases disposed of by the court divided by the number of cases added to the court's docket. *Id.*
- 452 *Id.* §§ 72.084-.086.

- 453 See TEX. GOV'T CODE §§ 659.011 (compensation set by Legislature in appropriations act), 659.012(a) (providing minimum salary for judicial officers). Appellate court judges' salaries are based on district court judges' salaries. A district judge is entitled to receive from the state an annual salary of at least \$125,000. *Id.* § 659.012(a)(1). A Supreme Court justice other than the Chief Justice, or Court of Criminal Appeals judge other than the Presiding Judge, is entitled to receive from the State an annual salary that is equal to 120% of the salary paid to a district judge, or \$150,000. *Id.* § 659.012(a)(3). The Supreme Court's Chief Justice and the Court of Criminal Appeals' Presiding Judge are entitled to receive from the State an annual salary that is \$2500 more than the salary provided for the other justices or judges of those courts, or \$152,500. *Id.* § 659.012(a)(4).
- 454 See *id.* §§ 659.011 (compensation set by Legislature in appropriations act), 659.012(a)(2),(4) (providing minimum salary for court of appeals justices). A court of appeals justice other than the Chief Justice is entitled to receive from the State an annual salary equal to 110% of the annual salary paid to a district judge, which is \$125,000. *Id.* § 659.012(a)(2). A court of appeals chief justice is entitled to receive from the State an annual salary that is \$2500 more than the salary provided for the other justices of those courts. *Id.* § 659.012(a)(4).
- 455 *Id.* § 31.001. The Government Code provides that the supplemental salary is to be paid in equal monthly installments. *Id.* § 31.004. At least for some courts of appeals, the salary supplement is paid by the county in which the court of appeals sits, with the other counties in the district reimbursing that county each year for the county's pro rata share (based on population) of the salary supplement and other costs incurred by the host county in supporting the court of appeals. See *id.* §§ 22.202(b)-(e) (Houston Courts of Appeals), 22.204(c)-(f) (Austin Court of Appeals), 22.214(f), (g) (Corpus Christi Court of Appeals). For the other ten courts of appeals, the Government Code does not specify how the salary supplement is paid or allocated among the counties.
- 456 *Id.* § 31.001; see, e.g., County of Burnet, Budget: Fiscal Year 2007, at 37, <http://www.burnetcountytexas.org/Portals/0/BurnetBudget07.pdf> (hereinafter "Burnet County Budget") (in fiscal year 2006, Burnet County paid \$2075 for "contract services" related to the Austin Court of Appeals).
- 457 See TEX. GOV'T CODE § 659.012(a)(2), (4) (the salaries of a court of appeals justice and of a chief justice of a court of appeals are capped at an amount that is \$5000 and \$2500 less, respectively, than the amount paid to a justice of the Supreme Court).
- 458 *Id.* § 659.012(a)(1).
- 459 *Id.* § 659.012(d).
- 460 See *id.* §§ 32.001, 659.012(a)(1); see also 2005 OCA Annual Report, note 49 above, at 15.
- 461 TEX. GOV'T CODE § 25.0005(a).
- 462 See *id.* § 25.0023(a).
- 463 *Id.* §§ 25.005(a), 25.0023(a).
- 464 See Dallas County, FY2006 Adopted Budget, <http://www.dallascounty.org/department/budget/media/FY06BudgetDetail.pdf>.
- 465 See Lubbock County, Texas, Adopted Budget FY2005-2006, at 8, 35-38, <http://www.co.lubbock.tx.us/2006BUDGET.pdf>.
- 466 See Burnet County Budget, note 460 above, at 18, 33-36. Curiously, the Legislature has chosen to implement formulas for determining the lowest possible salary for the county judges in Gregg, El Paso, Webb and Harris Counties and for any county with a population of 250,000 to 251,000. See TEX. LOC. GOV'T CODE § 152.904.
- 467 See City of Dallas, Texas, 2005-06 Annual Budget: Adopted, at 203, <http://www.dallascityhall.com/pdf/FY06AdoptedBudget/FY06Budget.pdf>.
- 468 See City of Burnet Budget, 2005-2006, <http://cityofburnet.com/Finance/Budget/2005-2006/Budget%202005-2006.htm> (follow "Municipal Court" hyperlink)(last visited Nov. 17, 2006).
- 469 TEX. GOV'T CODE § 26.006(a).
- 470 *Id.* § 154.005(a), (b).
- 471 See *id.* chs. 831-840. Membership in Plan One is limited to persons who were never eligible for membership in Plan Two and who became a judge, justice, or commissioner of a state court before the date Plan Two began operation. *Id.* § 832.001(a). Membership in Plan Two is limited to persons who are not eligible for membership in Plan One and who became judges, justices, or commissioners of a state court after Plan Two began operation. *Id.* § 837.001(a).
- 472 See 2006-07 Appropriations Act, note 135 above, at IV-1, 3, 6-22, 33.
- 473 See TEX. GOV'T CODE §§ 810.001(b) (municipality may establish a retirement system for its appointive officers and employees and determine the benefits, funding source and amount, and administration of the system), 841.003 (continuing in existence the Texas County and District Retirement System), 851.003 (continuing in existence the Texas Municipal Retirement System).
- 474 TEX. GOV'T CODE § 51.005(a)-(c).
- 475 *Id.* §§ 51.005(d) (fees collected by Supreme Court paid to Comptroller), 51.006 (Supreme Court keeps \$10 fee for issuance of attorney's license).
- 476 *Id.* § 51.207(a)-(c).
- 477 *Id.* § 51.207(e), (g).
- 478 *Id.* §§ 22.2021, 22.2031, 22.2041, 22.2051, 22.2061, 22.2121, 22.2141. For the other five courts, no such provision is made.
- 479 See *id.* § 51.317(a), (b)(1); see also *id.* §§ 51.318(a), (b), 51.319 (other district court fees).
- 480 TEX. LOC. GOV'T CODE § 133.052 (an officer collecting a fee in a justice, county or district court must deposit the fee into the county treasury); TEX. GOV'T CODE § 51.317(b)(4), (c) (\$10 records management fee is paid into the county treasury and deposited into two county records management funds).
- 481 TEX. LOC. GOV'T CODE § 118.052(1).
- 482 *Id.* § 133.052.
- 483 *Id.* § 118.052(2).

- 484 *Id.* § 133.052.
- 485 *Id.* § 118.101.
- 486 *Id.* § 133.052.
- 487 *Id.* § 118.121.
- 488 *Id.* § 133.052.
- 489 TEX. GOV'T CODE § 51.601(a).
- 490 *Id.* § 51.601(b), (c).
- 491 *Id.* § 51.604(a).
- 492 *Id.* §§ 51.702(a), (f), 51.703(a), 51.704(a), (e).
- 493 *Id.* §§ 51.702(d), 51.703(d), 51.704(c).
- 494 *Id.* §§ 51.702(b), (f), 51.703(b).
- 495 *Id.* §§ 51.702(d), 51.703(d).
- 496 TEX. LOC. GOV'T CODE § 133.102(a).
- 497 *Id.* § 133.102(e).
- 498 *Id.* § 133.105(a).
- 499 *Id.* § 133.105(b), (c).
- 500 *Id.* § 133.151.
- 501 *Id.* § 133.152.
- 502 *Id.* § 133.153.
- 503 *Id.* § 133.154.
- 504 See Texas Comptroller of Public Accounts, Biennial Revenue Estimate 2006-2007 (January 2005), <http://www.window.state.tx.us/taxbud/bre2006> (follow "Fund Detail" hyperlink, at 71) (last visited Nov. 17, 2006).
- 505 See Texas Comptroller of Public Accounts, 2006-07 Revenue Estimate for the 79th Legislature, Third Called Session (April 2006), at Table A-6, <http://www.window.state.tx.us/taxbud/revest0607-3rd/> (follow "Tables A3-A11" hyperlink) (last visited Dec. 7, 2006); see also Act of Aug. 9, 2005, 79th Leg., 2d C.S., ch. 3, §§ 1, 2, 10-18, 2005 TEX. GEN. LAWS 34, 35, 37-39 (codified as additions of or amendments to TEX. GOV'T CODE §§ 26.006(a), 101.062, 101.083, 101.123, 102.022, 659.012; and TEX. LOC. GOV'T CODE §§ 133.004, 133.105, 133.154) (providing for increased compensation of judicial officers and for the collection of additional fees and costs for deposit into the judicial fund).
- 506 2006-07 Appropriations Act, note 135 above, at cover page.
- 507 See *id.* at IV-1-5.
- 508 See *id.* at IV-6-22; see also TEX. GOV'T CODE §§ 659.011 (salaries of state officers set by appropriations act), 659.012(a) (setting minimum judicial salaries).
- 509 See, e.g., TEX. GOV'T CODE § 22.202(b), (c) (Harris County must furnish and equip suitable rooms for the courts of appeals sitting in Houston, and the other counties in the 1st and 14th Courts of Appeals' district must reimburse Harris County for costs incurred in connection with the courts).
- 510 See, e.g., *id.* §§ 22.203, 22.207-.211.
- 511 See *id.* § 31.001; see also Pages 44-45. Dallas County, for example, budgeted the full \$7500 per judge supplement for the justices on the Dallas Court of Appeals, and it anticipated receiving reimbursement of \$200 per judge from Collin County. See Dallas County, FY2006 Adopted Budget, note 464 above (Summary of Workforce Investment and Fund 120). With benefits included, Dallas County expected a total expenditure of \$121,979 related to court of appeals judges' supplemental salaries. *Id.*
- 512 For example, Dallas County budgeted operation expenses of \$570,500 in fiscal year 2006 from its Appellate Court Fund, which included, for example, \$15,000 for computers and software, \$25,000 for office supplies, and \$6000 for long distance charges. It budgeted income of \$336,228 from appellate court fees. See Dallas County, FY2006 Adopted Budget, note 464 above.
- 513 See 2006-07 Appropriations Act, note 135 above, at IV-31-33; TEX. GOV'T CODE §§ 659.011 (salaries of state officers set by appropriations act), 659.012(a), (d) (setting minimum judicial salaries and providing for supplement to local administrative judges).
- 514 See, e.g., Lubbock County Adopted Budget, note 465 above, at 25-29 (providing funding for district courts, district clerk, and district court administrator); Burnet County Budget, note 460 above, at 28, 31-32 (providing funding for district court, district clerk, and district clerk records management).
- 515 TEX. GOV'T CODE § 32.001.
- 516 See, e.g., Lubbock County Adopted Budget, note 465 above, at 30-33, 35-38 (providing funding for county courts at law and justice courts); Burnet County Budget, note 460 above, at 26, 33-36 (providing funding for county court at law and justice courts).
- 517 See TEX. GOV'T CODE § 26.006(a) (providing for a \$15,000 state supplement to county judges spending 40% or more time performing judicial services).
- 518 See, e.g., City of Dallas Annual Budget, note 467 above, at 64-66, 74, 108, 129, 199, 202, 203 (expenditures for municipal courts); City of Burnet Budget, note 468 above (follow "Municipal Court" hyperlink)(expenditures for municipal courts).
- 519 See 2006-07 Appropriations Act, note 135 above, at xiii-xiv (Recapitulation).
- 520 *Id.* at IV-45.
- 521 *Id.* at IV-1. The total appropriation to the Supreme Court for fiscal year 2007 of \$15.7 million (\$4.4 million for court operations and \$11.2 million for basic civil legal services) is substantially lower than in fiscal year 2006. ("Basic civil legal services" refers to funds used in programs approved by the Supreme Court that provide basic civil legal services to indigents. See TEX. LOC. GOV'T CODE § 133.152(c).)

- 522 2006-07 Appropriations Act, note 135 above, at IV-3. As noted in Pages 37-38, the Court of Criminal Appeals is charged with supervising the training of the judiciary and court personnel.
- 523 *Id.* at IV-6-22, IV-45.
- 524 *Id.* at IV-31-32. Amounts appropriated to the Comptroller of Public Accounts for judiciary-related expenditures are included in the \$261 million judiciary-related appropriation for fiscal year 2006.
- 525 *Id.* at 32; *see also* TEX. GOV'T CODE § 26.006(a) (providing for a supplement to county judges performing judicial services).
- 526 2006-07 Appropriations Act, note 135 above, at IV-32-33.
- 527 *Id.* at IV-22-27, IV-30-31.
- 528 *See* Lubbock County Adopted Budget, note 465 above, at S-17. Lubbock County categorizes the district court, district clerk, district court administrator, county courts at law, county court administrator, justice courts, and the central jury system as “judicial.” *Id.* at S-16.
- 529 *Id.* at S-22-23.
- 530 Burnet County Budget, note 460 above, at 4.
- 531 *Id.* at 16-17.
- 532 City of Dallas Annual Budget, note 467 above, at 241.
- 533 *Id.* at 487.
- 534 *See* City of Burnet Budget, note 468 above (follow “General Fund Revenue” and “Municipal Court” hyperlinks).
- 535 Article I establishes and empowers the legislative branch, while Article III establishes and empowers the judicial branch. *See* U.S. CONST. arts. I, III.
- 536 *Id.* art. III, § 1; *see also id.* art. I, § 8, cl. 9 (providing that the Congress has the power to constitute tribunals inferior to the United States Supreme Court).
- 537 *See id.* art. II, § 2.
- 538 *See id.* art. III, § 1 (“The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.”).
- 539 *See id.*; 28 U.S.C. § 1.
- 540 *See* 28 U.S.C. § 41.
- 541 *See id.* § 132.
- 542 *See id.* § 251.
- 543 *See id.* §§ 1 (providing for nine supreme court justices), 44(a) (providing for 179 courts of appeals judges), 133(a) (providing for 663 district judges), 251(a) (providing for nine judges on the Court of International Trade).
- 544 *Id.* § 1.
- 545 *See* U.S. Const. art. III, § 2 (Supreme Court jurisdiction); 28 U.S.C. §§ 1251-1259 (Supreme Court jurisdiction); *see also* Understanding the Federal Courts: Structure of the Federal Courts, http://www.uscourts.gov/understand03/content_3_0.htm (last visited Nov. 20, 2006).
- 546 *See* 28 U.S.C. § 41; *see also* Map 4.
- 547 28 U.S.C. § 41.
- 548 *See id.* §§ 1291-1294, 1296 (court of appeals jurisdiction); *see also* U.S. Courts, United States Courts of Appeals, <http://www.uscourts.gov/courts/appeals.html> (last visited Nov. 20, 2006).
- 549 *See* 28 U.S.C. §§ 41, 1295.
- 550 Judicial Facts and Figures (follow Table 1.1 hyperlink), <http://www.uscourts.gov/judicialfactsfigures/contents.html> (last visited Nov. 20, 2006).
- 551 *See* 28 U.S.C. §§ 1330-1369 (district court jurisdiction); *see also* U.S. Courts, United States District Courts, <http://www.uscourts.gov/districtcourts.htm> (last visited Nov. 20, 2006).
- 552 *See* 28 U.S.C. § 133(a).
- 553 *See* Judicial Facts and Figures, note 550 above, Table 1.1; *but see* 28 U.S.C. § 133(a) (authorizing 663 district court judgeships).
- 554 28 U.S.C. § 124, 133(a); *see also* App. 2.
- 555 28 U.S.C. §§ 1581-1585 (court’s jurisdiction); *see also* United States Court of International Trade, Jurisdiction of the Court, <http://www.cit.uscourts.gov/> (follow “About the Court” hyperlink) (last visited Nov. 20, 2006).
- 556 28 U.S.C. § 251(a).
- 557 *Id.* § 631(a).
- 558 *Id.*
- 559 *Id.* § 631(e).
- 560 *See* Judicial Facts and Figures, note 550 above, Table 1.1.
- 561 28 U.S.C. § 151.
- 562 *Id.*
- 563 *Id.* § 152(a).
- 564 *Id.*

- 565 The distinction between Article I courts and Article III courts is that Article III judges enjoy lifetime tenure and a guarantee that their compensation cannot be diminished, while Article I judges are appointed for a specified period and have no compensation guarantee. *See* U.S. CONST. art. III, § 1 (providing lifetime tenure and guaranteed compensation); *N. Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 62-76 (1982) (discussing Article I and III courts). In *Northern Pipeline* the Court identified three instances in which Congress may establish an Article I court: (1) when acting as both the state and national government, as it does in the U.S. territories; (2) when establishing military courts; and (3) when establishing courts in lieu of giving the Executive Branch the power to make a decision. 458 U.S. at 63-70; *see also* James E. Pfander, *Article I Tribunals, Article III Courts, and the Judicial Power of the United States*, 118 HARV. L. REV. 643 (2004).
- 566 *See* 48 U.S.C. §§ 1424(a) (Guam), 1611(a) (Virgin Islands), 1821(a) (Northern Mariana Islands).
- 567 *See id.* §§ 1426, 1614, 1821(b).
- 568 28 U.S.C. §§ 1491-1509 (court's jurisdiction).
- 569 *Id.* §§ 171(a), 172(a).
- 570 *See* 26 U.S.C. §§ 7441 (establishing court), 7442 (jurisdiction); *see also* United States Tax Court, <http://www.ustaxcourt.gov/about.htm> (last visited Nov. 20, 2006).
- 571 26 U.S.C. § 7443(a), (b), (c).
- 572 *See* 38 U.S.C. §§ 7251 (establishing court), 7252(a) (jurisdiction).
- 573 *Id.* § 7253(a), (b), (c).
- 574 *See* 10 U.S.C. ch. 47 (Uniform Code of Military Justice); 10 U.S.C. § 941 (establishing court); United States Court of Appeals for the Armed Forces, Establishment, History, <http://www.armfor.uscourts.gov/Establis.htm> (last visited Nov. 20, 2006).
- 575 *See* 10 U.S.C. § 867; United States Court of Appeals for the Armed Forces, note 574 above, at "Overview."
- 576 10 U.S.C. § 942(a), (b).
- 577 Unless otherwise indicated, all of the information about California's court system is taken from the official California courts website. *See* California Courts: The Judicial Branch of California, www.courtinfo.ca.gov (last visited Nov. 20, 2006).
- 578 CAL. CONST. art. VI, § 12(b).
- 579 *See id.* The California Supreme Court must review death penalty cases, which are appealed directly to the Supreme Court from the trial court. *See id.* § 11; CAL. PENAL CODE § 1239(b).
- 580 CAL. CONST. art. VI, § 12(a).
- 581 *See* CAL. R. CT. 28(b).
- 582 *See* Judicial Council of California, 2006 Court Statistics Report: Statewide Caseload Trends 1995-1996 through 2004-2005, at xiii, <http://www.courtinfo.ca.gov/reference/documents/csr2006.pdf>.
- 583 *Id.* at x.
- 584 *See* CAL. CONST. art. VI, § 11(a).
- 585 *See* CAL. GOV'T CODE § 21168; CAL. R. CT. 59.
- 586 2006 COURT STATISTICS REPORT, note 582 above, at x; JUDICIAL COUNCIL OF CALIFORNIA, FACT SHEET: CALIFORNIA JUDICIAL BRANCH (April 2006), at 3, http://www.courtinfo.ca.gov/reference/documents/factsheets/Calif_Judicial_Branch.pdf.
- 587 *See* CAL. CONST. art. VI, § 10.
- 588 2006 COURT STATISTICS REPORT, note 582 above, at 77.
- 589 Judicial Selection in the States, Judicial Selection in New York: An Introduction, <http://www.ajs.org/js/NY.htm> (last visited Nov. 20, 2006).
- 590 *See* N.Y. CONST. art. VI, § 1; New York State Unified Court System, Court Structure, <http://www.nycourts.gov/courts/structure.shtml> (last visited Nov. 20, 2006); Comm'n to Promote Public Confidence in Judicial Elections, Final Report to the Chief Judge of the State of New York 6 (Feb. 6, 2006), <http://law.fordham.edu/commission/judicialections/images/jud-finreport.pdf> (hereinafter "Comm'n To Promote Public Confidence").
- 591 *See* N.Y. CONST. art. VI, § 3.
- 592 *See* State of New York, Twenty-Seventh Annual Report of the Chief Administrator of the Courts for Calendar Year 2004, at 1, <http://www.courts.state.ny.us/reports/annual/pdfs/2004annualreport.pdf>.
- 593 *Id.* at 3.
- 594 *Id.* at 2.
- 595 N.Y. CONST. art. VI, § 7(a); COMM'N TO PROMOTE PUBLIC CONFIDENCE, note 590 above, at 6.
- 596 For more information on these courts, see the New York Courts' website. New York State Unified Court System, www.courts.state.ny.us (last visited Nov. 20, 2006).
- 597 Unless otherwise noted, the information about Florida's court system was taken from the websites of the Florida courts or of the Florida Supreme Court. Florida State Courts, <http://www.flcourts.org> (last visited Nov. 20, 2006); Florida Supreme Court, <http://www.floridasupremecourt.org> (last visited Nov. 20, 2006).
- 598 *See* Florida State Courts Annual Report 2005-2006, at 42, http://www.flcourts.org/gen_public/pubs/bin/annual_report0506.pdf at 42.
- 599 FLA. CONST. art. V, § 3
- 600 *See id.* § 3(b).
- 601 *Id.*
- 602 *See id.* art. IV, § 1(c).
- 603 FLORIDA STATE COURTS ANNUAL REPORT, note 598 above, at 42.

- 604 See FLA. CONST. art. V, § 4(b).
- 605 *Id.*
- 606 FLORIDA STATE COURTS ANNUAL REPORT, note 598 above, at 42.
- 607 See Florida State Courts, Circuit Courts: Brief Description, http://www.flcourts.org/courts/circuit/cir_description.shtml (last visited Nov. 20, 2006).
- 608 FLORIDA STATE COURTS ANNUAL REPORT, note 598 above, at 43.
- 609 See FLA. STAT. § 26.01.
- 610 See FLA. CONST. art. V, § 5(a).
- 611 See FLA. STAT. §§ 26.012(2), 34.01(1).
- 612 See *id.* § 21.012(1).
- 613 FLORIDA STATE COURTS ANNUAL REPORT, note 598 above, at 42.
- 614 *Id.* at 43.
- 615 See Florida State Courts, County Courts: Brief Description, http://www.flcourts.org/courts/county/county_description.shtml (last visited Nov. 20, 2006).
- 616 See FLA. STAT. §§ 26.012(2), 34.01(1).
- 617 Florida State Courts, County Courts, note 615 above.
- 618 See STATE COURT ORGANIZATION 2004, note 23 above.
- 619 See *id.* 12-15. The twenty-eight states are Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, and Wisconsin.
- 620 *Id.* The seventeen states are Alaska, Arizona, Delaware, Hawaii, Idaho, Indiana, New Hampshire, New Mexico, North Dakota, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wyoming.
- 621 *Id.*
- 622 Oklahoma has nine judges on its Supreme Court and five on its Court of Criminal Appeals. *Id.* at 13.
- 623 See *id.* at 267-319.
- 624 See *id.* The eleven states are Delaware, Maine, Montana, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, West Virginia and Wyoming.
- 625 *Id.* at 268, 311.
- 626 *Id.* at 300, 306.
- 627 *Id.* at 281, 283, 291.
- 628 *Id.* at 269, 274, 279, 280, 284, 285, 293, 301, 315, 318.
- 629 *Id.* at 296, 297, 302, 310, 317, 319.
- 630 *Id.* at 270.
- 631 Understanding the Federal Courts, Federal Judicial Administration, http://www.uscourts.gov/understand03/content_7_0.html (last visited Nov. 20, 2006).
- 632 See *id.*
- 633 28 U.S.C. § 331; Understanding the Federal Courts, Federal Judicial Administration, note 631 above.
- 634 28 U.S.C. § 331.
- 635 *Id.*
- 636 *Id.*
- 637 Understanding the Federal Courts, Federal Judicial Administration, note 631 above.
- 638 28 U.S.C. § 331.
- 639 Understanding the Federal Courts, Federal Judicial Administration, note 631 above.
- 640 *Id.*
- 641 *Id.*
- 642 28 U.S.C. § 332(a)(1).
- 643 *Id.* § 332(d)(1).
- 644 Understanding the Federal Courts, Federal Judicial Administration, note 631 above.
- 645 28 U.S.C. § 332(e).
- 646 See FACT SHEET: CALIFORNIA JUDICIAL BRANCH, note 586 above, at 4.
- 647 CAL. CONST. art. VI, § 6(a).
- 648 *Id.* § 6(d).
- 649 *Id.* § 6(c).
- 650 Administrative Office of the Courts, <http://www.courtinfo.ca.gov/courtadmin/aoc/> (last visited Nov. 20, 2006).
- 651 *Id.*
- 652 CAL. CONST. art. VI, §§ 7, 8.
- 653 FACT SHEET: CALIFORNIA JUDICIAL BRANCH, note 586 above, at 4.
- 654 *Id.* at 4-5.
- 655 N.Y. CONST. art. VI, § 28(a).
- 656 *Id.*
- 657 *Id.* § 28(b).

- 658 N.Y. JUDICIARY LAW § 212.
- 659 N.Y. CONST. art. VI, § 28(a).
- 660 *Id.* § 28(c); N.Y. JUDICIARY LAW § 213(b).
- 661 N.Y. CONST. art. VI, §§ 2(c), 22(a); *see also* N.Y. JUDICIARY LAW §§ 41, 62.
- 662 N.Y. CONST. art. VI, § 2(c).
- 663 *Id.* § 22(a).
- 664 FLA. CONST. art. V, § 2(b).
- 665 *Id.* at § 2(c)(d).
- 666 Florida State Courts, Local Court Administration, <http://www.flcourts.org/courts/crtadmin/localadmin.shtml> (last visited Nov. 20, 2006).
- 667 Florida State Courts, General Information, <http://www.flcourts.org/courts/crtadmin/crtadmin.shtml> (last visited Nov. 20, 2006).
- 668 FLA. R. JUD. ADMIN. 2.030(e).
- 669 *Id.* 2.225(a).
- 670 *Id.* 2.225(d).
- 671 *See id.* 2.230, 2.235; *see also* State Courts System Committees (Aug. 16, 2004), <http://www.flcourts.org/courts/crtadmin/bin/courtcommitteeshandout.pdf>.
- 672 FLA. CONST. art. V, § 12.
- 673 *Id.* § 11(d).
- 674 NATIONAL CENTER FOR STATE COURTS, SURVEY OF JUDICIAL SALARIES (as of January 1, 2006), www.ncsconline.org/WC/Publications/KIS_JudComJudSa1010106Pub.pdf.
- 675 *Id.* at 1.
- 676 *Id.*
- 677 *Id.*
- 678 *Id.*
- 679 This assumes all intermediate court of appeals justices receive the maximum supplement amount allowed by law. *See* TEX. GOV'T CODE §§ 31.001, 659.012; *see also* Pages 44-45.
- 680 A district judge is entitled to receive from the State an annual salary of at least \$125,000, and his or her annual salary may be supplemented by the counties within the district by up to \$7500 per year. *See* TEX. GOV'T CODE §§ 32.001, 659.012; *see also* Pages 44-45. This figure is the average of the highest and lowest possible salaries for a Texas district judge.
- 681 Understanding the Federal Courts, Federal Judicial Administration, note 631 above.
- 682 *Id.*
- 683 *Id.*
- 684 *Id.*
- 685 *Id.*
- 686 *See* S. Rep. No. 108-344, at 121-28 (2004).
- 687 *Id.* at 121-22.
- 688 *Id.* at 122-23.
- 689 Robert W. Tobin, Funding the State Courts: Issues and Approaches, at 34 (1996), www.ncsconline.org/WC/Publications/KIS_FundCtFundingtheStCts.pdf.
- 690 *Id.* at 35.
- 691 *Id.*
- 692 *Id.*; *see also* Robert W. Tobin & Brian Lynch, *A Case Study of the Effects of State Financing of Trial Courts: California* (1990) http://www.ncsconline.org/WC/Publications/KIS_FundCtStFinTrCtsCalif.pdf.
- 693 *See* STATE COURT ORGANIZATION 2004, note 23 above, at 80-82.
- 694 *Id.*
- 695 *Id.*
- 696 *Id.* New York and Wyoming have some courts submitting their own budgets and some courts submitting their budgets through their administrative office of the courts. *Id.*
- 697 *Id.*
- 698 *Id.*
- 699 Those states are Louisiana, South Carolina and Tennessee.
- 700 Welcome to California's Governor's Budget 2006-07, <http://govbud.dof.ca.gov/StateAgencyBudgets/0010/0250/department.html> (follow "Entire Judicial Branch Budget" hyperlink), at LJE1, LJE 6 (last visited Dec. 11, 2006).
- 701 *Id.*
- 702 *Id.*
- 703 *Id.*
- 704 *See* S. 6451 § 2, 2006 N.Y. State Assembly, (Apr. 12, 2006) (appropriations bill).
- 705 *Id.* The appropriation for appellate court operations includes, among other items, \$22 million for "mental hygiene legal services," \$5 million for the State Board of Law Examiners, and \$13 million for attorney discipline.
- 706 *See* Bush/Jennings Policy & Budget Recommendations, Fiscal Year 2006-07, at 316, <http://www.ebudget.state.fl.us/billview/billpage.aspx> (last visited Nov. 21, 2006). A total of \$6,727,500 was for "site hardening" and air conditioning and window replacement.
- 707 *Id.* at 318. A total of \$836,894 was appropriated for repairs to the Third Court of Appeals' roof and interior ceilings.

- 708 *Id.* at 318-20.
- 709 *Id.* at 320.
- 710 Tobin, *Funding the State Courts*, note 689 above, at 37.
- 711 See STATE COURT ORGANIZATION 2004, note 23 above, at 83, 86, 89, 92.
- 712 *Id.* at 83.
- 713 See *id.* at 83, 86, 89, 95.
- 714 See Pages 51-56.
- 715 See *id.*; see also 28 U.S.C. §§ 251, 1581-1585 (court's jurisdiction); see also United States Court of International Trade, Jurisdiction of the Court, note 555 above.
- 716 See Pages 51-56.; see also 26 U.S.C. §§ 7441 (establishing court), 7442 (jurisdiction); United States Tax Court, note 570 above.
- 717 28 U.S.C. § 1407.
- 718 See *Utah v. Am. Pipe & Constr. Co.*, 316 F.Supp. 837, 839 (C.D. Cal. 1970); *In re Nat'l Student Mktg. Litig.*, 368 F.Supp. 1311, 1316 (J.P.M.L. 1973).
- 719 28 U.S.C. § 1407(a).
- 720 Local rules in the district courts of three counties provide for complex case designation. El Paso County (Tex.) Dist. Ct. Loc. R. 3.15; Galveston County (Tex.) Dist. Ct. Loc. R. 3.33; Webb County (Tex.) Dist. Ct. Loc. R. 3.33.
- 721 See Ariz. Sup. Ct. Admin. Order Nos. 2002-107, 2004-27 (establishing complex civil litigation program in Maricopa County to assign "complex" cases to a single judge); Cal. R. Ct. 19(b) (requiring "complex" litigation be assigned to one judge for all purposes); State of Connecticut Judicial Branch: Complex Litigation Docket, <http://www.jud.state.ct.us/external/super/spssess.htm> (last visited Nov. 21, 2006) (noting "complex litigation docket" available in six superior courts); Ga. Fulton County Sup. Ct. R. 1002 (establishing complex civil case division).
- 722 CAL. R. CT. 19(c).
- 723 ARIZ. SUP. CT. ADMIN. ORDER NO. 2004-27.
- 724 Programs: Statewide Judicial Initiatives, <http://www.courtinfo.ca.gov/programs/innovations/courtadmin-4.htm> (last visited Nov. 21, 2006).
- 725 See Judicial Council of California, Fact Sheet: Complex Civil Litigation Program, (January 2006), <http://www.courtinfo.ca.gov/reference/documents/factsheets/complit.pdf>; see also Cal. R. Ct. 19(b).
- 726 State of Connecticut Judicial Branch, note 721 above.
- 727 See GA. FULTON COUNTY SUP. CT. R. 1002.
- 728 ARIZ. R. CIV. P. 8(i)(1); CAL. R. CT. 1800(a).
- 729 See ARIZ. R. CIV. P. 8(i)(2); CAL. R. CT. 1800(b), (c); see also Page 95.
- 730 Notice to Attorneys re Complex Litigation Docket, Superior Court, Civil Division, <http://www.jud.state.ct.us/external/super/ComplexLitigationNotice.pdf>.
- 731 CONN. GEN. STAT. § 52-190b.
- 732 GA. FULTON COUNTY SUP. CT. R 1002.
- 733 *Id.*
- 734 ARIZ. R. CIV. P. 8(i)(3), (5), (6); CAL. R. CT. 1810, 1811; CONN. R. SUPER. CT. §§ 23-13, 23-14, 23-15.
- 735 GA. FULTON COUNTY SUP. CT. R 1002.
- 736 The Special Court in Florida is referred to as the "Complex Business Litigation Court." FLA. CIR. CT. 9TH DIV. ADMIN. ORDER 2003-17-03.
- 737 Maryland's program is referred to as the Business & Technology Case Management Program. Maryland Business and Technology Case Management Program, <http://www.courts.state.md.us/businesstech/index.html> (last visited Nov. 21, 2006).
- 738 See FLA. CIR. CT. 9TH DIV. ADMIN. ORDER 2003-17-03; MD. R. 16-205(b); ADMIN. DIRECTIVE No. 03-1 (Superior Court Business Litigation Session Extension and Expanded Venue)(Massachusetts); NEV. 2D DIST. R. 2.1; NEV. 8TH DIST. R. 1.61; N.C. SUPER. & DIST. CT. R. 2.1; R. I. ADMIN. ORDER No. 2001-9.
- 739 FLA. CIR. CT. 9TH DIV. ADMIN. ORDER 2003-17-03.
- 740 ADMIN. DIRECTIVE No. 03-1, note 738 above (Massachusetts).
- 741 Minutes of the Meeting of the Legislative Commission's Subcommittee to Encourage Corporations and Other Business Entities to Organize and Conduct Business in this State: Sub-Subcommittee for the Examination of the Business Court and Business Laws (Jan. 7, 2000), <http://www.leg.state.nv.us/70th/Interim/Studies/Business/Minutes/IM-Business-20000107-2204.html> (last visited Nov. 21, 2006).
- 742 NEV. 2D DIST. R. 2.1; NEV. 8TH DIST. R. 1.61.
- 743 R. I. ADMIN. ORDER No. 2001-9.
- 744 See Memorandum from I. Beverly Lake, Jr., Chief Justice, Supreme Court of North Carolina, to All Superior Court Judges (Mar. 7, 2001), <http://www.ncbusinesscourt.net/OtherRefdocs/Guidelines.pdf>; Maryland Business & Technology Case Management Program, note 737 above.
- 745 North Carolina Business Court, <http://www.ncbusinesscourt.net/> (last visited Nov. 21, 2006).
- 746 See Memorandum from I. Beverly Lake, Jr., note 744 above.
- 747 See Fla. Cir. Ct. 9th Div. Admin. Order 2003-17-03; Chief Justice Suzanne V. DelVecchio, Notice to the Bar: Business Litigation Session, Suffolk Superior Court, <http://www.gesmer.com/blog/businesslitigationrules1.pdf>; NEV. 2D DIST. R. 2.1; NEV. 8TH DIST. R. 1.61; R. I. Admin. Order No. 2001-9.

- 748 FLA. CIR. CT. 9TH DIV. ADMIN. ORDER 2003-17-03 (complex business litigation court has jurisdiction over some claims in which the amount in controversy is \$75,000).
- 749 *Id.*; NEV. 2D DIST. R. 2.1; NEV. 8TH DIST. R. 1.61; R.I. ADMIN. ORDER No. 2001-9.
- 750 FLA. CIR. CT. 9TH DIV. ADMIN. ORDER 2003-17-03.
- 751 NEV. 2D DIST. R. 2.1; NEV. 8TH DIST. R. 1.61.
- 752 MD. R. 16-205(c); N.C. SUPER. & DIST. CT. R. 2.1.
- 753 MD. R. 16-205(c).
- 754 ADMIN. DIRECTIVE No. 03-1, note 738 above, (Massachusetts); NEV. 2D DIST. R. 2.1; NEV. 8TH DIST. R. 1.61.; R. I. ADMIN. ORDER No. 2001-9.
- 755 FLA. CIR. CT. 9TH DIV. ADMIN. ORDER 2003-17-03; MD. R. 16-205(c); N.C. SUPER. & DIST. CT. R. 2.1.
- 756 State of Illinois, Circuit Court of Cook County: Commercial Calendars, <http://www.cookcountycourt.org/divisions/index.html> (follow "Law Division" hyperlink; then follow "Commercial Calendars" hyperlink) (last visited Nov. 21, 2006); N.Y. UNIF. CIV. R. SUP. & COUNTY CTS. § 202.70(b); PA. CT. COMMON PLEAS PHILADELPHIA COUNTY ADMIN. ORDER 03-02.
- 757 State of Illinois, note 756 above.
- 758 N.Y. UNIF. CIV. R. SUP. & COUNTY CTS. § 202.70(a).
- 759 PA. CT. COMMON PLEAS PHILADELPHIA COUNTY ADMIN. ORDER 03-02.
- 760 N.Y. UNIF. CIV. R. SUP. & COUNTY CTS. § 202.70(b); PA. CT. COMMON PLEAS PHILADELPHIA COUNTY ADMIN. ORDER 03-02.
- 761 *See* N.Y. UNIF. CIV. R. SUP. & COUNTY CTS. § 202.70(a).
- 762 *See* PA. CT. COMMON PLEAS PHILADELPHIA COUNTY ADMIN. ORDER 03-02.
- 763 N.Y. UNIF. CIV. R. SUP. & COUNTY CTS. § 202.70(d), (e), (f); PA. CT. COMM. PLEAS PHILADELPHIA COUNTY, ADMIN. ORDER 03-02.
- 764 N.Y. UNIF. CIV. R. SUP. & COUNTY CTS. § 202.70(f).
- 765 *See* Page 4.
- 766 TEX. CONST. art V, §2 (amended 1945).
- 767 *See* Pages 7-8.
- 768 *See* Pages 51-62; Chart 5.
- 769 Clarence A. Guittard, *Court Reform, Texas Style*, 21 SW. L.J. 451, 451 (1967); *see also* Greenhill, note 77 above, at 379-86; C. Raymond Judice, *The Texas Judicial System: Historical Development and Efforts Towards Court Modernization*, 14 S. TEX. L.J. 295, 313-33 (1973).
- 770 *See* Pages 4-7.
- 771 The most likely area for conflicting decisions is in juvenile delinquency cases because they are civil cases and, therefore, are within the Texas Supreme Court's jurisdiction, but the substantive law applied is criminal law. Pages 4-7; notes 63, 64, 65 above.
- 772 *See* Pages 4-7; notes 63, 64, 65 above.
- 773 *See* Anthony Champagne, *The Selection and Retention of Judges in Texas*, 40 SW. L.J. 53, 95-96 (1986); Orrin W. Johnson & Laura Johnson Urbis, *Judicial Selection in Texas: A Gathering Storm?*, 23 TEX. TECH. L. REV. 525, 543-45 (1992); Peter D. Webster, *Selection and Retention of Judges: Is There One "Best" Method?*, 23 FLA. ST. U. L. REV. 1, 18 (1995); *Courting Disaster: Partisan Elections Almost Guarantee Some Poor Judges*, HOUST. CHRON., July 27, 2001 at A34.
- 774 Champagne, note 773 above, at 95; Webster, note 773 above, at 18.
- 775 *See* George E. Brand, *Selection of Judges—The Fiction of Majority Election*, 34 J. AM. JUDICATURE SOC'Y 136, 143 (1951); Webster, note 773 above, at 18.
- 776 Webster, note 773 above, at 18.
- 777 George E. Brand, *Selection of Judges—The Fiction of Majority Election*, 34 J. AM. JUDICATURE SOC'Y 136, 143 (1951); Webster, note 773 above, at 18.
- 778 *See* Pages 51-61.
- 779 *See* Pages 36-44.
- 780 *See* Pages 4-7; note 59 above.
- 781 *See* Pages 4-7.
- 782 *See* Pages 7-8.
- 783 *See* Pages 56-59.
- 784 *See* Page 4.
- 785 Guittard, note 769 above, at 451; *see also* Greenhill note 77 above, at 379-86; Judice, note 769 above, at 313-33.
- 786 *See* TEX. CONST. art. V, §§ 3, 5.
- 787 *Id.* art. XVII, § 1.
- 788 Guittard, note 769 above, at 451; *see also* Greenhill note 77 above, at 379-86; Judice, note 769 above, at 313-33.
- 789 *See* Pages 51-62; Chart 5.
- 790 *See* Pages 44-45, 45-50.
- 791 *See* Pages 4-7, 56-62.
- 792 *See* TEX. CONST. art V, §§ 2, 4.
- 793 *See* Pages 4-7.
- 794 *See* TEX. R. APP. P. 56.1(a) (considerations in granting review).
- 795 *See* 28 U.S.C. § 1292(e) ("The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d)").
- 796 *See* TEX. CONST. art V, § 3.

- 797 *See id.*
- 798 The Texas Constitution allows the Legislature to provide for the number of intermediate appellate courts, the number of justices on each court (although the Constitution requires that each court have at least three justices), and the geographic jurisdiction of each court. *See id.* § 6. The Legislature may also amend the practice of docket equalization by statute. *See* TEX. GOV'T CODE § 73.001. These changes will, therefore, not require constitutional amendment.
- 799 *See* Pages 8-14, 51-62.
- 800 *See* Pages 8-14.
- 801 *See* Pages 8-14; Table 1.
- 802 TEX. CONST. art. V, § 6(a).
- 803 The population of Texas in 2000 was almost 21 million, with forty-four percent of the population living in the five largest counties (Harris, Dallas, Tarrant, Bexar and Travis). U.S. Census Bureau, State & County QuickFacts, <http://quickfacts.census.gov/qfd/states/48000.html> (follow "Select a county" menu for county information) (last visited Dec. 7, 2006).
- 804 *See* Scott Brister, *Is it Time to Reform Our Courts of Appeals?*, 40 HOU. LAW. 22, 23 (March/April 2003) ("Modern technology has reduced distances...to a matter of hours for travel and a matter of seconds for communication. But the distribution of the state's appellate courts has changed little.").
- 805 *See* TEX. CONST. art. V, § 6.
- 806 *See* Pages 10-14, Table 2.
- 807 The Legislature, by placing a rider on the Supreme Court's appropriation, requires docket equalization. *See* Pages 10-14; note 136 above.
- 808 *See* Pages 77-79.
- 809 Brister, note 804 above, at 23-24.
- 810 TEX. GOV'T CODE § 22.214(a).
- 811 *See* Pages 56-62; Table 5. As can be seen on Table 5, California has 31% more intermediate appellate court judges than Texas and 62% more residents. New York has 26% fewer intermediate appellate court judges serving a population that is only 9% smaller than Texas's population. The data from California, New York, Pennsylvania, Michigan, and Georgia indicates that Texas may have too many intermediate appellate court judges for its size. On the other hand, Florida has only 19% fewer intermediate appellate court judges than Texas even though its population is 23% smaller than Texas's population. And Illinois has a population that is 41% smaller than Texas's population, but has only 35% fewer intermediate appellate court judges. The data from Florida, Illinois and Ohio suggests that Texas may have too few intermediate appellate court judges. Overall, to the extent population correlates to the need for judges, the data, if anything, indicates that Texas probably has an appropriate number of intermediate appellate court judges.
- 812 *See* Pages 8-14.
- 813 *Miles v. Ford*, 914 S.W.2d 135, 137 (Tex. 1995).
- 814 *See* Pages 8-14.
- 815 *Miles*, 914 S.W.2d at 137.
- 816 *Id.*
- 817 *Id.* The Supreme Court may transfer a case from one court of appeals to another when there is good cause for the transfer. TEX. GOV'T CODE § 73.001.
- 818 *Miles*, 914 S.W.2d at 138.
- 819 *Id.* at 139.
- 820 *Id.* at 136.
- 821 *Id.* at 139.
- 822 *Id.* at 139-40.
- 823 *Id.* at 140.
- 824 4 S.W.3d 459 (Tex. App.—Houston [1st Dist.] 1999, pet. denied).
- 825 No. 14-99-00174-CV, 2000 WL 1228618, at *4 (Tex. App.—Houston [14th Dist.] Aug. 31, 2000, pet. denied).
- 826 *See Montes v. City of Houston*, 66 S.W.3d 267 (Tex. 2001) (Hecht, J., concurring in the denial of a pet. for review).
- 827 Brister, note 804 above, at 25-26 (some footnotes omitted or revised).
- 828 *See* Pages 8-14.
- 829 *See, e.g., Ex parte Shaklee*, 939 S.W.2d 144, 145 n. 2 (Tex. 1997). In *Shaklee*, a Gregg County trial court held Shaklee in contempt. He sought habeas corpus relief from the Texarkana Court of Appeals, which denied relief. *Id.* at 144. He then sought habeas corpus relief from the Tyler Court of Appeals. *Id.* After ordering that Shaklee be released on bond, the Tyler court learned that the Texarkana court previously had denied Shaklee's request. *Id.* It withdrew its prior order and rescinded the bond. *Id.* at 145 n.2.
- 830 28 U.S.C. § 44(a).
- 831 The Legislature compels the Supreme Court to equalize the courts of appeals dockets by placing a rider on the Court's biennial appropriation. *See* Pages 8-14; note 136 above.
- 832 *Harris County v. Walsweer*, 930 S.W.2d 659, 662-63 & n.1, 2 (Tex. App.—Houston [1st Dist.] 1996, writ denied).
- 833 Brister, note 804 above, at 24-25 (footnotes omitted).
- 834 *Am. Nat'l Ins. Co. v. Int'l Bus. Machs. Corp.*, 933 S.W.2d 685, 687 (Tex. App.—San Antonio 1996, writ denied).
- 835 *Pena v. State*, 995 S.W.2d 259, 261 (Tex. App.—Corpus Christi 1999, no pet.).
- 836 *See Smith v. State*, 998 S.W.2d 683, 691 (Tex. App.—Corpus Christi 1999, pet. ref'd).
- 837 Susan Borreson, *Docket Police Issue More Transfer Orders*, TEX. LAW., May 11, 1998.

- 838 *Jaubert v. State*, 65 S.W.3d 73, 91-92 n.1 (Tex. App.—Waco 2000) (Gray, J., dissenting on pet. for discretionary review), *rev'd* 74 S.W.3d 1 (Tex. Crim. App. 2002).
- 839 See Pages 14-16.
- 840 *Sultan*, 178 S.W.3d at 753 (Hecht, J., dissenting); See Pages 16-18.
- 841 See Pages 56-57.
- 842 See Pages 60-62.
- 843 See Pages 59-60.
- 844 See Pages 51-62.
- 845 TEX. CONST. art. V, § 1; Page 3.
- 846 TEX. CONST. art. V, §§ 8, 19.
- 847 *Id.* § 16.
- 848 This should not be construed as recommending changes affecting municipal courts. While this paper proposes moving to a truly unified trial court structure in Texas, we recognize that the Texas municipal court system, as presently constituted, is sensible and works well. For the most part, municipal courts have jurisdiction of violations of municipal codes, like zoning ordinances, and violations of traffic laws occurring within the city limits and are wholly supported by revenues generated by municipal governments. In fiscal year 2005, Texas's municipal courts received 8 million new cases, including 6.7 million traffic misdemeanors. The nature and volume of these municipal cases would not diminish if municipal courts were merged into another trial court. From the public's point of view, the merger would do little more than change the name on the courtroom door. Consequently, while complete unification of the Texas judicial system is the optimum goal, absent complete unification, there is no compelling reason to change the structure of municipal courts.
- 849 See Pages 44-45.
- 850 With respect to retirement benefits, statutory county-level judges have been participating in their counties' retirement systems. Past proposals to convert statutory county and probate courts have suggested that it would be appropriate to allow these judges to elect whether to continue to participate in their county retirement systems or to begin to participate in the State judicial retirement system, which is a sensible solution.
- 851 Tobin, note 689 above, at 16.
- 852 See Pages 23-25; note 212.
- 853 See *id.*, note 212. Article V, § 13 of the Texas Constitution provides that "petit juries in a criminal case below the grade of felony shall be composed of six persons." This paper is not recommending a constitutional change. Consequently, even if county courts at law are converted into district courts, a six-person jury would continue to be used in misdemeanor criminal cases.
- 854 TEX. CONST. art. V, § 7a; see also Pages 18-23.
- 855 See Pages 51-56, 68.
- 856 See Pages 68-70.
- 857 Pages 93-104 discuss this topic in more detail.
- 858 TEX. CONST. art. V, §§ 1, 8; see also Pages 18-23.
- 859 TEX. CONST. art. V, § 1.
- 860 See Pages 30-32.
- 861 See Pages 18-23; note 173 above.
- 862 See Pages 84, 86-88.
- 863 See Pages 27-29.
- 864 See Pages 32-33.
- 865 See Pages 30-32, 32-33.
- 866 TEX. CONST. art. V, § 19; see also Pages 30-32.
- 867 TEX. GOV'T CODE § 28.033.
- 868 *Sultan*, 178 S.W.3d at 755 (Hecht, J., dissenting).
- 869 *Id.* (footnotes omitted).
- 870 *Id.* at 752.
- 871 See Pages 30-32.
- 872 See Monetary Limits in Courts of Limited Jurisdiction, App. 3.
- 873 See *id.*
- 874 See Pages 59-60.
- 875 See Pages 30-32.
- 876 See Inflation Calculator, [http:// data.bls.gov/cgi-bin/cpicalc.pl](http://data.bls.gov/cgi-bin/cpicalc.pl) (last visited Dec. 7, 2006).
- 877 See Pages 30-32.
- 878 See *id.*
- 879 See *id.*
- 880 See Pages 36-44, 51-62.
- 881 See *id.*
- 882 See Pages 44-45, 45-50.
- 883 See *id.*
- 884 See Pages 45-50.

- 885 See Pages 67-68.
- 886 Tobin, *Funding the State Courts*, note 689 above, at 37.
- 887 *Id.* at 35.
- 888 *Id.*
- 889 *Id.*
- 890 *Id.* at 34.
- 891 *Id.* at 36.
- 892 *Id.* at 34-35.
- 893 *Id.* at 36 (footnotes omitted).
- 894 *Id.*
- 895 *Id.* at 37.
- 896 *Id.*
- 897 TEX. CONST. art. V, § 31(a).
- 898 TEX. GOV'T CODE § 74.021.
- 899 Wallace B. Jefferson, Chief Justice of the Supreme Court of Texas, *The State of the Judiciary in Texas*. Presented to the 79th Legislature (February 23, 2005), in 68 TEX. B.J. 300, 301-02 (April 2005) (footnotes omitted).
- 900 *Id.* at 302.
- 901 See Act of Aug. 9, 2005, 79th Leg., 2d C.S., ch. 3, §§ 1, 2, 2005 TEX. GEN. LAWS 34, 35.
- 902 See Pages 44-45.
- 903 TEX. GOV'T CODE § 72.030(a), (b).
- 904 *Id.* § 72.030(c).
- 905 *Id.* § 72.030(d).
- 906 See Pages 65-66; Table 14.
- 907 See TEX. CONST. ART. V, § 1 (allowing the Legislature to “establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and [to] conform the jurisdiction of the district and other inferior courts thereto.”)
- 908 See Pages 79-88.
- 909 See TEX. CONST. art. V, § 30 (“The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State...shall be elected for a term of four years...”).
- 910 See 42 U.S.C. § 1973c (providing that some states and localities subject to the Act cannot change the qualifications or prerequisites to voting, or a standard, practice or procedure with respect to voting, without filing a declaratory judgment action in federal court and obtaining a judgment that the change does not have as its purpose and will not have the effect of denying or abridging the right to vote on account of race or color, provided, however, that the state or locality may make the desired change if it has submitted the proposed change to the United States Attorney General and the Attorney General has not interposed an objection within sixty days); 28 C.F.R. pt. 51, App. (2006)43746 (pre-clearance requirements of Voting Rights Act apply to Texas).
- 911 See TEX. GOV'T CODE §§ 74.161-.164 (creating the judicial panel on multidistrict litigation); TEX. R. JUD. ADMIN. 13 (providing rules for panel's operation).
- 912 TEX. GOV'T CODE § 74.162.
- 913 ARIZ. R. CIV. P. 8(i)(2); CAL. R. CT. 1800(b).
- 914 ARIZ. R. CIV. P. 8(j)(2); CAL. R. CT. 1800(b).
- 915 ARIZ. R. CIV. P. 8(i)(2).
- 916 CAL. R. CT. 1800(c).
- 917 28 U.S.C. § 1332.
- 918 See Pages 100-102.
- 919 See Pages 16-18. A show cause motion is filed by a party asking the court to order a person to appear in court and show cause why he or she should not be held in contempt. Many are filed in family law matters when a parent has failed to pay child support.
- 920 See Pages 19-20.
- 921 The nine administrative regions also could be used, although we have recommended in this paper that the court of appeals districts serve as administrative regions and that separate administrative regions be eliminated.
- 922 See generally TEX. CIV. PRAC. & REM. CODE §§ 15.001-.100.
- 923 *Id.* § 15.002(a).
- 924 See *id.* §§ 15.011-.020.
- 925 *Id.* § 15.011.
- 926 See *GeoChem Tech Corp. v. Verseckes*, 962 S.W.2d 541, 544 (Tex. 1998); see also *In re Omni Hotels Mgmt. Corp.*, 159 S.W.3d 627, 629 (Tex. 2005) (when a plaintiff files suit in a county of proper venue, that choice must be honored absent a mandatory venue provision requiring transfer).
- 927 See TEX. CIV. PRAC. & REM. CODE §§ 15.031-.039.
- 928 See *id.* § 15.031.
- 929 *Id.* § 15.002(b).
- 930 *Id.* § 15.063.
- 931 *Id.*

- 932 Although such a venue statute does not have a precedent, it appears that the Legislature has the power to enact the statute because neither the Texas Constitution nor the United States Constitution requires that civil proceedings be held in any particular county. See, e.g., *Mischer v. State*, 41 Tex. Crim. 212, 53 S.W. 627, 627-28 (1899) (noting in a criminal case that (i) the federal constitution does not constrain laws governing the venue of state proceedings, (ii) the Texas Constitution grants the Legislature broad power to change venue in civil or criminal cases, and (iii) the Texas Constitution's only limit on venue is the prohibition against the Legislature passing local or special laws that change venue in existing cases); see also *In re D.D.C.*, No. 05-97-01844-CV, 1998 WL 265178, at *2 (Tex. App.—Dallas May 27, 1998, no pet.) (“[v]enue is not a constitutional requirement”); 42 TEX. PRAC. § 25.17 (2d ed.) (concluding that Texas courts have “indicated that the Texas Constitution imposed no limitation upon the Legislature’s power to provide for original venue”); David Coale, *Needed Changes in Texas Venue Law*, 1 TEX. WESLEYAN L. REV. 147, 150-51 (1994) (“One theme runs through the history of this body of law: it creates a statutory privilege rather than implements a constitutional right. The Supreme Court has never viewed a defendant’s privilege to be sued in a convenient forum as a requirement of the Federal Constitution. And the Texas Constitution does not guarantee litigants a convenient forum either. From their origin in 1836 to their recodification in 1983, the privileges created by the venue statutes are purely creatures of the Legislature.”)(emphasis added)(footnotes omitted). In fact, the Texas Constitution only mentions the determination of venue in two places. First, Article 3, § 45 states that the “power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law; and the Legislature shall pass laws for that purpose.” TEX. CONST. art. III, § 45. Second, Article 3, § 56 states that the “Legislature shall not, except as otherwise provided in this constitution, pass any local or special law, authorizing...changing the venue in civil or criminal cases.” See *id.* § 56(a)(4). Both of these provisions, however, have been interpreted in at least one case as governing only the changing of venue in new cases rather than imposing any limitation on establishing venue in new cases. See *Mischer*, 53 S.W. at 628.
- 933 See TEX. GOV’T CODE §§ 74.161-.164; TEX. R. JUD. ADMIN. 13.
- 934 See TEX. GOV’T CODE § 62.102(2).
- 935 There is no state or federal constitutional requirement that a civil jury be drawn from a particular geographic area See *Wynn v. State*, No. 04-00-00352-CR, 2001 WL 1360023, *1 (Tex. App.—San Antonio Nov. 7, 2001, no pet.) (holding that a criminal defendant in a state prosecution “has no constitutionally protected right to trial in a particular county”). Litigants in civil actions in Texas state courts are potentially entitled to trial by jury pursuant to the Seventh Amendment to the United States Constitution, Article V, § 10 of the Texas Constitution, and the Texas Bill of Rights. See U.S. Const. amend. VII; Tex. Const. art. I, § 15; art. V, § 10. Texas courts, however, have declined to apply the Seventh Amendment to actions brought in state court. See, e.g., *Wooten v. Dallas Hunting & Fishing Club, Inc.*, 427 S.W.2d 344, 346 (Tex. Civ. App.—Dallas 1968, no writ) (“The Seventh Amendment to the Constitution of the United States does not apply to proceedings in the state courts. The expression ‘any Court of the United States’ refers only to courts sitting under the authority of the national government and state courts are left to the regulation of state law. A trial by jury in a suit at common law in a state court is not a privilege or immunity attaching to national citizenship that the states are forbidden by the federal constitution to abridge.”).
- 936 Courts have been unwilling to interpret the entitlement to a jury as an entitlement to a jury from a specific geographic area or community. See, e.g., *Gros v. Port Wash. Police Dist.*, 944 F. Supp. 1072, 1086-87 (E.D.N.Y. 1996) (rejecting defendants’ argument that they were denied a jury of their peers in violation of their Seventh Amendment rights because a disproportionate number of jurors were from a county other than the two counties involved in the case). At least one court has explicitly rejected the notion that the entitlement to a jury “drawn from a fair cross section of the community” applies to the venue context. *State v. House*, 978 P.2d 967, 996 (N.M. 1999) (“The fair-cross-section requirement applies neither to the venue nor the petit jury. It addresses the constitutional [r]ight to a venire which fairly represents the community from which it is drawn.”); see also *United States v. Grisham*, 841 F. Supp. 1138, 1145 (N.D. Ala. 1994) (holding that the Sixth Amendment does not entitle a defendant to a jury drawn from any particular division in the district and rejecting the notion that the fair cross-section requirement entitles a litigant “to a defined ‘community’ which favors the particular cognizable group to which they belong”).
- 937 The federal district court districts and divisions, and the distance that jurors must be traveled to attend court, are provided in Appendix 2.
- 938 The federal procedure for removing state-court actions to federal court provides a model for developing this procedure. See 28 U.S.C. §§ 1441, 1446, 1447.
- 939 TEX. GOV’T CODE § 74.161.
- 940 See *id.* at § 74.163; TEX. R. JUD. ADMIN. 13.
- 941 TEX. GOV’T CODE § 74.161.
- 942 *Id.*
- 943 See TEX. R. JUD. ADMIN. 13.
- 944 Again, the federal procedure for removal of cases from state to federal court, which allows removal after pleadings are amended, provides a good model for developing this procedure. See 28 U.S.C. §§ 1441, 1446, 1447.
- 945 See Pages 44-45.

APPENDIX 1

Texas Judicial System

TEXAS JUDICIAL SYSTEM

SUBJECT-MATTER JURISDICTION OF THE COURTS

INTRODUCTION

The basic structure of the present court system of Texas was established by an 1891 constitutional amendment. The amendment established the Supreme Court, the highest state appellate court for civil matters, and the Court of Criminal Appeals, which makes the final determination in criminal matters. There are 14 intermediate courts of appeals which exercise intermediate appellate jurisdiction in civil and criminal cases.

The state trial courts of general jurisdiction are the district courts, of which there were 432 as of September 1, 2005. Ten of these courts are designated "Criminal District Courts." The Legislature has authorized the creation of six additional courts on September 1, 2007.

The geographical area served by each district court is established by the specific statute creating that court and does not necessarily correspond to the area served by any previously established court. Each court has one judge.

In addition to these state courts, the Texas Constitution provides for a county court in each county, presided over by the county judge. The county judge also serves as head of the county commissioners' court, the governing body of the county. To aid the constitutional county court with its judicial functions, the Legislature has established statutory county courts, designated as county courts at law or probate courts, in the more populous counties. As of September 1, 2005, there were 17 probate courts and 216 county courts at law in operation in 84 counties. Three additional county courts at law and one additional probate court have been authorized by the Legislature but have not been implemented as of September 1, 2005. One additional county court at law was implemented October 1, 2005. Four additional courts have been authorized by the Legislature to become operational at a later date.

The Texas Constitution authorizes not less than one nor more than 16 justices of the peace in each county. Under this provision approximately 826 justice of the peace courts have been established. These courts also serve as small claims courts.

By statute, the Legislature has created municipal courts in each incorporated city in the State. In lieu of these courts, municipalities may choose to establish municipal courts of record. Municipal courts have original and exclusive jurisdiction over criminal violations of certain municipal ordinances and airport board rules, orders or resolutions that do not exceed \$2,500 in some cases and \$500 in others and concurrent criminal jurisdiction with the justice of the peace courts over state law violations, limited to the geographical confines of the municipality.

Trials in the justice of the peace and municipal courts, other than municipal courts of record, are not of record, and appeals therefrom are by trial *de novo* to the county court, except in certain counties, as noted later, where the appeal is to a county court at law or to a district court. When an appeal is by trial *de novo*, the case is tried again in the higher court, just as if the original trial had not occurred. Appeals from municipal courts of record are generally heard in the county criminal courts, county criminal courts of appeal or municipal courts of appeal.

Jurisdiction of the various levels of courts is established by constitutional provision and by statute. Statutory jurisdiction is established by general statutes providing jurisdiction for all courts on a particular level, as well as by the statutes establishing individual courts. Thus, to determine the jurisdiction of any one particular court, recourse must be had first to the Constitution, second to the general statutes establishing jurisdiction for that level of court, third to the specific statute authorizing

the establishment of the particular court in question, fourth to statutes creating other courts in the same county (whose jurisdictional provisions may affect the court in question), and fifth to statutes dealing with specific subject matters (such as the Family Code, which requires, for example, that judges who are lawyers hear appeals from actions by non-lawyer judges in juvenile cases.)

The State provides full funding for the Supreme Court and the Court of Criminal Appeals. It provides a base salary and some expenses for the appellate and district judges of Texas. Most counties supplement the base salary for district courts and courts of appeals. Counties pay the costs of "constitutional" county courts, county courts at law, justice of the peace courts, and the operating costs of district courts except for the base salary of the judge. The cities finance the operation of municipal courts.

APPELLATE COURTS

The appellate courts of the Texas Judicial System are: (1) the Supreme Court, the highest state appellate court for civil and juvenile cases; (2) the Court of Criminal Appeals, the highest state appellate court for criminal cases; and (3) the 14 courts of appeals, the intermediate appellate courts for civil and criminal appeals from the trial level courts.

Appellate courts do not try cases, have jurors, or hear witnesses. Rather, they review actions and decisions of the lower courts on questions of law or allegations of procedural error. In carrying out this review, the appellate courts are usually restricted to the evidence and exhibits presented in the trial court.

THE SUPREME COURT

In 1836, the Supreme Court of Texas was first established by the Constitution of the Republic of Texas, which vested the judicial power of the Republic in "...one Supreme Court and such inferior courts as the Congress may establish." This Court was re-established by each successive constitution adopted throughout the course of Texas history. The various constitutions and amendments thereto, however, provided for different numbers of judges to sit on the Court and different methods for the selection of the judges. The Constitution of 1845 provided that the Supreme Court consist of a chief justice and two associate justices. The Constitution of 1866 provided for five justices, and the Constitution of 1869 reverted to a three-judge court; the Constitution of 1873 increased the number to five, and the Constitution of 1876 again reduced the membership to three. To aid the three justices in disposing of the ever increasing workload, the Legislature created two "Commissions of Appeals," each to consist of three judges appointed by the Supreme Court. This system, begun in 1920, continued until the adoption of the constitutional amendment of 1945 which abolished the two Commissions of Appeals and increased the number of justices on the Supreme Court to nine, the present number.

A constitutional amendment adopted in 1980 provides:

The Supreme Court shall exercise the judicial power of the state except as otherwise provided in this Constitution. Its jurisdiction shall be coextensive with the limits of the State and its determinations shall be final except in criminal law matters. Its appellate jurisdiction shall be final and shall extend to all cases except in criminal law matters and as otherwise provided in this Constitution or by law.

SUBJECT-MATTER JURISDICTION OF THE COURTS

Citations are to the Texas Government Code unless otherwise indicated. Index to reference numbers is found in the Index to Subject Matter Jurisdiction.

Thus, the Supreme Court of Texas has statewide final appellate jurisdiction in most civil and juvenile cases. The Supreme Court is empowered to make and enforce all necessary rules of civil trial practice and procedure, evidence, and appellate procedure, and to promulgate rules of administration to provide for the efficient administration of justice in the State. A constitutional amendment effective January 1, 1986, gave the Supreme Court and the Court of Criminal Appeals jurisdiction to answer questions of state law certified from a federal appellate court. The Supreme Court has original jurisdiction to issue writs and to conduct proceedings for the involuntary retirement or removal of judges.

The Supreme Court is composed of one chief justice and eight justices, who are elected in partisan elections on a statewide basis for six-year terms of office. Vacancies between elections are filled by gubernatorial appointment with the advice and consent of the State Senate, until the next general election. To be eligible to serve as a justice of this court, a person must be licensed to practice law in this State, be a citizen of the United States and of the State of Texas, be at least 35 years of age, and have been a practicing lawyer, or a lawyer and judge of a court of record together, for at least ten years.

In addition to its major responsibilities of hearing oral arguments, deciding cases appealed to it, and writing opinions, the Supreme Court has many administrative duties placed upon it by the Legislature to ensure the efficient administration of justice by the Texas judicial system. These duties include: (1) promulgating the Rules of Civil Procedure for the Texas judicial system (Gov't Code §22.004); (2) promulgating rules of administration for the Texas judicial system (Gov't Code §72.024); (3) equalizing the dockets of the 14 courts of appeals (Gov't Code §73.001); (4) promulgating the rules of procedure for the Commission on Judicial Conduct, and disciplining judges or removing judges from office (Gov't Code, Ch. 33, art. V, sec. 1-a); (5) supervising the operations of the State Bar of Texas and the rules and regulations for the admission, discipline, supervision, and disbarment of lawyers, and approving the law schools of the State (Gov't Code, Ch. 81); and (6) promulgating the rules for the operation of the Court Reporters Certification Board and the disciplinary rules enforced by this Board (Gov't Code §52.002).

The Chief Justice has the responsibility to: (1) confer with the presiding judges of the administrative judicial regions to promote the prompt dispatch of judicial business (Gov't Code §74.001); (2) assign judges between administrative judicial regions (Gov't Code §74.057); (3) assign retired appellate justices to the various courts of appeals on a temporary basis (Gov't Code §74.003); (4) deliver a "State of the Judiciary" message at the commencement of each regular session of the Legislature (Gov't Code §21.004); and (5) ensure that the Supreme Court executes and implements its administrative duties and responsibilities (Gov't Code §74.006).

THE COURT OF CRIMINAL APPEALS

To relieve the Supreme Court of some of its caseload, the Constitution of 1876 created the Court of Appeals, composed of three elected judges, with appellate jurisdiction in all criminal cases and in those civil cases tried by the county courts. The judiciary article that was created by the constitutional amendment of 1891 changed the name of this court to the Court of Criminal Appeals and limited its jurisdiction to appellate jurisdiction in criminal cases only.

A constitutional amendment adopted in 1980 provides:

The Court of Criminal Appeals shall have final appellate jurisdiction coextensive with the limits of the State, and its determination shall be final, in all criminal cases of whatever grade, with such exceptions and under such regulations as may be provided in this Constitution or as prescribed by law.

The jurisdiction of the Court of Criminal Appeals extends to criminal cases heard by the intermediate courts of appeals and directly from the trial courts in all cases in which the death penalty has been imposed. The Court of Criminal Appeals (and the Supreme Court) have jurisdiction to answer questions of state law certified from a federal appellate court. In addition, the Legislature has authorized the Court of Criminal Appeals to promulgate rules of evidence and appellate procedure for criminal cases.

The Court of Criminal Appeals, as originally established, was composed of three judges. As its workload increased, the Legislature granted it the authority to appoint commissioners to aid in the disposition of pending cases. The number of judges on the Court was increased to five by a constitutional amendment adopted in 1966, and was again increased to nine by another constitutional amendment adopted in 1977.

Today, the Court of Criminal Appeals consists of a presiding judge and eight additional judges, who must have the same qualifications, and are elected in the same manner, as the justices of the Supreme Court.

THE COURTS OF APPEAL

The first intermediate appellate court in Texas was created by the Constitution of 1876, which created a Court of Appeals with appellate jurisdiction in all criminal cases and in all civil cases originating in the county courts. However, by 1891, the docket of the Supreme Court had become so crowded that it became apparent that other changes were necessary to expedite the disposition of appellate cases. Thus, the amendment of 1891 converted the Court of Appeals into the Court of Criminal Appeals and authorized the Legislature to establish intermediate courts of civil appeals located at various places throughout the State. The purpose of this amendment was to preclude the large quantity of civil litigation from further congesting the docket of the Supreme Court, while at the same time providing for a more convenient and less expensive system of intermediate appellate courts for civil cases. Under this authority, the Legislature has divided the State into 14 courts of appeals districts and has established a court of appeals in each.

Courts of appeals are now located in the following cities: Amarillo, Austin, Beaumont, Corpus Christi/Edinburg, Dallas, Eastland, El Paso, Fort Worth, Houston (two courts), San Antonio, Texarkana, Tyler, and Waco.

Each court of appeals has jurisdiction of appeals from the trial courts located in its respective district. The appeals heard in these courts are based upon the "record" (a written transcription of the testimony given, exhibits introduced, and the documents filed in the trial court) and the written and oral arguments of the appellate lawyers. The courts of appeals do not receive testimony or hear witnesses in considering the cases on appeal.

Each of the courts of appeals has at least three judges--a chief justice and two other justices. However, the Legislature is empowered to increase this number whenever the workload of an individual court requires additional judges. There are now 80 judges serving on the 14 intermediate courts of appeals. The Dallas Court of Appeals has 13 justices, the two courts located in Houston (the First and the Fourteenth) each have nine justices, the courts located in Fort Worth and San Antonio each have seven, the courts located in Austin and Corpus Christi each have six, the courts located in Amarillo and Beaumont each have four, and the remaining courts each retain the constitutional minimum number of three.

Judges of these courts are elected in partisan elections for six-year terms of office by the voters in their own districts. They must have the same qualifications for office as the justices of the Supreme Court of Texas.

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TRIAL COURTS

The trial courts are those courts in which witnesses are heard, testimony is received, exhibits are offered into evidence, and a verdict is rendered. In a civil case, the verdict determines which party to the lawsuit prevails; in a criminal case, the verdict determines whether the defendant is guilty or not guilty of the crime alleged. Defendants in criminal cases and the parties in civil lawsuits have the right to a trial by a jury of either six or twelve local citizens. Except in capital murder cases, the parties have the right to waive a trial by jury and have the judge presiding over the case make the final determination. Generally, determinations made in the trial courts can be appealed to the appellate courts for review.

The trial court structure in Texas has several different levels, each level handling different types of cases. The state trial court of general jurisdiction is known as the district court. The county-level courts consist of the "constitutional" county courts, the "statutory" county courts, and the "statutory" probate courts. In addition, there are the municipal courts, located in each incorporated city of the State, and the justice of the peace courts, located in precincts of each county of the State.

DISTRICT COURTS

The district courts are the primary trial courts in Texas, the successor to the common law *nisi prius* courts. The Constitution of the Republic provided for not less than three nor more than eight district courts, each having a judge elected by a joint ballot of both houses of Congress for a term of four years. Most constitutions of the State continued the district courts but provided that the judges were to be elected by the qualified voters. (The exceptions were the Constitutions of 1845 and 1861 which provided for the appointment of judges by the Governor with confirmation by the Senate.) All of the constitutions have provided that the judges of these courts must be chosen from defined districts (as opposed to statewide election).

District courts are courts of general jurisdiction. A constitutional amendment adopted effective in November 1985 amends Article V, Section 8 of the Texas Constitution, in pertinent part, as follows:

District Court jurisdiction consists of exclusive, appellate, and original jurisdiction of all actions, proceedings, and remedies, except in cases where exclusive, appellate, or original jurisdiction may be conferred by this Constitution or other law on some other court, tribunal, or administrative body.

This provision, while it extends a district court's potential jurisdiction to "all actions," also makes such jurisdiction relative in that the court's jurisdiction excludes any matters in which exclusive, appellate, or original jurisdiction is conferred by law upon some other court. For this reason, while one can speak of the "general" jurisdiction of a district court, the actual jurisdiction of any specific court will always be limited by the constitutional or statutory provisions that confer exclusive, original, or appellate jurisdiction on other courts serving the same county or counties.

Taking into account the various constitutional and statutory provisions which confer general jurisdiction on other levels of court, it can be said that district courts generally have the following jurisdiction: original jurisdiction in all criminal cases of the grade of felony, and misdemeanors involving official misconduct; cases of divorce; suits for title to land or enforcement of liens on land; contested elections; suits for slander or defamation; and suits on behalf of the State for penalties, forfeitures and escheat.

The district courts also have jurisdiction in civil matters with a minimum monetary limit but no maximum limit. The amount of the lower limit is currently unclear. The courts of appeals have split opinions on whether the minimum amount in controversy must exceed \$200 or \$500. Prior to 1985, a minimum monetary limit of \$500 was required by Article V, Section 8 of the Texas Constitution and by article 1906 of the Revised

Civil Statutes. In 1985, article 1906 was codified in the Government Code. The lower limit was deleted from the codified version in an apparent attempt to eliminate the duplication in the code and the constitution. However, the constitution also was amended in 1985, and the \$500 limit was deleted.

Two courts of appeals have indicated that the minimum amount is \$200 because district courts have jurisdiction over matters unless another court has exclusive jurisdiction over the matter. Since justice courts have exclusive jurisdiction in civil matters under \$200, they stated that this is the lower limit of a district court's jurisdiction. See *Arteaga v. Jackson*, 994 S.W.2d 342, 342 (Tex. App. - Texarkana 1999, pet. denied) and *Arnold v. West Bend Co.*, 983 S.W.2d 365, 366 n.1 (Tex. App. - Houston [1st Dist.] 1998, no pet.). Another court of appeals has concluded that the codification of article 1906 was not intended to be a substantive change and thus, the limit is \$500. See *Chapa v. Spivey*, 999 S.W.2d 833, 835-836 (Tex. App. - Tyler 1999, no pet.).

Although the Supreme Court has discussed the conflict regarding the monetary jurisdictional minimum, it did not rule on the matter since it was not essential to the court's decision in the case. See *Peek v. Equipment Service Co.*, 779 S.W.2d 802, 804 n. 4 (Tex. 1989).

In those counties having statutory county courts at law, the district courts generally have exclusive jurisdiction in civil cases wherein the amount in controversy exceeds \$100,000 and concurrent jurisdiction with the statutory county courts at law in cases where the amount in controversy exceeds \$500 but is \$100,000 or less.

The district courts may hear contested matters in probate cases and have general supervisory control over commissioners' courts. In addition, district courts have the power to issue writs of habeas corpus, mandamus, injunction, certiorari, sequestration, attachment, garnishment, and all writs necessary to enforce their jurisdiction.

Appeals from judgments of the district courts are to the court of appeals having jurisdiction over the locale of the district court.

As of September 1, 2005, there were 432 separate district-level courts created by the Legislature. Each is identified by a separate number, each having its own judge elected by the voters of the judicial district. In a number of locations, the geographical jurisdiction of two or more district courts is overlapping.

A 1985 constitutional amendment established a Judicial Districts Board to reapportion Texas judicial districts, subject to legislative approval. The same amendment also allows for more than one judge per judicial district.

Most district courts exercise criminal and civil jurisdiction, but in the metropolitan areas there is a tendency for the courts to specialize in either civil, criminal, or family law matters. In some localities, the courts that exercise criminal jurisdiction exclusively are designated criminal district courts. A limited number of district courts also exercise the subject-matter jurisdiction normally exercised by county courts.

SPECIALIZED JURISDICTION

The Supreme Court has repeatedly held that the Legislature cannot reduce the constitutional jurisdiction of a district court. *Lord v. Clayton*, 163 Tex. 62, 352 S.W.2d 718 (1961); *Ex Parte Richards*, 137 Tex. 520, 155 S.W.2d 597 (1941); *Reasonover v. Reasonover*, 122 Tex. 512, 58 S.W. 2d 817 (1933); *St. Louis S. W. Ry. v. Hall*, 98 Tex. 480, 85 S.W. 786 (1905). Accord, *Zamora v. State*, 508 S.W.2d 819 (Tex. Crim. App. 1974). See also, *Ward v. State*, 523 S.W.2d 681, 682 (Tex. Crim. App. 1975); *Castro v. State*, 124 Tex. Crim. 13, 60 S.W.2d 211 (1933); and dissenting opinion in *Ex Parte Bazemore*, 430 S.W.2d 205 (Tex. Crim. App. 1968).

In *St. Louis S.W. Ry. v. Hall*, the Supreme Court stated the rule as follows: "If the Legislature did enough to bring into active existence a

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district court, it was at once clothed with the powers conferred by the Constitution upon such courts, and any attempts in the act to unduly limit those powers must be treated as futile." 85 S.W. at 788. In *Lord v. Clayton*, the Supreme Court held that, although the statute creating the 136th District Court of Jefferson County purportedly limited its jurisdiction to civil cases only, and other legislation purported to give exclusive jurisdiction in criminal cases to the Criminal District Court of Jefferson County, the 136th Court was nevertheless a constitutional district court with full power to impanel a grand jury, receive an indictment, and try the accused.

A new facet has been added to this jurisdictional issue by the 1985 amendment of Article V, Section 8 of the Constitution which now grants the district courts jurisdiction over all matters "except in cases where...jurisdiction may be conferred by this constitution or other law on some other court....".

Although the Legislature has not been able to divest a regular district court of any of its constitutional jurisdiction, the Legislature may, under its constitutional authority to create "other courts" (Tex. Const. art. V, sec. 1), establish special "district-level" courts with limited jurisdiction. See *Jordan v. Crudgington*, 231 S.W.2d 641 (Tex. 1950) (regarding the Court of Domestic Relations of Potter County); *Ex Parte Richards*, 137 Tex. 520, 155 S.W.2d 597 (1941) (regarding the Criminal District Court of Willacy County).

One "Criminal District Court" was created with jurisdiction limited to criminal, divorce, dependent and delinquent children, adoption, and civil habeas corpus proceedings:

Criminal District Court of Jefferson County24.920 1

As will be noted later, most special "Criminal District Courts" have jurisdiction concurrent with county-level courts in criminal matters.

While the courts have ruled that the Legislature may not limit the jurisdiction of regular district courts, the statutes frequently express the intention that certain district courts give primary attention to only a portion of those matters over which they have jurisdiction.

The 65th Legislature, in 1977, converted all functioning domestic relations and special juvenile courts to district courts of general jurisdiction. However, these courts have primary responsibility for cases involving family law matters, including adoptions, birth records, divorce and marriage annulment, child welfare, custody, support and reciprocal support, dependency, neglect and delinquency, parent and child, and husband and wife. Section 24.601, Tex. Gov't Code. Section 24.601 does not limit other district courts' jurisdiction nor relieve them of responsibility for handling cases involving family law matters. Courts with primary responsibility for handling family law matters are known as "Family District Courts." There are now 32 such courts:

65th El Paso 24.601, 24.635 2
 300th Brazoria 24.601, 24.608
 301st Dallas 24.601, 24.609
 302nd Dallas 24.601, 24.610
 303rd Dallas 24.601, 24.611
 304th Dallas 24.601, 24.612
 305th Dallas 24.601, 24.613
 306th Galveston 24.601, 24.614
 307th Gregg 24.601, 24.615
 308th Harris 24.601, 24.616
 309th Harris 24.601, 24.617
 310th Harris 24.601, 24.618
 311th Harris 24.601, 24.619
 312th Harris 24.601, 24.620
 313th Harris 24.601, 24.621
 314th Harris 24.601, 24.622

 315th Harris 24.601, 24.623 2
 316th Hutchinson24.601, 24.624

317th Jefferson 24.601, 24.625
 318th Midland 24.601, 24.626
 319th Nueces 24.601, 24.627
 320th Potter 24.601, 24.628
 321st Smith 24.601, 24.629
 322nd Tarrant 24.601, 24.630
 323rd Tarrant 24.601, 24.631
 324th Tarrant 24.601, 24.632
 325th Tarrant 24.601, 24.633
 326th Taylor 24.601, 24.634
 328th Fort Bend 24.601, 24.636
 329th Wharton 24.601, 24.637
 330th Dallas 24.601, 24.638
 360th Tarrant 24.601, 24.639

Thirteen district courts are to give preference to family law matters but are not designated as "Family District Courts":

231st Tarrant 24.408 3
 233rd Tarrant 24.410
 245th Harris 24.422
 246th Harris 24.423
 247th Harris 24.424
 254th Dallas 24.431
 255th Dallas 24.432
 256th Dallas 24.433
 257th Harris 24.434
 279th Jefferson 24.456
 387th Fort Bend 24.532
 388th El Paso 24.533
 393rd Denton 24.538

One district court is to give preference to civil cases and cases under Title 2 or 5 of the Family Code:

225th Bexar 24.403, 24.139 4

One district court is directed by statute to give preference to civil cases and cases under Title 3 of the Family Code:

73rd Bexar 24.175, 24.139 5

One district court is directed by statute to give first preference to family law cases and second preference to criminal cases:

148th Nueces 24.353 6

Another district court is directed to give primary preference to cases under Titles 2, 3 or 5 of the Family Code and secondary preference to criminal cases:

289th Bexar 24.466, 24.139 7

Two district courts are to give preference to family violence and criminal matters:

398th Hidalgo 24.543 8
(Note: Will not have family violence and criminal preference effective 01/01/07.)

* 430th Hidalgo 24.574
Effective 01/01/07.

One district court is to give preference to all family violence cases and cases under the Family Code and Health and Safety Code:

406th Webb 24.551 9

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Eleven district courts are instructed to give preference to civil cases:

| | | |
|---------------------|--------|----|
| 103rd Cameron..... | 24.205 | 10 |
| 215th Harris | 24.394 | |
| 295th Harris | 24.472 | |
| 298th Dallas | 24.475 | |
| 333rd Harris | 24.479 | |
| 334th Harris | 24.480 | |
| 342nd Tarrant | 24.488 | |
| 345th Travis | 24.491 | |
| 348th Tarrant | 24.494 | |
| 352nd Tarrant | 24.498 | |
| 408th Bexar | 24.544 | |

Also, in Bexar County, all civil cases are to be docketed in one of the eleven district courts which do not give preference to criminal cases. (This provision may not be mandatory on the clerk. See *Lord vs. Clayton*, 352 S.W.2d at 722):

| | | |
|-------------------|----------------|----|
| 37th Bexar | 24.139 | 11 |
| 45th Bexar | 24.147, 24.139 | |
| 57th Bexar | 24.159, 24.139 | |
| 73rd Bexar | 24.175, 24.139 | |
| 131st Bexar | 24.233, 24.139 | |
| 150th Bexar | 24.249, 24.139 | |
| 166th Bexar | 24.263, 24.139 | |
| 224th Bexar | 24.402, 24.139 | |
| 225th Bexar | 24.403, 24.139 | |
| 285th Bexar | 24.462, 24.139 | |
| 288th Bexar | 24.465, 24.139 | |

All tax suits in Webb County shall be assigned to one district court:

| | | |
|-----------------|--------|----|
| 49th Webb | 24.151 | 12 |
|-----------------|--------|----|

Fifty-four district courts are instructed to give preference to criminal cases:

| | | |
|--|------------------------|----|
| 105th Nueces, Kenedy, Kleberg..... | 24.207 | 13 |
| 107th Cameron | 24.209 | |
| 138th Cameron | 24.240 | |
| 144th Bexar | 24.245, 24.139, 75.013 | |
| 147th Travis | 24.248 | |
| 175th Bexar | 24.268, 24.139, 75.013 | |
| 182nd Harris | 24.362 | |
| 183rd Harris | 24.363 | |
| 184th Harris | 24.364 | |
| 185th Harris | 24.365 | |
| 186th Bexar | 24.274, 24.139, 75.013 | |
| 187th Bexar | 24.366, 24.139, 75.013 | |
| 194th Dallas | 24.373 | |
| 195th Dallas | 24.374 | |
| 197th Cameron, Willacy | 24.376 | |
| 202nd Bowie | 24.381 | |
| 203rd Dallas | 24.382 | |
| 204th Dallas | 24.383 | |
| 205th Culberson, El Paso, Hudspeth | 24.384 | |
| 207th Caldwell, Comal, Hays | 24.386 | |
| 208th Harris | 24.387 | |
| 209th Harris | 24.388 | |
| 214th Nueces | 24.393 | |
| 226th Bexar | 24.404, 24.139, 75.013 | |
| 227th Bexar | 24.405, 24.139, 75.013 | |
| 228th Harris | 24.406 | |
| 230th Harris | 24.407 | |
| 232nd Harris | 24.409 | |
| 248th Harris | 24.425 | |
| 252nd Jefferson | 24.429 | |
| 262nd Harris | 24.439 | |
| 263rd Harris | 24.440 | |

| | | |
|----------------------|------------------------|----|
| 265th Dallas | 24.442 | |
| 282nd Dallas | 24.459 | 13 |
| 283rd Dallas | 24.460 | |
| 290th Bexar | 24.467, 24.139, 75.013 | |
| 291st Dallas | 24.468 | |
| 292nd Dallas | 24.469 | |
| 297th Tarrant | 24.474 | |
| 337th Harris | 24.483 | |
| 338th Harris | 24.484 | |
| 339th Harris | 24.485 | |
| 351st Harris | 24.497 | |
| 363rd Dallas | 24.508 | |
| 371st Tarrant | 24.516 | |
| 372nd Tarrant | 24.517 | |
| 377th Victoria | 24.522 | |
| 389th Hidalgo | 24.534 | |

(Note: Will not have criminal preference effective 01/01/07.)

| | | |
|---------------------|----------------|--|
| 390th Travis | 24.535 | |
| 396th Tarrant | 24.541 | |
| 399th Bexar | 24.544, 75.013 | |
| 403rd Travis | 24.548 | |
| 427th Travis | 24.548 | |

Effective 01/01/05.

| | | |
|---|--------|--|
| Criminal District Court No. 4 of Tarrant County | 24.571 | |
|---|--------|--|

Two district courts are to give preference to juvenile matters:

| | | |
|-------------------|--------|----|
| 386th Bexar | 24.531 | 14 |
| 417th Collin..... | 24.561 | |

The 76th Legislature enacted a procedure for the civil commitment of sexually violent predators (Sexually Violent Predators Act; Ch. 841, Health and Safety Code). Civil commitments under Ch. 841, Health and Safety Code may only be filed in the following five district courts:

| | | |
|------------------------|--------|----|
| 9th Montgomery | 24.109 | 15 |
| 221st Montgomery | 24.399 | |
| 284th Montgomery | 24.461 | |
| 359th Montgomery | 24.505 | |
| 410th Montgomery | 24.110 | |

As of September 1, 2005, 216 statutory county courts and 17 statutory probate courts had been implemented, largely in metropolitan areas. Three additional county courts at law and one additional probate court have been authorized by the Legislature but have not been implemented as of September 1, 2005. One additional county court at law was implemented on October 1, 2005. Four additional courts have been authorized to become operational at a later date.

A "statutory county court" means a county court created by the Legislature, including county courts at law, county criminal courts, county criminal courts of appeals, and county civil courts at law. A "statutory probate court" means a statutory court designated as a statutory probate court under Chapter 25, Gov't Code. A statutory county court exercising probate jurisdiction is not a statutory probate court unless it is designated one under Chapter 25, Gov't Code. While the jurisdiction of these courts is generally carved out of that given to the constitutional county courts, the statutes specify in many instances that certain jurisdiction normally in the district court is to be exercised concurrently by the statutory county court and the district court.

In one instance, the county court at law has concurrent jurisdiction with the district court in all matters:

| | | |
|--|---------|----|
| County Court at Law of Panola County | 25.1852 | 16 |
|--|---------|----|

In 1991, the 72nd Legislature passed H.B. 66, which provided that a statutory county court exercising civil jurisdiction of the county court, with certain exceptions enumerated in the statutes, has concurrent jurisdiction with the district court in civil cases in which the matter in

SUBJECT-MATTER JURISDICTION OF THE COURTS

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controversy exceeds \$500 but does not exceed \$100,000 (excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the face of the petition) and appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance (TDI) regarding workers' compensation claims. Sec. 25.0003, Tex. Gov't Code.

Fifty county courts at law have concurrent jurisdiction with the district court, as discussed above, in appeals of decisions of the division of workers' compensation of TDI and civil cases when the matter in controversy does not exceed \$100,000:

| | | |
|---|---------|----|
| County Court at Law No. 1 of Bell County | 25.0162 | 17 |
| County Court at Law No. 2 of Bell County | 25.0162 | |
| County Court at Law No. 3 of Bell County | 25.0162 | |
| County Court at Law No. 1 of Bexar County | 25.0172 | |
| County Court at Law No. 2 of Bexar County | 25.0172 | |
| County Court at Law No. 3 of Bexar County | 25.0172 | |
| County Court at Law No. 4 of Bexar County | 25.0172 | |
| County Court at Law No. 5 of Bexar County | 25.0172 | |
| County Court at Law No. 6 of Bexar County | 25.0172 | |
| County Court at Law No. 7 of Bexar County | 25.0172 | |
| County Court at Law No. 8 of Bexar County | 25.0172 | |
| County Court at Law No. 9 of Bexar County | 25.0172 | |
| County Court at Law No. 10 of Bexar County | 25.0172 | |
| County Court at Law No. 11 of Bexar County | 25.0172 | |
| County Court at Law No. 12 of Bexar County | 25.0172 | |
| County Court at Law No. 1 of Collin County | 25.0452 | |
| County Court at Law No. 2 of Collin County | 25.0452 | |
| County Court at Law No. 3 of Collin County | 25.0452 | |
| County Court at Law No. 4 of Collin County | 25.0452 | |
| County Court at Law No. 5 of Collin County | 25.0452 | |
| * County Court at Law No. 6 of Collin County | 25.0452 | |
| <i>Implemented 10/01/05.</i> | | |
| County Court at Law of Grayson County | 25.0932 | |
| County Court at Law No. 2 of Grayson County | 25.0932 | |
| County Criminal Court at Law No. 1 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 2 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 3 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 4 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 5 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 6 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 7 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 8 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 9 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 10 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 11 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 12 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 13 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 14 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 15 of Harris County | 25.1033 | |
| County Court at Law of Harrison County | 25.1042 | |
| County Court at Law of Hunt County | 25.1182 | |
| County Court at Law No. 1 of Jefferson County | 25.1252 | |
| County Court at Law No. 2 of Jefferson County | 25.1252 | |
| County Court at Law No. 3 of Jefferson County | 25.1252 | |

| | |
|--|---------|
| County Court at Law No. 1 of Potter County | 25.1902 |
| County Court at Law of Taylor County | 25.2232 |
| County Court at Law No. 2 of Taylor County | 25.2232 |
| County Court at Law of Tom Green County | 25.2282 |
| County Court at Law No. 2 of Tom Green County .. | 25.2282 |
| County Court at Law No. 1 of Victoria County | 25.2372 |
| County Court at Law No. 2 of Victoria County | 25.2372 |

The specific statutes creating individual statutory county courts or statutory probate courts often provide that these courts have concurrent jurisdiction with the district court in matters normally exercised by the district court. This jurisdiction may be additional to or different than the concurrent jurisdiction granted to some statutory county courts by H.B. 66, as discussed above.

Six county courts at law have concurrent jurisdiction with the district court in appeals of decisions of the division of workers' compensation of TDI and civil cases when the matter in controversy does not exceed \$250,000:

| | | |
|--|---------|----|
| County Court at Law No. 1 of Travis County | 25.2292 | 18 |
| County Court at Law No. 2 of Travis County | 25.2292 | |
| County Court at Law No. 3 of Travis County | 25.2292 | |
| County Court at Law No. 5 of Travis County | 25.2292 | |
| County Court at Law No. 6 of Travis County | 25.2292 | |
| County Court at Law No. 7 of Travis County | 25.2292 | |

Three county courts at law have concurrent jurisdiction with the district court in appeals of decisions of the division of workers' compensation of TDI and civil cases when the matter in controversy does not exceed \$1,000,000:

| | | |
|--|---------|----|
| County Court at Law No. 1 of Cameron County | 25.0332 | 19 |
| County Court at Law No. 2 of Cameron County | 25.0332 | |
| County Court at Law No. 3 of Cameron County | 25.0332 | |

Five county courts at law have concurrent jurisdiction with the district court in appeals of decisions of the division of workers' compensation of TDI and civil cases, regardless of the amount in controversy:

| | | |
|--|---------|----|
| County Court at Law No. 1 of Dallas County | 25.0592 | 20 |
| County Court at Law No. 2 of Dallas County | 25.0592 | |
| County Court at Law No. 3 of Dallas County | 25.0592 | |
| County Court at Law No. 4 of Dallas County | 25.0592 | |
| County Court at Law No. 5 of Dallas County | 25.0592 | |

Two county courts at law have concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, and civil cases with a \$50,000 limit on the amount in controversy:

| | | |
|--|---------|----|
| County Court at Law No. 1 of Angelina County | 25.0052 | 21 |
| County Court at Law No. 2 of Angelina County | 25.0025 | |

Fifty-three county courts at law have concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, and civil cases when the matter in controversy does not exceed \$100,000:

| | | |
|---|---------|----|
| County Court at Law No. 1 of Angelina County | 25.0052 | 22 |
| County Court at Law No. 2 of Angelina County | 25.0052 | |
| County Court at Law of Austin County | 25.0102 | |
| County Court at Law of Bastrop County | 25.0132 | |
| County Court at Law No. 1 and Probate Court of Brazoria County | 25.0222 | |
| County Court at Law No. 2 and Probate Court of Brazoria County | 25.0222 | |
| County Court at Law No. 3 and Probate Court of Brazoria County | 25.0222 | |

SUBJECT-MATTER JURISDICTION OF THE COURTS

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* County Court at Law No. 4 and Probate Court of Brazoria County25.0222 **22**
Effective 01/01/07.
(Note: Brazoria County Court at Law and Probate Courts Nos. 1, 2, 3 and 4 are not statutory probate courts as that term is defined by Section 3 of the Probate Code.)

County Court at Law No. 1 of Brazos County 25.0232
 County Court at Law No. 2 of Brazos County 25.0232
 County Court at Law of Caldwell County 25.0302
 County Court at Law of Cherokee County 25.0392
 County Court at Law No. 1 of Comal County 25.0482
 County Court at Law No. 2 of Comal County 25.0482
 County Court at Law of Coryell County 25.0522
 County Court at Law of Ector County 25.0702
 County Court at Law No. 2 of Ector County 25.0702
 County Court at Law No. 1 of Fort Bend County 25.0812
 County Court at Law No. 2 of Fort Bend County 25.0812
 County Court at Law No. 3 of Fort Bend County 25.0812
 County Court at Law No. 4 of Fort Bend County25.0182
 County Court at Law of Guadalupe County 25.0962
 County Court at Law No. 2 of Guadalupe County .. 25.0962
 County Court at Law No. 1 of Hays County 25.1072
 County Court at Law No. 2 of Hays County 25.1072
 County Court at Law of Henderson County 25.1092
 County Court at Law No. 2 of Henderson County 25.1092
 County Court at Law of Houston County 25.1152
 County Court at Law No. 1 of Johnson County 25.1282
 County Court at Law No. 2 of Johnson County 25.1282
 County Court at Law of Kerr County25.1352
 County Court at Law of Liberty County 25.1482
 County Court at Law No. 1 of Lubbock County 25.1542
 County Court at Law No. 2 of Lubbock County 25.1542
 County Court at Law No. 3 of Lubbock County 25.1542
 County Court at Law of Medina County 25.1652
 County Court at Law of Moore County 25.1732
 County Court at Law of Nacogdoches County 25.1762
 County Court at Law of Nolan County 25.1792
 County Court at Law of Orange County 25.1832

* County Court at Law No. 2 of Orange County 25.1832
 County Court at Law No. 2 of Potter County 25.1902
 County Court at Law of Reeves County 25.1972
 County Court at Law of Val Verde County 25.2352
 County Court at Law of Walker County 25.2382
 County Court at Law of Waller County 25.2392
 County Court at Law of Washington County 25.2412

* County Court at Law of Wilbarger County25.2462
Effective 01/01/94, but not implemented as of 09/01/05.

County Court at Law No. 1 of Williamson County ... 25.2482
 County Court at Law No. 2 of Williamson County .. 25.2482
 County Court at Law No. 3 of Williamson County .. 25.2482

* County Court at Law No. 4 of Williamson County25.2482
Effective 01/01/06.

County Court at Law of Wise County 25.2512

Two county courts at law have concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, and civil cases with a \$500,000 limit on the amount in controversy:

County Court at Law of Midland County 25.1672 **23**
 County Court at Law No. 2 of Midland County 25.1672

Five county courts at law have concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, and civil cases with a \$750,000 limit on the amount in controversy:

County Court at Law No. 1 of Hidalgo County 25.1101 **24**
 County Court at Law No. 2 of Hidalgo County 25.1101
 County Court at Law No. 4 of Hidalgo County 25.1101
 County Court at Law No. 5 of Hidalgo County 25.1101

* County Court at Law No. 6 of Hidalgo County 25.1101 **24**
Effective 09/01/05, but not implemented as of that date.

Three county courts at law have concurrent jurisdiction with the district court in family law cases and proceedings, appeals of decisions of the division of workers' compensation of TDI and all civil cases with no upper limits on the amount in controversy:

County Court at Law of Ellis County 25.0722 **25**
 County Court at Law No. 2 of Ellis County 25.0072
 County Court at Law of Rusk County 25.2032

One county court at law has concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000 and tax cases:

County Court at Law of Polk County 25.1892 **26**

Four county courts at law have concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000 and matters involving an *inter vivos* trust:

County Court at Law No. 1 of Montgomery County 25.1722 **27**
 County Court at Law No. 2 of Montgomery County 25.1722
 County Court at Law No. 3 of Montgomery County 25.1722
 County Court at Law No. 4 of Montgomery County 25.1722

One county court at law has concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000 and suits involving title to real property:

County Court at Law of Starr County 25.2162 **28**

One county court at law has concurrent jurisdiction with the district court in family law cases, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$250,000 and contested probate and guardianship matters under Sections 5(b) and 606(b) of the Texas Probate Code:

County Court at Law of Hood County 25.1132 **29**

One county court at law has concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000 and criminal cases (including jurisdiction to conduct arraignments, pretrial hearings and to accept guilty pleas in felony cases), probate matters (including will contests), and actions under Title 9 of the Property Code:

County Court at Law of Anderson County 25.0042 **30**

Two county courts at law have concurrent jurisdiction with the district court in family law cases and proceedings, appeals of decisions of the division of workers' compensation of TDI, civil cases with no upper limits on the amount in controversy, and felony cases to conduct arraignments, pretrial hearings and accept guilty pleas:

County Court at Law No. 1 of Randall County 25.1932 **31**
 * County Court at Law No. 2 of Randall County 25.1932
Effective 10/01/06.

One county court at law has concurrent jurisdiction with the district court in family law cases; appeals of decisions of the division of workers' compensation of TDI; civil cases up to \$100,000; probate matters

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and felony cases to conduct arraignments, pretrial hearings and accept guilty pleas:

County Court at Law of Lamar County 25.1412 32

Two county courts at law have concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000 and proceedings to expunge a criminal arrest record:

County Court at Law No. 1 of Webb County25.2422 33
 County Court at Law No. 2 of Webb County25.2422

One county court at law has concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000 and felony cases to conduct arraignments, conduct pretrial hearings, and accept guilty pleas:

County Court at Law of Kleberg County 25.1392 34

One county court at law has concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, civil cases up to \$100,000 and felony criminal cases:

County Court at Law of Brown County 25.0272 35

One county court at law has concurrent jurisdiction with the district court in family law matters, appeals of decisions of the division of workers' compensation of TDI, civil cases up to \$100,000 and felony cases other than those involving capital murder:

County Court at Law of Hill County 25.1112 36

One county court at law has concurrent jurisdiction with the district court in family law cases, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000 and all criminal cases:

* County Court at Law of Bee County 25.0152 37
Effective 01/01/00 but not implemented as of 09/01/05.

Three county courts at law have concurrent jurisdiction with the district court in non-jury family law cases, appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000, eminent domain proceedings, slander or defamation suits, suits involving the title to real or personal property, suits involving the enforcement of real property liens, suits involving the forfeiture of a corporate charter, suits involving the recovery of real property, and suits involving the right to property valued at \$200 or more that has been levied on:

County Court at Law No. 1 of Tarrant County 25.2222 38
 County Court at Law No. 2 of Tarrant County 25.2222
 County Court at Law No. 3 of Tarrant County 25.2222

One county court at law has concurrent jurisdiction with the district court in appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000, and proceedings under Chapter 262, Family Code, in which the Department of Protective and Regulatory Services has assumed the care, custody and control of a child.

County Court at Law of Erath County 25.0741 39

One county court at law has concurrent jurisdiction with the district court in appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000, and matters involving juvenile and child welfare laws:

County Court at Law of San Patricio County 25.2072 40

Four statutory county courts have concurrent jurisdiction with the district court in appeals of decisions of the division of workers' compensation of TDI, civil cases when the matter in controversy does not exceed \$100,000, slander or defamation suits, suits involving the title to real or personal property, suits involving the enforcement of real property liens, suits involving the forfeiture of a corporate charter, suits involving the recovery of real property and suits involving the right to property valued at \$200 or more that has been levied on:

County Civil Court at Law No. 1 of Harris County ... 25.1032 41
 County Civil Court at Law No. 2 of Harris County ... 25.1032
 County Civil Court at Law No. 3 of Harris County ... 25.1032
 County Civil Court at Law No. 4 of Harris County ... 25.1032

Two county courts at law have concurrent jurisdiction with the district court in appeals of decisions of the division of workers' compensation of TDI; civil cases when the matter in controversy does not exceed \$100,000; felony cases to accept guilty pleas and conduct arraignments, pretrial hearing and probation revocation hearings; and third degree felony cases:

County Court at Law of McLennan County 25.1572 42
 County Court at Law No. 2 of McLennan County 25.1572

One county court at law has concurrent jurisdiction with the district court in appeals of decisions of the division of workers' compensation of TDI, civil cases up to \$250,000 and state jail felony and third degree felony cases involving family violence:

County Court at Law No. 4 of Travis County 25.2292 43

Two county courts at law have concurrent jurisdiction with the district court in family law matters and civil cases, other than Alcoholic Beverage Code, Election Code or Tax Code cases, between \$5,000 and \$100,000 (monetary limit not applicable to Family or Probate Code cases):

County Court at Law No. 1 of Wichita County 25.2452 44
 County Court at Law No. 2 of Wichita County 25.2452

One county court at law has concurrent jurisdiction with the district court in family law matters and civil cases when the matter in controversy does not exceed \$100,000:

County Court of Burnet County 25.0292 45

One statutory county court has concurrent jurisdiction with the district court in family law cases and felony cases to conduct arraignments, conduct pretrial hearings, and accept guilty pleas:

County Court at Law of Aransas County 25.0062 46

One statutory probate court has concurrent jurisdiction with the district court in eminent domain, condemnation, land titles, suits to quiet title, trespass to try title, lien foreclosures and adjudication of all free hold and leasehold interests, easements, licenses, and boundaries of real property:

Probate Court of Denton County 25.0635 47

Two statutory probate courts have concurrent jurisdiction with the district court in eminent domain cases and suits involving title to real or personal property:

Probate Court No. 1 of Bexar County 25.0173 48
 Probate Court No. 2 of Bexar County 25.0173

Five statutory county courts have felony jurisdiction concurrent with

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the district court over matters involving intoxication arising by a true bill of indictment by a grand jury charging one or more offenses under Chapter 49, Penal Code:

| | |
|--|-------------------|
| County Criminal Court No. 1 of Denton County..... | 25.0634 49 |
| County Criminal Court No. 2 of Denton County | 25.0634 |
| County Criminal Court No. 3 of Denton County | 25.0634 |
| County Criminal Court No. 4 of Denton County | 25.0634 |
| County Criminal Court No. 5 of Denton County | 25.0634 |

Five statutory county courts have concurrent jurisdiction with the district court to conduct arraignments, conduct pretrial hearings, and accept guilty pleas in felony cases:

| | |
|---|-------------------|
| County Criminal Court No. 5 of Tarrant County | 25.2223 50 |
| County Criminal Court No. 7 of Tarrant County..... | 25.2223 |
| County Criminal Court No. 8 of Tarrant County..... | 25.2223 |
| County Criminal Court No. 9 of Tarrant County..... | 25.2223 |
| County Criminal Court No. 10 of Tarrant County..... | 25.2223 |

Two county courts at law have concurrent jurisdiction with the district court, except capital felony cases:

| | |
|--|-------------------|
| County Court at Law No. 1 of Gregg County..... | 25.0942 51 |
| County Court at Law No.2 of Gregg County..... | 25.0942 |

Two county courts at law have concurrent jurisdiction with the district court, except felony cases (except as otherwise provided by law) and the courts have jurisdiction to grant orders permitting a marriage ceremony to take place during a 72-hour period immediately following the issuance of a marriage license in the county:

| | |
|--|-------------------|
| County Court at Law of Parker County | 25.1862 52 |
| County Court at Law No. 2 of Parker County | 25.1862 |

One county court at law has concurrent jurisdiction with the district court, except felony jury trials, suits on behalf of the State to recover penalties or escheated property, misdemeanors involving official misconduct, contested elections, or civil cases when the amount in controversy exceeds \$100,000:

| | |
|---|-------------------|
| County Court at Law of Hopkins County | 25.1142 53 |
|---|-------------------|

One county court at law has concurrent jurisdiction with the district court, except for the following: felony criminal matters, suits on behalf of the State to recover penalties or escheated property, misdemeanors involving official misconduct, contested elections, and civil cases when the amount in controversy exceeds \$100,000:

| | |
|---|-------------------|
| County Court at Law of Bowie County | 25.0212 54 |
|---|-------------------|

One county court at law has concurrent jurisdiction with the district court, except felony cases involving capital murder, suits on behalf of the State to recover penalties or escheated properties, misdemeanors involving official misconduct, contested elections, and civil cases when the amount in controversy exceeds the limit prescribed by Sec. 25.0003(c)(1), Tex. Gov't Code (currently \$100,000):

| | |
|--|-------------------|
| * County Court at Law No. 2 of Kaufman County | 25.1312 55 |
| <i>Effective 09/01/07 or on such earlier date as may be determined by the commissioners court.</i> | |

Four county courts at law have concurrent jurisdiction with the district courts in all matters except felony, official misconduct, contested elections, and family law cases:

| | |
|---|-------------------|
| County Court at Law No. 1 of Nueces County..... | 25.1802 56 |
| County Court at Law No. 2 of Nueces County..... | 25.1802 |
| County Court at Law No. 3 of Nueces County..... | 25.1802 |
| County Court at Law No. 4 of Nueces County..... | 25.1802 |

One county court at law has concurrent jurisdiction with the district courts in all matters except felony, official misconduct, contested elections, and family law cases, except for proceedings under Title 3 Family Code, and any proceeding involving an order relating to a child in the possession or custody of the Department of Protective and Regulatory Services or for whom the court has appointed a temporary or permanent managing conservator:

| | |
|--|-------------------|
| County Court at Law No. 5 of Nueces County | 25.1802 57 |
|--|-------------------|

Two county courts at law have concurrent jurisdiction with the district court, except felony cases (other than those provided by law) or contested elections:

| | |
|--|-------------------|
| County Court at Law No. 1 of Galveston County | 25.0862 58 |
| County Court at Law No. 2 of Galveston County | 25.0862 |

Eight county courts at law have concurrent jurisdiction with the district court, except felony cases (other than those provided by law), misdemeanors involving official misconduct, or contested elections:

| | |
|---|-------------------|
| County Court at Law No. 1 of El Paso County..... | 25.0732 59 |
| County Court at Law No. 2 of El Paso County..... | 25.0732 |
| County Court at Law No. 3 of El Paso County..... | 25.0732 |
| County Court at Law No. 4 of El Paso County..... | 25.0732 |
| County Court at Law No. 5 of El Paso County..... | 25.0732 |
| County Court at Law No. 6 of El Paso County..... | 25.0732 |
| County Court at Law No. 7 of El Paso County | 25.0732 |
| County Court at Law of Kendall County | 25.1322 |

Three county courts at law have concurrent jurisdiction with the district court, except capital felony cases or felonies of the 1st or 2nd degree, misdemeanors involving official misconduct, contested elections, or suits on behalf of the State to recover penalties, forfeiture, or escheat:

| | |
|---|-------------------|
| County Court at Law of Smith County | 25.2142 60 |
| County Court at Law No. 2 of Smith County | 25.2142 |
| County Court at Law No. 3 of Smith County | 25.2142 |

Three county courts at law have concurrent jurisdiction with the district court, except felony cases involving capital murder, suits on behalf of the State to recover penalties or escheated properties, misdemeanors involving official misconduct, or contested elections:

| | |
|--|-------------------|
| County Court at Law of Cass County | 25.0362 |
| County Court at Law of Kaufman County | 25.1312 61 |
| County Court at Law of Rockwall County | 25.2012 |

One county court at law has concurrent jurisdiction with the district court, except felony cases (other than writs of habeas corpus), misdemeanors involving official misconduct, contested elections, or appeals from county court:

| | |
|--|-------------------|
| County Court at Law No. 1 of Calhoun County..... | 25.0312 62 |
|--|-------------------|

A wide variety of statutory changes have been made blurring the line between district court jurisdiction and county court jurisdiction.

In three counties, all civil and criminal jurisdiction of the county court, except probate and juvenile, has been transferred to the district court:

| | |
|---|--------------------------|
| Jones (259th District Court) | 24.436, 26.227 63 |
| Shackelford (259th District Court)..... | 24.436, 26.309 |
| Stephens (90th District Court) | 24.192, 26.315 |

In three counties, all civil and criminal jurisdiction of the county court, except probate and juvenile, has been transferred to the district court and the district court has concurrent civil and criminal jurisdiction

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with the statutory county courts in civil and criminal matters normally in the county court:

| | | |
|--|--------------------------------|-----------|
| Bowie (5th, 102nd, 202nd District Courts) | 24.105, 24.204, 24.381, 26.119 | 64 |
| Comal (22nd, 207th, 274 th , 433rd District Courts) | 24.123, 24.386, 24.451, 26.146 | |
| <i>The 433rd is authorized effective 01/01/07.</i> | | |
| Webb (49th District Court) | 24.151, 26.340 | |
| Webb (406th District Court) | 24.551, 26.340 | |
| <i>The 406th District Court has concurrent criminal jurisdiction with the statutory county courts and concurrent civil jurisdiction in all cases under the Family Code or the Health and Safety Code.</i> | | |

All civil jurisdiction of the county court, except probate and juvenile, has been transferred to the district court in three counties, and the district court has concurrent with the county court the criminal jurisdiction of a county court:

| | | |
|--|------------------------|-----------|
| Eastland (91st District Court) | 24.193, 26.167 | 65 |
| Morris (76th, 276th District Courts)... | 24.178, 24.453, 26.272 | |
| Marion (115th, 276th District Courts)..... | 24.217, 24.453, 26.258 | |

In one county, all civil and criminal jurisdiction, except probate and juvenile, was removed from the county court, and the district court and county court have concurrent jurisdiction to receive guilty pleas in misdemeanor cases and the district court and county court at law have concurrent jurisdiction in all civil and criminal matters normally vested in the county court:

| | | |
|---------------------------------|----------------|-----------|
| Cass (5th District Court) | 24.105, 26.134 | 66 |
|---------------------------------|----------------|-----------|

In another county, all civil cases, except those involving probate and juvenile matters and orders providing for support of deserted wives or children, and all criminal cases appealed from the justice and municipal courts have been transferred to the district court, and the county and district courts have concurrent jurisdiction in matters in which the county court normally has original criminal jurisdiction:

| | | |
|--|------------------------|-----------|
| Red River (6th, 102nd District Courts) | 24.106, 24.204, 26.294 | 67 |
|--|------------------------|-----------|

In another county, all civil cases, except those involving probate and juvenile matters have been transferred to the district court, unless the county judge has the qualifications required of a district judge and is designated as judge of the juvenile court, then the county court also has jurisdiction over child neglect or dependency proceedings:

| | | |
|---|--------------------------------|-----------|
| Wichita (30th, 78th, 89th District Courts)..... | 24.132, 24.180, 24.191, 26.343 | 68 |
|---|--------------------------------|-----------|

All civil jurisdiction of the county court, except probate, has been transferred to the district court in four counties:

| | | |
|------------------------------------|----------------|-----------|
| Baylor (50th District Court) | 24.152, 26.112 | 69 |
| Cottle (50th District Court)..... | 24.152, 26.151 | |
| King (50th District Court) | 24.152, 26.235 | |
| Knox (50th District Court)..... | 24.152, 26.238 | |

All civil jurisdiction of the county court, except probate and juvenile, has been transferred to the district court in five counties:

| | | |
|---|------------------------|-----------|
| Glasscock (118th District Court) | 24.220, 26.187 | 70 |
| Mills (35th District Court) | 24.137, 26.267 | |
| Navarro (13th District Court)..... | 24.114, 26.275 | |
| Sabine (1st, 273rd District Courts) | 24.101, 24.450, 26.302 | |
| San Augustine (1st, 273rd District Courts)..... | 24.101, 24.450, 26.303 | |

In one county, the criminal jurisdiction has been removed from the county court (except for cases alleging a violation of Sec. 25.093 or 25.094, Education Code), and 16 of the district courts in the county have concurrent original criminal jurisdiction with the statutory county criminal courts in matters of county court original criminal jurisdiction:

| | | |
|---|------------------------|-----------|
| 14th Dallas..... | 24.901, 24.115 | 71 |
| 44th Dallas..... | 24.146, 24.901, 24.115 | |
| 68th Dallas..... | 24.170, 24.901, 24.115 | |
| 95th Dallas..... | 24.197, 24.901, 24.115 | |
| 101st Dallas..... | 24.203, 24.901, 24.115 | |
| 116th Dallas..... | 24.218, 24.901, 24.115 | |
| 134th Dallas..... | 24.236, 24.901, 24.115 | |
| 160th Dallas..... | 24.257, 24.901, 24.115 | |
| 162nd Dallas..... | 24.259, 24.901, 24.115 | |
| Criminal District Court of Dallas County | 24.901, 24.115 | |
| Criminal District Court No. 2 of Dallas County..... | 24.902, 24.901, 24.115 | |
| Criminal District Court No. 3 of Dallas County..... | 24.903, 24.901, 24.115 | |
| Criminal District Court No. 4 of Dallas County..... | 24.904, 24.901, 24.115 | |
| Criminal District Court No. 5 of Dallas County..... | 24.905, 24.901, 24.115 | |
| Criminal District Court No. 6 of Dallas County..... | 24.906, 24.901, 24.115 | |
| Criminal District Court No. 7 of Dallas County..... | 24.907, 24.901, 24.115 | |

In one county, the criminal and civil jurisdiction of the county court has been removed and nine of the district courts have concurrent original criminal jurisdiction with the statutory county criminal courts in matters of county court original criminal jurisdiction:

| | | |
|---|----------------|-----------|
| 213th Tarrant | 24.392 | 72 |
| 297th Tarrant | 24.474 | |
| 371st Tarrant | 24.516 | |
| 372nd Tarrant | 24.517 | |
| 396th Tarrant | 24.541 | |
| Criminal District Court No. 1 of Tarrant County | 24.910 | |
| Criminal District Court No. 2 of Tarrant County | 24.910, 24.911 | |
| Criminal District Court No. 3 of Tarrant County | 24.910, 24.912 | |
| Criminal District Court No. 4 of Tarrant County | 24.913 | |

In two counties, the criminal and civil jurisdiction has been removed from the county court and four of the district courts have concurrent jurisdiction with the county courts at law of misdemeanor cases:

| | | |
|---|--------|-----------|
| 85th Brazos | 24.187 | 73 |
| 272nd Brazos..... | 24.449 | |
| 361st Brazos..... | 24.506 | |
| Criminal District Court of Jefferson County | 24.920 | |

Rather than transfer jurisdiction absolutely from the county court to the district court, the Legislature in several instances has given both the district-level and the county courts concurrent jurisdiction in certain matters.

Four district courts have concurrent original and appellate criminal jurisdiction with the county court in matters normally in the county court:

| | | |
|----------------------|----------------|-----------|
| 76th Camp | 24.178 | 74 |
| 207th Caldwell | 24.386 | |
| 258th Polk | 24.435 | |
| 276th Camp | 24.453, 24.178 | |

Six district courts have concurrent jurisdiction with the county court in all civil and criminal matters normally vested in the county court:

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| | | |
|-----------------------|----------------|----|
| 49th Zapata | 24.151 | 75 |
| 115th Upshur | 24.217, 26.330 | |
| 294th Van Zandt | 24.471 | 75 |
| 344th Chambers | 24.490 | |
| 356th Hardin | 24.502 | |
| 402nd Wood | 24.547 | |

One district court has concurrent jurisdiction with the county court and the county court at law in all civil and criminal matters normally vested in the county court:

| | | |
|-----------------|----------------|----|
| 66th Hill | 24.168, 26.209 | 76 |
|-----------------|----------------|----|

In one county, if the county judge is licensed to practice law in Texas and has practiced for at least two years, the jurisdiction of the constitutional county court is expanded to include (concurrent with the district court) family law cases, eminent domain, and civil matters when the amount in controversy does not exceed \$20,000:

| | | |
|--------------|--------|----|
| Fayette..... | 26.175 | 77 |
|--------------|--------|----|

COUNTY-LEVEL COURTS

The county courts were established by the Constitution of 1836. They were presided over by a chief justice appointed by the Congress of the Republic of Texas for a term of four years. This continued from 1836 to 1841, when the office was made elective. The term was shortened to two years in the Constitutions of 1845 and 1861. Under the Constitution of 1866, the name of the presiding officer of the court was changed from chief justice to county judge, and the term of office was again established at four years.

The county court was abolished by the Constitution of 1869, but was re-established by the Constitution of 1876 with an elected presiding officer, the county judge, serving a two-year term. The term of office was increased to four years by a constitutional amendment adopted in 1954.

Today, the Texas Constitution provides for a county court in each county. Generally, "constitutional" county courts have concurrent jurisdiction with justice of the peace courts in civil cases where the matter in controversy exceeds \$200 but does not exceed \$5,000; concurrent jurisdiction with the district courts in civil cases where the matter in controversy exceeds \$500 but does not exceed \$5,000; general jurisdiction over probate cases; juvenile jurisdiction; and exclusive original jurisdiction over misdemeanors, other than those involving official misconduct, where punishment for the offense, upon conviction, is by fine exceeding \$500 and/or a jail sentence not to exceed one year. County courts generally have appellate jurisdiction (usually by trial *de novo*) over cases tried originally in the justice of the peace courts and municipal courts. Original and appellate judgments of the county courts may be appealed to the courts of appeals.

The Constitution provides that the county judge "shall be well informed in the law of the State...". This has been interpreted to mean that neither formal study of the law nor a license to practice law is a necessary qualification to hold office as county judge. Currently, of the 254 county judges in the State, approximately 12 percent are licensed to practice law.

Under its constitutional authorization to "...establish such other courts as it may deem necessary...[and to] conform the jurisdiction of the district and other inferior courts thereto," the Legislature has created statutory county courts and statutory probate courts, primarily in metropolitan counties, to provide assistance to the single "constitutional" county court. The Legislature has authorized a total of 242 of these statutory courts in 86 counties to relieve the county judge of some or all of the judicial duties of office. As of September 1, 2005, 233 of these courts were in actual operation in 84 counties. (See list which follows.)

Under the constitutional grant of authority the Legislature has established the following statutory county courts and statutory probate

courts (the number of statutory courts in each county is shown in parentheses):

| | | |
|-----------------|-------|---|
| Anderson | (1) | County Court at Law |
| Angelina | (2) | County Court at Law No. 1 County Court at Law No. 2 |
| Aransas | (1) | County Court at Law |
| Austin | (1) | County Court at Law |
| Bastrop | (1) | County Court at Law |
| Bee | (1) * | County Court at Law <i>Effective 01/01/00 but not implemented as of 09/01/05.</i> |
| Bell | (3) | County Court at Law No. 1 County Court at Law No. 2 County Court at Law No. 3 |
| Bexar | (14) | County Court at Law No. 1 County Court at Law No. 2 County Court at Law No. 3 County Court at Law No. 4 County Court at Law No. 5 County Court at Law No. 6 County Court at Law No. 7 County Court at Law No. 8 County Court at Law No. 9 County Court at Law No. 10 County Court at Law No. 11 County Court at Law No. 12 Probate Court No. 1 Probate Court No. 2 |
| Bowie | (1) | County Court at Law |
| Brazoria | (4) | County Court at Law No. 1 and Probate Court County Court at Law No. 2 and Probate Court County Court at Law No. 3 and Probate Court * County Court at Law No. 4 and Probate Court <i>Effective 01/01/07.</i> <i>(Note: Brazoria County Court at Law and Probate Courts Nos. 1, 2, 3 and 4 are not statutory probate courts as that term is defined by Section 3 of the Probate Code.)</i> |
| Brazos | (2) | County Court at Law No. 1 County Court at Law No. 2 |
| Brown | (1) | County Court at Law |
| Burnet | (1) | County Court at Law |
| Caldwell | (1) | County Court at Law |
| Calhoun | (1) | County Court at Law No. 1 |
| Cameron | (3) | County Court at Law No. 1 County Court at Law No. 2 County Court at Law No. 3 |
| Cass | (1) | County Court at Law |
| Cherokee | (1) | County Court at Law |
| Collin | (7) | County Court at Law No. 1 County Court at Law No. 2 County Court at Law No. 3 County Court at Law No. 4 County Court at Law No. 5 County Court at Law No. 6 * <i>Implemented 10/01/05.</i> Probate Court No. 1 |
| Comal | (2) | County Court at Law No. 1 County Court at Law No. 2 |
| Cooke | (1) | County Court at Law |
| Coryell | (1) | County Court at Law |
| Dallas | (21) | County Court at Law No. 1 County Court at Law No. 2 County Court at Law No. 3 County Court at Law No. 4 County Court at Law No. 5 County Criminal Court County Criminal Court No. 2 County Criminal Court No. 3 County Criminal Court No. 4 County Criminal Court No. 5 County Criminal Court No. 6 County Criminal Court No. 7 |

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| | | | | | | |
|------------------|------|--|--|---------------------|------|---|
| | | County Criminal Court No. 8 | | Hays | (2) | County Court at Law No. 1 |
| | | County Criminal Court No. 9 | | | | County Court at Law No. 2 |
| | | County Criminal Court No. 10 | | Henderson | (2) | County Court at Law |
| | | County Criminal Court No. 11 | | | | County Court at Law No. 2 |
| | | County Criminal Court of Appeals | | Hidalgo | (6) | County Court at Law No. 1 |
| | | County Criminal Court of Appeals No. 2 | | | | County Court at Law No. 2 |
| | | Probate Court | | | | County Court at Law No. 4 |
| | | Probate Court No. 2 | | | | County Court at Law No. 5 |
| | | Probate Court No. 3 | | | | County Court at Law No. 6 |
| Denton | (8) | County Court at Law No. 1 | | | | * <i>Effective 09/01/05, but not implemented as of that date.</i> |
| | | County Court at Law No. 2 | | | | Probate Court |
| | | County Criminal Court No. 1 | | Hill | (1) | County Court at Law |
| | | County Criminal Court No. 2 | | Hood | (1) | County Court at Law |
| | | County Criminal Court No. 3 | | Hopkins | (1) | County Court at Law |
| | | County Criminal Court No. 4 | | Houston | (1) | County Court at Law |
| | | County Criminal Court No. 5 | | Hunt | (1) | County Court at Law |
| | | Probate Court | | Jefferson | (3) | County Court at Law No. 1 |
| Ector | (2) | County Court at Law | | | | County Court at Law No. 2 |
| | | County Court at Law No. 2 | | | | County Court at Law No. 3 |
| Ellis | (2) | County Court at Law | | Johnson | (2) | County Court at Law No. 1 |
| | | County Court at Law No. 2 | | | | County Court at Law No. 2 |
| El Paso | (11) | County Court at Law No. 1 | | Kaufman | (2) | County Court at Law |
| | | County Court at Law No. 2 | | | | * <i>Effective 09/01/07 or on such earlier date as may be determined by the commissioners court.</i> |
| | | County Court at Law No. 3 | | | | County Court at Law No. 2 |
| | | County Court at Law No. 4 | | | | County Court at Law No. 3 |
| | | County Court at Law No. 5 | | Kendall | (1) | County Court at Law |
| | | County Court at Law No. 6 | | Kerr | (1) | County Court at Law |
| | | County Court at Law No. 7 | | Kleberg | (1) | County Court at Law |
| | | County Criminal Court at Law No. 1 | | Lamar | (1) | County Court at Law |
| | | County Criminal Court at Law No. 2 | | Liberty | (1) | County Court at Law |
| | | Probate Court No. 1 | | Lubbock | (3) | County Court at Law No. 1 |
| | | * Probate Court No. 2 | | | | County Court at Law No. 2 |
| | | <i>Effective 09/01/05 but not implemented as of that date.</i> | | | | County Court at Law No. 3 |
| Erath | (1) | County Court at Law | | McLennan | (2) | County Court at Law |
| Fort Bend | (4) | County Court at Law No. 1 | | | | County Court at Law No. 2 |
| | | County Court at Law No. 2 | | Medina | (1) | County Court at Law |
| | | County Court at Law No. 3 | | Midland | (2) | County Court at Law |
| | | County Court at Law No. 4 | | | | County Court at Law No. 2 |
| Galveston | (4) | County Court No. 1 | | Montgomery | (4) | County Court at Law No. 1 |
| | | County Court No. 2 | | | | County Court at Law No. 2 |
| | | County Court No. 3 | | | | County Court at Law No. 3 |
| | | Probate Court | | | | County Court at Law No. 4 |
| Grayson | (2) | County Court at Law | | Moore | (1) | County Court at Law |
| | | County Court at Law No. 2 | | Nacogdoches | (1) | County Court at Law |
| Gregg | (2) | County Court at Law | | Nolan | (1) | County Court at Law |
| | | County Court at Law No. 2 | | Nueces | (5) | County Court at Law No. 1 |
| Guadalupe | (2) | County Court at Law | | | | County Court at Law No. 2 |
| | | County Court at Law No. 2 | | | | County Court at Law No. 3 |
| Harris | (23) | County Civil Court at Law No. 1 | | | | County Court at Law No. 4 |
| | | County Civil Court at Law No. 2 | | | | County Court at Law No. 5 |
| | | County Civil Court at Law No. 3 | | Orange | (2) | County Court at Law |
| | | County Civil Court at Law No. 4 | | | | County Court at Law No. 2 |
| | | County Criminal Court at Law No. 1 | | Panola | (1) | County Court at Law |
| | | County Criminal Court at Law No. 2 | | Parker | (2) | County Court at Law |
| | | County Criminal Court at Law No. 3 | | | | County Court at Law No. 2 |
| | | County Criminal Court at Law No. 4 | | Polk | (1) | County Court at Law |
| | | County Criminal Court at Law No. 5 | | Potter | (2) | County Court at Law No. 1 |
| | | County Criminal Court at Law No. 6 | | | | County Court at Law No. 2 |
| | | County Criminal Court at Law No. 7 | | Randall | (2) | County Court at Law No. 1 |
| | | County Criminal Court at Law No. 8 | | | | * <i>Effective 10/01/06.</i> |
| | | County Criminal Court at Law No. 9 | | | | County Court at Law No. 2 |
| | | County Criminal Court at Law No. 10 | | Reeves | (1) | County Court at Law |
| | | County Criminal Court at Law No. 11 | | Rockwall | (1) | County Court at Law |
| | | County Criminal Court at Law No. 12 | | Rusk | (1) | County Court at Law |
| | | County Criminal Court at Law No. 13 | | San Patricio | (1) | County Court at Law |
| | | County Criminal Court at Law No. 14 | | Smith | (3) | County Court at Law |
| | | County Criminal Court at Law No. 15 | | | | County Court at Law No. 2 |
| | | Probate Court No. 1 | | | | County Court at Law No. 3 |
| | | Probate Court No. 2 | | Starr | (1) | County Court at Law |
| | | Probate Court No. 3 | | Tarrant | (15) | County Court at Law No. 1 |
| | | Probate Court No. 4 | | | | County Court at Law No. 2 |
| Harrison | (1) | County Court at Law | | | | |

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| | | |
|-------------------|-------|--|
| | | County Court at Law No. 3 |
| | | County Criminal Court No. 1 |
| | | County Criminal Court No. 2 |
| | | County Criminal Court No. 3 |
| | | County Criminal Court No. 4 |
| | | County Criminal Court No. 5 |
| | | County Criminal Court No. 6 |
| | | County Criminal Court No. 7 |
| | | County Criminal Court No. 8 |
| | | County Criminal Court No. 9 |
| | | County Criminal Court No. 10 |
| | | Probate Court No. 1 |
| | | Probate Court No. 2 |
| Taylor | (2) | County Court at Law |
| | | County Court at Law No. 2 |
| Tom Green | (2) | County Court at Law |
| | | County Court at Law No. 2 |
| Travis | (8) | County Court at Law No. 1 |
| | | County Court at Law No. 2 |
| | | County Court at Law No. 3 |
| | | County Court at Law No. 4 |
| | | County Court at Law No. 5 |
| | | County Court at Law No. 6 |
| | | County Court at Law No. 7 |
| | | Probate Court No. 1 |
| Val Verde | (1) | County Court at Law |
| Victoria | (2) | County Court at Law No. 1 |
| | | County Court at Law No. 2 |
| Walker | (1) | County Court at Law |
| Waller | (1) | County Court at Law |
| Washington | (1) | County Court at Law |
| Webb | (2) | County Court at Law No. 1 |
| | | County Court at Law No. 2 |
| Wichita | (2) | County Court at Law No. 1 |
| | | County Court at Law No. 2 |
| Wilbarger | (1) * | County Court at Law |
| | | <i>Effective 01/01/94, but not implemented as of 09/01/05.</i> |
| Williamson | (4) | County Court at Law No. 1 |
| | | County Court at Law No. 2 |
| | | County Court at Law No. 3 |
| | | * County Court at Law No. 4 |
| | | <i>Effective 01/01/06.</i> |
| Wise | (1) | County Court at Law |

The judges of these statutory courts are elected in countywide, partisan elections for four-year terms. Any vacancies occurring between elections are filled by appointment of the county commissioners. The statutes creating these courts uniformly require that the persons serving as judges must be licensed to practice law in Texas.

The legal jurisdiction of the special county courts varies considerably and is determined by the specific statute that establishes the particular court. As the varied names suggest, some of these courts have subject-matter jurisdiction in only limited fields, such as civil, criminal, probate, or appellate (from justice courts or municipal courts); however, even the specialized name does not always disclose the complete function of the court. To determine the exact jurisdiction of any one of the statutory county courts, it is necessary to review the specific statute that established it.

In general, statutory county courts, which have jurisdiction to exercise civil jurisdiction concurrent with the constitutional jurisdiction of the county court, have concurrent jurisdiction with district courts in civil matters when the amount in controversy is more than \$500 but does not exceed \$100,000 and appeals of final rulings and decisions of the division of workers' compensation of TDI. Statutory county courts also have, concurrent with the county court, the probate jurisdiction provided by general law for county courts. However, in a county that has a statutory probate court, the statutory probate court is the only statutory county court with probate jurisdiction. Other jurisdiction of a statutory county court is, broadly speaking, either carved out of the constitutional county court's regular jurisdiction or shared with it (concurrent).

The jurisdiction of statutory county courts and their relation to the constitutional county courts take many forms. In two counties, all civil, criminal, and probate jurisdiction of the county court was transferred to the statutory county court:

| | |
|---|--------------------|
| County Court at Law of Nacogdoches | |
| County..... | 26.274, 25.1762 78 |
| County Court at Law of Reeves County..... | 26.295, 25.1972 |

In two counties, all civil, criminal, probate and juvenile jurisdiction of the county court was transferred to the statutory county court:

| | |
|--|--------------------|
| County Court at Law of Aransas County..... | 26.104, 25.0062 79 |
| County Court at Law of Cooke County | 26.149, 25.0512 |

In one county, all civil jurisdiction was transferred to one county court at law and all criminal jurisdiction was transferred to another county court at law and juvenile jurisdiction was transferred to both county courts at law:

| | |
|-------------------------------------|--------------------|
| County Court at Law No. 1 of Denton | |
| County (criminal and juvenile)..... | 26.161, 25.0633 80 |
| County Court at Law No. 2 of Denton | |
| County (civil and juvenile) | 26.161, 25.0633 |

In one county, all civil and criminal jurisdiction of the county court was transferred to the county court at law but, if the county judge is an attorney, the county court exercises concurrent jurisdiction with the county court at law in all matters over which county courts have jurisdiction generally. If the county judge is not an attorney, the county court exercises concurrent jurisdiction with the county court at law only in probate and mental health matters:

| | |
|---|--------------------|
| County Court at Law of Bastrop County | 26.111, 25.0132 81 |
|---|--------------------|

All civil and criminal jurisdiction of the county court was transferred to the following ten county courts at law and the courts have concurrent jurisdiction in probate matters:

| | |
|---|--------------------|
| County Court at Law No. 1 of Cameron | |
| County..... | 26.131, 25.0332 82 |
| County Court at Law No. 2 of Cameron | |
| County..... | 26.131, 25.0332 |
| County Court at Law No. 3 of Cameron | |
| County..... | 26.131, 25.0332 |
| County Court at Law No. 1 of Nueces | |
| County..... | 26.278, 25.1802 |
| County Court at Law No. 2 of Nueces | |
| County..... | 26.278, 25.1802 |
| County Court at Law No. 3 of Nueces | |
| County..... | 26.278, 25.1802 |
| County Court at Law No. 4 of Nueces | |
| County..... | 26.278, 25.1802 |
| County Court at Law No. 5 of Nueces | |
| County | 26.278, 25.1802 |
| County Court at Law of Waller County..... | 26.237, 25.2392 |
| County Court at Law of Washington | |
| County..... | 26.339, 25.2412 |

One county court at law had transferred to it all civil and criminal jurisdiction of the county court and the courts have concurrent jurisdiction in probate matters, and the county court at law is instructed to give preference to criminal cases:

| | |
|--|--------------------|
| County Court at Law No. 3 of Jefferson | |
| County..... | 25.1252; 26.223 83 |

Five county courts at law exercise concurrent jurisdiction with at least one of the district courts in the county in all civil and criminal matters that had earlier been transferred from the county court to the district court. The county court at law and county court have concurrent

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probate jurisdiction:

| | |
|--|-----------------------------------|
| County Court at Law of Bowie | |
| County | 24.105, 25.0212, 26.119 84 |
| County Court at Law No. 1 of Comal | |
| County | 24.123, 25.0482, 26.146 84 |
| County Court at Law No. 2 of Comal | |
| County | 24.123, 25.0482, 26.146 |
| County Court at Law No. 1 of Webb County | 24.151, 25.2422, 26.340 |
| County Court at Law No. 2 of Webb County | 24.151, 25.2422, 26.340 |

One county court at law exercises concurrent jurisdiction with the district court in the county in all civil and criminal matters that had earlier been transferred from the county court to the district court. The county court at law and county court have concurrent jurisdiction to accept guilty pleas in misdemeanor cases and concurrent probate jurisdiction:

| | |
|-----------------------------|-----------------------------------|
| County Court at Law of Cass | |
| County | 24.105, 25.0362, 26.134 85 |

All civil and criminal jurisdiction of the county court, except probate and juvenile, was transferred to the following sixteen county courts at law:

| | |
|--|---------------------------|
| County Court at Law No. 2 of Bexar | |
| County | 25.0172, 26.115 86 |
| County Court at Law No. 3 of Bexar | |
| County | 25.0172, 26.115 |
| County Court at Law No. 5 of Bexar | |
| County | 25.0172, 26.115 |
| County Court at Law No. 7 of Bexar | |
| County | 25.0172, 26.115 |
| County Court at Law No. 8 of Bexar | |
| County | 25.0172, 26.115 |
| County Court at Law No. 9 of Bexar | |
| County | 25.0172, 26.115 |
| County Court at Law No. 1 of El Paso | |
| County | 26.171, 25.0732 |
| County Court at Law No. 2 of El Paso | |
| County | 26.171, 25.0732 |
| County Court at Law No. 3 of El Paso | |
| County | 26.171, 25.0732 |
| County Court at Law No. 4 of El Paso | |
| County | 26.171, 25.0732 |
| County Court at Law No. 5 of El Paso | |
| County | 26.171, 25.0732 |
| County Court at Law No. 6 of El Paso | |
| County | 26.171, 25.0732 |
| County Court at Law No. 7 of El Paso | |
| County | 26.171, 25.0732 |
| County Criminal Court No. 1 of El Paso | |
| County | 26.171, 25.0732 |
| County Criminal Court No. 2 of El Paso | |
| County | 26.171, 25.0732 |
| County Court at Law No. 1 of Tarrant | |
| County | 26.320, 25.2222 |

All civil and criminal jurisdiction of the county court, except probate, was transferred to the following 18 county courts at law:

| | |
|---------------------------------------|---------------------------|
| County Court at Law No. 1 of Collin | |
| County | 26.143, 25.0452 87 |
| County Court at Law No. 2 of Collin | |
| County | 26.143, 25.0452 |
| County Court at Law No. 3 of Collin | |
| County | 26.143, 25.0452 |
| County Court at Law No. 4 of Collin | |
| County | 26.143, 25.0452 |
| County Court at Law No. 5 of Collin | |
| County | 26.143, 25.0452 |
| * County Court at Law No. 6 of Collin | |

| | |
|---|---------------------------|
| County | 26.143, 25.0452 |
| <i>Implemented 10/01/05.</i> | |
| County Court at Law No. 1 of Hidalgo | |
| County | 26.208, 25.1102 |
| County Court at Law No. 2 of Hidalgo | |
| County | 26.208, 25.1102 87 |
| County Court at Law No. 4 of Hidalgo | |
| County | 26.208, 25.1102 |
| County Court at Law No. 5 of Hidalgo | |
| County | 26.208, 25.1102 |
| * County Court at Law No. 6 of Hidalgo | |
| County | 26.208, 25.1102 |
| <i>Effective 09/01/05, but not implemented as of that date.</i> | |
| County Court at Law No. 1 of Travis | |
| County | 26.327, 25.2292 |
| County Court at Law No. 2 of Travis | |
| County | 26.327, 25.2292 |
| County Court at Law No. 3 of Travis | |
| County | 26.327, 25.2292 |
| County Court at Law No. 4 of Travis | |
| County | 26.327, 25.2292 |
| County Court at Law No. 5 of Travis | |
| County | 26.327, 25.2292 |
| County Court at Law No. 6 of Travis | |
| County | 26.327, 25.2292 |
| County Court at Law No. 7 of Travis | |
| County | 26.327, 25.2292 |

Twelve county courts at law had transferred to them all civil and criminal jurisdiction of the county court, except juvenile, and the courts have concurrent jurisdiction in probate matters:

| | |
|---|---------------------------|
| County Court at Law No. 1 of Brazos | |
| County | 26.121, 25.0232 88 |
| County Court at Law No. 2 of Brazos | |
| County | 26.121, 25.0232 |
| County Court at Law of Grayson County | 26.191, 25.0932 |
| County Court at Law No. 2 of Grayson | |
| County | 26.191, 25.0932 |
| County Court at Law No. 1 of Jefferson | |
| County | 26.223, 25.252 |
| County Court at Law No. 2 of Jefferson | |
| County | 26.223, 25.252 |
| County Court at Law No. 1 of Lubbock | |
| County | 26.252, 25.1542 |
| County Court at Law No. 2 of Lubbock | |
| County | 26.252, 25.15428 |
| County Court at Law No. 3 of Lubbock | |
| County | 26.252, 25.1542 |
| County Court at Law of Taylor County | 26.321, 25.2232 |
| County Court at Law No. 2 of Taylor | |
| County | 26.321, 25.2232 |
| County Court at Law of Walker County | 26.336, 25.2382 |

Four county courts at law had transferred to them all civil and criminal jurisdiction of the county court, except probate, and the county courts at law were instructed to give preference to criminal matters and appeals *de novo* from municipal and justice courts:

| | |
|-------------------------------------|---------------------------|
| County Court at Law No. 4 of Bexar | |
| County | 25.0172, 26.115 89 |
| County Court at Law No. 6 of Bexar | |
| County | 25.0172, 26.115 |
| County Court at Law No. 11 of Bexar | |
| County | 25.0172, 26.115 |
| County Court at Law No. 12 of Bexar | |
| County | 25.0172, 26.115 |

One county court at law had transferred to it all civil and criminal jurisdiction of the county court, except probate and juvenile, and the county court at law was instructed to give preference to criminal cases:

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County Court at Law No. 1 of Bexar
County25.0172, 26.115 **90**

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One county court at law had transferred to it all civil and criminal jurisdiction of the county court, except probate, and the county court at law was instructed to give preference to civil cases:

County Court at Law No. 10 of Bexar
County25.0172, 26.115 **91**

One county court at law had transferred to it all civil and criminal jurisdiction of the county court, except probate, and the county court at law was instructed to give preference to family law cases and proceedings:

* County Court at Law No. 6 of Hidalgo
County25.1102, 26.208 **92**
Effective 09/01/05, but not implemented as of that date.

All civil jurisdiction of the county court, except probate, was transferred to two statutory county courts:

County Court at Law No. 2 of Tarrant
County25.2222, 26.201 **93**
County Court at Law No. 3 of Tarrant
County25.2222, 26.201

Two county courts at law have concurrent jurisdiction with the district court in the civil jurisdiction that was transferred from the county court, and the statutory county courts have concurrent jurisdiction with the constitutional county court in probate, juvenile and criminal matters (in addition, if the county judge has the qualifications of a district judge and is designated as the judge of the juvenile court, the county court has jurisdiction over cases involving child neglect and dependency proceedings):

County Court at Law No. 1 of Wichita
County26.321, 25.2232 **94**

County Court at Law No. 2 of Wichita
County26.121, 25.02321033

Eighty-three county courts at law have concurrent jurisdiction with the constitutional county court in all matters over which the constitutional county court normally has jurisdiction:

County Court at Law of Anderson County25.0042 **95**
County Court at Law No. 1 of Angelina County25.0052
County Court at Law No. 2 of Angelina County25.0052
County Court at Law of Austin County25.0102
* County Court at Law of Bee County
Effective 01/01/00 but not implemented as of 09/01/05.
County Court at Law No. 1 of Bell County25.0162
County Court at Law No. 2 of Bell County25.0162
County Court at Law No. 3 of Bell County25.0162
County Court at Law of Brown County25.0272
County Court at Law of Burnet County25.0292
County Court at Law of Caldwell County25.0302
County Court at Law of Calhoun County25.0312
County Court at Law of Cherokee County25.0392
County Court at Law of Coryell County25.0522
County Court at Law of Ector County25.0702
County Court at Law No. 2 of Ector County25.0702
County Court at Law of Ellis County25.0722
County Court at Law No. 2 of Ellis County25.0722
County Court at Law of Erath County25.0742
County Court at Law No. 1 of Fort Bend County25.0812
County Court at Law No. 2 of Fort Bend County25.0812
County Court at Law No. 3 of Fort Bend County25.0812
County Court at Law No. 4 of Fort Bend County25.0812
County Court at Law of Gregg County25.0942
County Court at Law No. 2 of Gregg County25.0942
County Court at Law of Guadalupe County25.0962
County Court at Law No. 2 of Guadalupe County25.0962
County Court at Law of Harrison County25.1042

County Court at Law No. 1 of Hays County 25.1072
County Court at Law No. 2 of Hays County 25.1072
County Court at Law of Henderson County25.1092 **95**
County Court at Law No. 2 of Henderson County 25.1092
County Court at Law of Hopkins County 25.1142
County Court at Law of Houston County 25.1152
County Court at Law of Hunt County 25.1182
County Court at Law No. 1 of Johnson County 25.1282
County Court at Law No. 2 of Johnson County 25.1282
County Court at Law of Kaufman County 25.1312
* County Court at Law No. 2 of Kaufman County 25.1312
Effective 09/01/07 or on such earlier date as may be determined by the commissioners court.
County Court at Law of Kendall County 25.1322
County Court at Law of Kerr County 25.1352
County Court at Law of Kleberg County 25.1392
County Court at Law of Lamar County 25.1412
County Court at Law of Liberty County 25.1482
County Court at Law of McLennan County 25.1572
County Court at Law No. 2 of McLennan County 25.1572
County Court at Law of Medina County 25.1652
County Court at Law of Midland County 25.1672
County Court at Law No. 2 of Midland County 25.1672
County Court at Law No. 1 of Montgomery County ... 25.1722
County Court at Law No. 2 of Montgomery County ... 25.1722
County Court at Law No. 3 of Montgomery County ... 25.1722
County Court at Law No. 4 of Montgomery County ... 25.1722
County Court at Law of Moore County 25.1732
County Court at Law of Nolan County 25.1792
County Court at Law of Orange County 25.1832
County Court at Law No. 2 of Orange County 25.1092
County Court at Law of Panola County 25.1852
County Court at Law of Parker County 25.1862
County Court at Law No. 2 of Parker County 25.1862
County Court at Law of Polk County 25.1892
County Court at Law No. 1 of Potter County 25.1902
County Court at Law No. 2 of Potter County 25.1902
County Court at Law No. 1 of Randall County 25.1932
* County Court at Law No. 2 of Randall County 25.1932
Effective 10/01/06.
County Court at Law of Rockwall County 25.2012
County Court at Law of Rusk County 25.2032
County Court at Law of San Patricio County 25.2072
County Court at Law of Smith County 25.2142
County Court at Law No. 2 of Smith County 25.2142
County Court at Law No. 3 of Smith County 25.2142
County Court at Law of Starr County 25.2162
County Court at Law of Tom Green County 25.2282
County Court at Law No. 2 of Tom Green County 25.2282
County Court at Law of Val Verde County 25.2352
County Court at Law of Victoria County 25.2372
County Court at Law No. 2 of Victoria County 25.2372
* County Court at Law of Wilbarger County 25.2462
Effective 01/01/94, but not implemented as of 09/01/05.
County Court at Law No. 1 of Williamson County 25.2482
County Court at Law No. 2 of Williamson County 25.2482
County Court at Law No. 3 of Williamson County 25.2482
* County Court at Law No. 4 of Williamson County 25.2482
Effective 01/01/06.
County Court at Law of Wise County 25.2512

Four statutory county courts exercise concurrent jurisdiction with the county court in all matters, but give preference to cases in which the court's jurisdiction is concurrent with the county court:

County Court at Law No. 1 and
Probate Court of Brazoria County 25.0222 **96**
County Court at Law No. 2 and
Probate Court of Brazoria County 25.0222
County Court at Law No. 3 and
Probate Court of Brazoria County 25.0222
* County Court at Law No. 4

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and Probate Court of Brazoria County25.0222

Effective 01/01/07.

(Note: Brazoria County Court at Law and Probate Courts Nos. 1, 2, 3 and 4 are not statutory probate courts as that term is defined by Section 3 of the Probate Code.)

Twenty-two statutory county courts exercise concurrent jurisdiction with the county court in all matters except probate:

| | | |
|--|-----------------|-----------|
| County Court at Law No. 1 of Galveston County..... | 25.0862 | 97 |
| County Court at Law No. 2 of Galveston County..... | 25.0862 | |
| County Court at Law No. 3 of Galveston County..... | 25.0862 | |
| County Civil Court at Law No. 1 of Harris County | 25.1032, 26.201 | |
| County Civil Court at Law No. 2 of Harris County | 25.1032, 26.201 | |
| County Civil Court at Law No. 3 of Harris County | 25.1032, 26.201 | |
| County Civil Court at Law No. 4 of Harris County | 25.1032, 26.201 | |
| County Criminal Court at Law No. 1 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 2 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 3 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 4 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 5 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 6 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 7 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 8 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 9 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 10 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 11 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 12 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 13 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 14 of Harris County | 25.1033 | |
| County Criminal Court at Law No. 15 of Harris County | 25.1033 | |

One statutory county court exercises concurrent jurisdiction with the county court in all matters except probate other than contested probate and guardianship matters under Secs. 5(b) and 606(b) of the Probate Code:

| | | |
|--|---------|-----------|
| County Court at Law of Hood County | 25.1132 | 98 |
|--|---------|-----------|

One statutory probate court exercises concurrent jurisdiction with the county court in probate matters and in matters arising under Subtitle C or D, Title 7, Health and Safety Code and other enumerated provisions of the Health and Safety Code:

| | | |
|--|---------|-----------|
| Probate Court No. 1 of Travis County | 25.2293 | 99 |
|--|---------|-----------|

Four statutory probate courts have concurrent jurisdiction with the county court in probate matters and are to have primary responsibility for mental illness proceedings:

| | | |
|--|---------|------------|
| Probate Court No. 1 of Bexar County | 25.0173 | 100 |
| Probate Court No. 3 of Dallas County | 25.0595 | |

| | | |
|---|--|---------|
| * | Probate Court No. 3 of Harris County | 25.1034 |
| | Probate Court No. 2 of El Paso County | 25.0731 |
| | <i>Effective 09/01/05 but not implemented as of that date.</i> | |

Some statutory county courts have been created to handle criminal cases only. All criminal jurisdiction of the county court was transferred to five of these statutory county courts:

| | | |
|--|-----------------|------------|
| County Criminal Court No. 1 of Denton County | 26.161, 25.0634 | 101 |
| County Criminal Court No. 2 of Denton County | 26.161, 25.0634 | |
| County Criminal Court No. 3 of Denton County | 26.161, 25.0634 | |
| County Criminal Court No. 4 of Denton County | 26.161, 25.0634 | |
| County Criminal Court No. 5 of Denton County | 26.161, 25.0634 | |

Criminal jurisdiction was transferred from the constitutional county court, and the following 10 statutory county courts have concurrent jurisdiction with the criminal district courts in the county in criminal matters over which the constitutional county court normally has jurisdiction:

| | | |
|--|-----------------|------------|
| County Criminal Court No. 1 of Tarrant County | 26.320, 25.2223 | 102 |
| County Criminal Court No. 2 of Tarrant County | 26.320, 25.2223 | |
| County Criminal Court No. 3 of Tarrant County | 26.320, 25.2223 | |
| County Criminal Court No. 4 of Tarrant County | 26.320, 25.2223 | |
| County Criminal Court No. 5 of Tarrant County | 26.320, 25.2223 | |
| County Criminal Court No. 6 of Tarrant County | 26.320, 25.2223 | |
| County Criminal Court No. 7 of Tarrant County | 26.320, 25.2223 | |
| County Criminal Court No. 8 of Tarrant County | 26.320, 25.2223 | |
| County Criminal Court No. 9 of Tarrant County | 26.320, 25.2223 | |
| County Criminal Court No. 10 of Tarrant County | 26.320, 25.2223 | |

All criminal jurisdiction was transferred from the constitutional county court, other than cases alleging a violation of Sec. 25.093 or 25.094, Education Code, and the following eleven statutory county courts have concurrent jurisdiction with certain district and criminal district courts in the county in criminal matters over which the constitutional county court normally has jurisdiction:

| | | |
|---|-------------------------|------------|
| County Criminal Court of Dallas County | 26.045, 26.157, 25.0593 | 103 |
| County Criminal Court No. 2 of Dallas County | 26.045, 26.157, 25.0593 | |
| County Criminal Court No. 3 of Dallas County | 26.045, 26.157, 25.0593 | |
| County Criminal Court No. 4 of Dallas County | 26.045, 26.157, 25.0593 | |
| County Criminal Court No. 5 of Dallas County | 26.045, 26.157, 25.0593 | |
| County Criminal Court No. 6 of Dallas County | 26.045, 26.157, 25.0593 | |
| County Criminal Court No. 7 of Dallas County | 26.045, 26.157, 25.0593 | |
| County Criminal Court No. 8 of Dallas County | 26.045, 26.157, 25.0593 | |
| County Criminal Court No. 9 of Dallas County | 26.045, 26.157, 25.0593 | |
| County Criminal Court No. 10 of Dallas County | 26.045, 26.157, 25.0593 | |

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| | |
|--|-------------------------|
| Dallas County | 26.045, 26.157, 25.0593 |
| County Criminal Court No. 11 of Dallas County | 26.045, 26.157, 25.0583 |

Two statutory county courts have sole jurisdiction of appeals of certain criminal cases from justice of the peace and municipal courts:

| | |
|--|---------------------|
| County Criminal Court of Appeals of Dallas County | 26.157, 25.0594 104 |
| County Criminal Court of Appeals No. 2 of Dallas County | 26.157, 25.0594 |

Two statutory county courts have been instructed to give preference to cases involving family violence:

| | |
|---|-------------|
| County Criminal Court No. 5 of Tarrant County | 25.2223 105 |
| County Court at Law No. 4 of Travis County | 25.2292 |

JUSTICE OF THE PEACE COURTS

The position of justice of the peace was established by the Constitution of the Republic which provided for a "convenient number of "Justices of the Peace" to be elected by the qualified voters of each county, for terms of two years. This office has been retained in all subsequent constitutions, although the jurisdiction of these courts has been severely restricted in later constitutions.

The justice of the peace is important in the capacity as a committing magistrate, with the authority to issue warrants for the apprehension and arrest of persons charged with the commission of both felony and misdemeanor offenses. As a magistrate, the justice of the peace may hold preliminary hearings, reduce testimony to writing, discharge the accused, or remand the accused to jail and set bail. In addition, the justice of the peace serves as the coroner in those counties where there is no provision for a medical examiner, serves as an *ex officio* notary public, and may perform marriage ceremonies.

As amended in November 1983, the Texas Constitution provides that each county is to be divided, according to population, into at least one, and not more than eight, justice precincts, in each of which is to be elected one or more justices of the peace. Approximately 826 justice of the peace courts are in operation today.

Justices of the peace are elected by the voters of the respective precincts of the county in partisan elections for four-year terms of office. There are no constitutional or statutory qualifications to hold this office and only about six percent of the justices of the peace in the State are lawyers.

Justice of the peace courts have original jurisdiction in misdemeanor criminal cases where punishment upon conviction may be by fine only. These courts generally have exclusive jurisdiction of civil matters when the amount in controversy does not exceed \$200, and concurrent jurisdiction with the county courts when the amount in controversy exceeds \$200 but does not exceed \$5,000. Justice of the peace courts also have jurisdiction over forcible entry and detainer cases and function as small claims courts. Trials in justice of the peace courts are not of record. Appeals from these courts are upon trial *de novo* in the county court, the county court at law, or the district court.

In thirty-six counties, the county court, by special statute, has been given concurrent jurisdiction with the justice of the peace courts in that county in all civil matters over which the justice of the peace courts have jurisdiction:

| | |
|-----------------------|------------|
| Armstrong County..... | 26.106 106 |
| Atascosa County | 26.107 |
| Bailey County | 26.109 |
| Bee County..... | 26.113 |

| | |
|----------------------------|------------|
| Burleson County | 26.126 |
| Cochran County | 26.140 |
| Collingsworth County | 26.144 |
| Colorado County | 26.145 |
| Crosby County | 26.154 |
| Dawson County..... | 26.158 |
| Deaf Smith County..... | 26.159 |
| Dickens County..... | 26.163 |
| Fisher County..... | 26.176 106 |
| Gaines County..... | 26.183 |
| Garza County..... | 26.185 |
| Goliad County | 26.188 |
| Gonzales County | 26.189 |
| Haskell County..... | 26.204 |
| Hemphill County | 26.206 |
| Hockley County..... | 26.210 |
| Karnes County..... | 26.228 |
| Kent County | 26.232 |
| Lamb County..... | 26.240 |
| Lee County..... | 26.244 |
| Lynn County..... | 26.253 |
| McMullen County | 26.256 |
| Mitchell County | 26.268 |
| Parmer County..... | 26.285 |
| Randall County | 26.291 |
| Reagan County | 26.292 |
| Scurry County | 26.308 |
| Starr County..... | 26.314 |
| Stonewall County..... | 26.317 |
| Terry County | 26.323 |
| Wheeler County | 26.342 |
| Yoakum County | 26.351 |

The county court in eight counties has been given concurrent jurisdiction with the justice of the peace courts in both civil and criminal matters normally in the justice of the peace courts:

| | |
|------------------------|------------|
| Blanco County | 26.116 107 |
| Edwards County..... | 26.169 |
| Gillespie County..... | 26.186 |
| Irion County..... | 26.218 |
| Kimble County | 26.234 |
| Menard County | 26.264 |
| Schleicher County..... | 26.307 |
| Sterling County | 26.316 |

In one county, the county courts at law have been given concurrent jurisdiction with the justice of the peace courts in civil matters prescribed by law for justice of the peace courts:

| | |
|---|-------------|
| County Court at Law No. 1 of Potter County..... | 25.1902 108 |
| County Court at Law No. 2 of Potter County..... | 25.1902 |

In five counties, the county courts at law have been given concurrent jurisdiction with the justice of the peace courts in criminal matters prescribed by law for justice of the peace courts:

| | |
|--|------------|
| * County Court at Law of Bee County | 25.0152109 |
| <i>Effective 01/01/00 but not implemented as of 09/01/05.</i> | |
| County Court at Law of Nolan County | 25.1792 |
| County Court at Law of Panola County..... | 25.1852 |
| * County Court at Law of Wilbarger County | 25.2462 |
| <i>Effective 01/01/94, but not implemented as of 09/01/05.</i> | |
| County Court at Law No. 1 of Williamson County..... | 25.2482 |
| County Court at Law No. 2 of Williamson County..... | 25.2482 |
| County Court at Law No. 3 of Williamson County | 25.2482 |
| * County Court at Law No. 4 of Williamson County | 25.2482 |
| <i>Effective 01/01/06.</i> | |

In three counties, the county courts at law have been given concurrent jurisdiction with the justice of the peace courts in both civil and criminal cases over which the justice of the peace courts normally

SUBJECT-MATTER JURISDICTION OF THE COURTS

Citations are to the Texas Government Code unless otherwise indicated. Index to reference numbers is found in the Index to Subject Matter Jurisdiction.

have jurisdiction:

| | | |
|---|---------|-----|
| County Court at Law of Grayson County | 25.0932 | 110 |
| County Court at Law No. 2 of Grayson County | 25.0932 | |
| County Court at Law No. 1 of Lubbock County | 25.1542 | |
| County Court at Law No. 2 of Lubbock County | 25.1542 | |
| County Court at Law No. 3 of Lubbock County | 25.1542 | |
| County Court at Law No. 1 of Nueces County..... | 25.1802 | |
| County Court at Law No. 2 of Nueces County..... | 25.1802 | |
| County Court at Law No. 3 of Nueces County..... | 25.0932 | 110 |
| County Court at Law No. 4 of Nueces County..... | 25.1802 | |
| County Court at Law No. 5 of Nueces County..... | 25.1802 | |

MUNICIPAL COURTS

Under its constitutional authority to create "...such other courts as may be provided by law," the Texas Legislature has created municipal courts in each incorporated city of the State. In lieu of a municipal court created by the Legislature, municipalities may choose to establish municipal courts of record. Presently, municipal courts are operating in approximately 908 cities. Metropolitan cities usually have more than one municipal court.

Municipal courts have no appellate jurisdiction, but do have original and exclusive jurisdiction over criminal violations of city ordinances and resolutions, rules or orders of joint boards that operate airports under Section 22.074, Transportation Code and are punishable by a fine not to exceed: 1) \$2,000 in cases arising under municipal ordinances or airport board resolutions, rules or orders that govern litter, fire safety, zoning, public health, and sanitation; or 2) \$500 in all other cases arising under a municipal ordinance or airport board resolution, rule or order. The municipal courts also have concurrent jurisdiction with justice courts in misdemeanor cases resulting from violations of state laws occurring within the city limits when punishment upon conviction is limited to a fine or the case arises under Ch. 106 of the Alcoholic Beverage Code relating to minors and does not include confinement as an authorized sanction. Municipal courts also have jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the court has jurisdiction.

In addition to the jurisdiction discussed above, municipal courts of record also have jurisdiction over criminal cases arising under ordinances authorized by certain provisions of the Local Government Code. The governing body may also provide by ordinance that a municipal court of record has civil jurisdiction to enforce certain ordinances enacted under the Local Government Code, concurrent jurisdiction with the district and statutory county courts within the municipality's territorial limits and on property owned by the municipality for the purpose of enforcing health, safety and nuisance abatement ordinances, and the authority to issue certain search and seizure warrants.

Municipal judges also serve as magistrates of the State. In this capacity, the municipal judge has authority to issue warrants for the apprehension and arrest of persons charged with the commission of public offenses, both felonies and misdemeanors. As a magistrate, the municipal judge may issue search and arrest warrants, hold preliminary hearings, reduce testimony to writing, discharge an accused, or remand the accused to jail and set bail.

Trials in the municipal courts, generally, are not of record, and appeals go to the county court, the county court at law, or the district court upon trial *de novo*. In municipal courts of record, a formal record and transcript are made of the proceedings in the trial and appeals of these cases are made on the record perfected in the court. These appeals are generally heard in the county criminal courts, county criminal courts of appeal or municipal courts of appeal. If none of these courts exist in the county or municipality, appeals are to county courts at law.

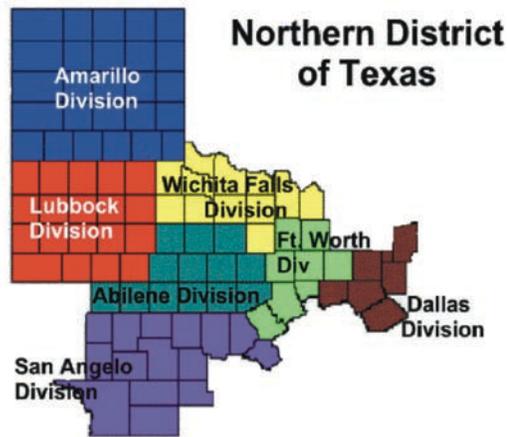
The statutes creating municipal courts of record require the judge to be licensed to practice law in this State. No such provision is required of the other municipal judges, and of the approximately 1,378 municipal judges in this State, about 40 percent presently are licensed as attorneys.

Selection and terms of office of municipal court judges vary from city to city. While in a few cities, municipal judges are elected at city elections, the vast number are appointed by the governing body of the city. Terms of office are usually two years.

APPENDIX 2

Federal District Courts in Texas

NORTHERN DISTRICT



| ABILENE DIVISION | |
|------------------|--------------------------|
| County | Approx. Miles to Abilene |
| Callahan | 21 |
| Eastland | 56 |
| Fisher | 57 |
| Haskell | 54 |
| Howard | 108 |
| Jones | 24 |
| Mitchell | 70 |
| Nolan | 41 |
| Shackelford | 35 |
| Stephens | 59 |
| Stonewall | 61 |
| Taylor | N/A |
| Throckmorton | 69 |

| AMARILLO DIVISION | |
|-------------------|---------------------------|
| County | Approx. Miles to Amarillo |
| Armstrong | 29 |
| Briscoe | 79 |
| Carson | 32 |
| Castro | 65 |
| Childress | 116 |
| Collingsworth | 121 |
| Dallam | 87 |
| Deaf Smith | 48 |
| Donley | 65 |
| Gray | 59 |
| Hall | 100 |
| Hansford | 93 |
| Hartley | 67 |
| Hemphill | 105 |
| Hutchison | 61 |
| Lipscomb | 130 |
| Moore | 47 |
| Ochiltree | 121 |
| Oldham | 36 |
| Parmer | 96 |
| Potter | N/A |
| Randall | 18 |
| Roberts | 82 |
| Sherman | 82 |
| Swisher | 51 |
| Wheeler | 109 |

NORTHERN DISTRICT

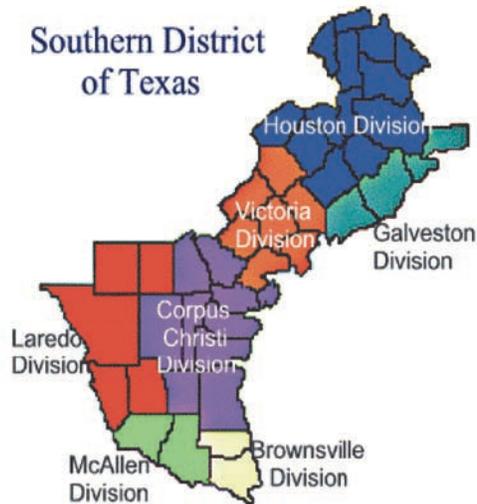
| DALLAS DIVISION | |
|------------------------|--------------------------------|
| County | Approx. Miles to Dallas |
| Dallas | N/A |
| Ellis | 30 |
| Hunt | 51 |
| Johnson | 50 |
| Kaufman | 34 |
| Navarro | 56 |
| Rockwall | 24 |

| SAN ANGELO DIVISION | |
|----------------------------|------------------------------------|
| County | Approx. Miles to San Angelo |
| Brown | 96 |
| Coke | 31 |
| Coleman | 72 |
| Concho | 34 |
| Crockett | 100 |
| Glasscock | 80 |
| Irion | 36 |
| Menard | 66 |
| Mills | 130 |
| Reagan | 72 |
| Runnels | 38 |
| Schleicher | 49 |
| Sterling | 50 |
| Sutton | 66 |
| Tom Green | N/A |

| LUBBOCK DIVISION | |
|-------------------------|---------------------------------|
| County | Approx. Miles to Lubbock |
| Bailey | 69 |
| Borden | 74 |
| Cochran | 57 |
| Crosby | 37 |
| Dawson | 62 |
| Dickens | 68 |
| Floyd | 51 |
| Gaines | 81 |
| Garza | 41 |
| Hale | 46 |
| Hockley | 62 |
| Kent | 92 |
| Lamb | 38 |
| Lubbock | N/A |
| Lynn | 30 |
| Motley | 83 |
| Scurry | 86 |
| Terry | 41 |
| Yoakum | 73 |

| WICHITA FALLS DIVISION | |
|-------------------------------|---------------------------------------|
| County | Approx. Miles to Wichita Falls |
| Archer | 26 |
| Baylor | 52 |
| Clay | 20 |
| Cottle | 136 |
| Foard | 82 |
| Hardeman | 81 |
| King | 116 |
| Knox | 84 |
| Montague | 55 |
| Wichita | N/A |
| Wilbarger | 52 |
| Young | 61 |

SOUTHERN DISTRICT



GALVESTON DIVISION

| County | Approx. Miles to Galveston |
|-----------|----------------------------|
| Brazoria | 54 |
| Chambers | 77 |
| Galveston | N/A |
| Matagorda | 91 |

HOUSTON DIVISION

| County | Approx. Miles to Houston |
|-------------|--------------------------|
| Austin | 65 |
| Brazos | 100 |
| Colorado | 74 |
| Fayette | 102 |
| Fort Bend | 34 |
| Grimes | 81 |
| Harris | N/A |
| Madison | 97 |
| Montgomery | 41 |
| San Jacinto | 64 |
| Walker | 71 |
| Waller | 54 |
| Wharton | 60 |

BROWNSVILLE DIVISION

| County | Approx. Miles to Brownsville |
|---------|------------------------------|
| Cameron | N/A |
| Willacy | 48 |

CORPUS CHRISTI DIVISION

| County | Approx. Miles to Corpus Christi |
|--------------|---------------------------------|
| Aransas | 31 |
| Bee | 60 |
| Brooks | 82 |
| Duval | 58 |
| Jim Wells | 48 |
| Kenedy | 66 |
| Kleberg | 46 |
| Live Oak | 63 |
| Nueces | N/A |
| San Patricio | 30 |

LAREDO DIVISION

| County | Approx. Miles to Laredo |
|----------|-------------------------|
| Jim Hogg | 56 |
| LaSalle | 68 |
| McMullen | 104 |
| Webb | N/A |
| Zapata | 50 |

SOUTHERN DISTRICT

| MCALLEN DIVISION | |
|-------------------------|---------------------------------|
| County | Approx. Miles to McAllen |
| Hidalgo | 12 |
| Starr | 41 |

| VICTORIA DIVISION | |
|--------------------------|----------------------------------|
| County | Approx. Miles to Victoria |
| Calhoun | 28 |
| DeWitt | 28 |
| Goliad | 26 |
| Jackson | 28 |
| Lavaca | 53 |
| Refugio | 43 |
| Victoria | N/A |

EASTERN DISTRICT

Eastern District of Texas



MARSHALL DIVISION

| County | Approx. Miles to Marshall |
|----------|---------------------------|
| Camp | 79 |
| Cass | 35 |
| Harrison | N/A |
| Marion | 17 |
| Morris | 48 |
| Upshur | 60 |

BEAUMONT DIVISION

| County | Approx. Miles to Beaumont |
|-----------|---------------------------|
| Hardin | 26 |
| Jasper | 72 |
| Jefferson | N/A |
| Liberty | 45 |
| Newton | 70 |
| Orange | 25 |

SHERMAN DIVISION

| County | Approx. Miles to Sherman |
|---------|--------------------------|
| Collin | 33 |
| Cooke | 35 |
| Delta | 81 |
| Denton | 61 |
| Fannin | 26 |
| Grayson | N/A |
| Hopkins | 87 |
| Lamar | 66 |

LUFKIN DIVISION

| County | Approx. Miles to Lufkin |
|---------------|-------------------------|
| Angelina | N/A |
| Houston | 46 |
| Nacogdoches | 20 |
| Polk | 47 |
| Sabine | 62 |
| San Augustine | 44 |
| Shelby | 53 |
| Trinity | 43 |
| Tyler | 51 |

TEXARKANA DIVISION

| County | Approx. Miles to Texarkana |
|-----------|----------------------------|
| Bowie | 28 |
| Franklin | 84 |
| Red River | 67 |
| Titus | 68 |

EASTERN DISTRICT

| TYLER DIVISION | |
|-----------------------|-------------------------------|
| County | Approx. Miles to Tyler |
| Anderson | N/A |
| Cherokee | 46 |
| Gregg | 20 |
| Henderson | 47 |
| Panola | 62 |
| Rains | 44 |
| Rusk | 53 |
| Smith | 43 |
| Van Zandt | 51 |
| Wood | |

WESTERN DISTRICT

Western District of Texas



| DEL RIO DIVISION | |
|------------------|--------------------------|
| County | Approx. Miles to Del Rio |
| Edwards | 77 |
| Kinney | 30 |
| Maverick | 55 |
| Terrell | 120 |
| Uvalde | 70 |
| Val Verde | N/A |
| Zavalla | 99 |

| AUSTIN DIVISION | |
|-----------------|-------------------------|
| County | Approx. Miles to Austin |
| Bastrop | 30 |
| Blanco | 47 |
| Burleson | 174 |
| Burnet | 66 |
| Caldwell | 79 |
| Gillespie | 78 |
| Hays | 16 |
| Kimble | 150 |
| Lampasas | 76 |
| Lee | 60 |
| Llano | 73 |
| Mason | 109 |
| McCulloch | 120 |
| San Saba | 90 |
| Travis | N/A |
| Washington | 107 |
| Williamson | 15 |

| EL PASO DIVISION | |
|------------------|--------------------------|
| County | Approx. Miles to El Paso |
| El Paso | N/A |

| MIDLAND-ODESSA DIVISION | |
|-------------------------|---------------------------------|
| County | Approx. Miles to Midland-Odessa |
| Andrews | 44 |
| Crane | 54 |
| Ector | 20 |
| Martin | 19 |
| Midland | N/A |
| Upton | 55 |

WESTERN DISTRICT

| PECOS DIVISION | |
|-----------------------|-------------------------------|
| County | Approx. Miles to Pecos |
| Brewster | 102 |
| Culberson | 88 |
| Jeff Davis | 103 |
| Hudspeth | 124 |
| Loving | 27 |
| Pecos | 54 |
| Presidio | 126 |
| Reeves | N/A |
| Ward | 40 |
| Winkler | 56 |

| WACO DIVISION | |
|----------------------|------------------------------|
| County | Approx. Miles to Waco |
| Bell | 45 |
| Bosque | 48 |
| Coryell | 38 |
| Falls | 30 |
| Freestone | 38 |
| Hamilton | 70 |
| Hill | 35 |
| Leon | 88 |
| Limestone | 41 |
| McLannan | N/A |
| Milam | 41 |
| Robertson | 67 |
| Somervell | 71 |

| SAN ANTONIO DIVISION | |
|-----------------------------|-------------------------------------|
| County | Approx. Miles to San Antonio |
| Atascosa | 37 |
| Bandera | 51 |
| Bexar | N/A |
| Comal | 33 |
| Dimmit | 117 |
| Frio | 57 |
| Gonzales | 70 |
| Guadalupe | 37 |
| Karnes | 54 |
| Kendall | 31 |
| Kerr | 65 |
| Medina | 42 |
| Real | Unknown |
| Wilson | 27 |

APPENDIX 3

Monetary Limits in Courts of Limited Jurisdiction

| MONETARY LIMITS IN COURTS OF LIMITED JURISDICTION | | |
|---|--|---|
| State | Limited Jurisdiction Courts | |
| | Civil Jurisdiction | Small Claims Jurisdiction |
| Alabama | ≤ \$10,000 | ≤ \$3,000 |
| Alaska | ≤ \$50,000 | ≤ \$7,500 |
| Arizona | ≤ \$10,000 | ≤ \$2,500 |
| Arkansas | ≤ \$5,000 | ≤ \$5,000 |
| California | No ltd. jurisdiction civil courts Ltd. jurisdiction division ≤ \$25,000 | ≤ \$5,000 |
| Colorado | ≤ \$15,000 | ≤ \$7,500 |
| Connecticut | No ltd. jurisdiction courts | ≤ \$2,500 |
| Delaware | ≤ \$15,000 | ≤ \$15,000 |
| Florida | ≤ \$15,000 | ≤ \$5,000 |
| Georgia | Multiple courts w/varying jurisdiction | Up to \$25,000 in some courts |
| Hawaii | ≤ \$20,000 | ≤ \$3,500 |
| Idaho | ≤ \$10,000 | ≤ \$4,000 |
| Illinois | No ltd. jurisdiction courts | ≤ \$2,500 |
| Indiana | Multiple courts w/varying jurisdiction | ≤ \$3,000 |
| Iowa | No ltd. jurisdiction courts | ≤ \$5,000 |
| Kansas | No ltd. jurisdiction civil courts | ≤ \$1,800 |
| Kentucky | ≤ \$4,000 | ≤ \$1,500 |
| Louisiana | Multiple courts w/varying jurisdiction | Multiple courts w/varying jurisdiction |
| Maine | No ltd. jurisdiction courts | ≤ \$4,500 |
| Maryland | ≤ \$25,000 | ≤ \$2,500 |
| Massachusetts | Multiple courts w/varying jurisdiction | ≤ \$2,000 |
| Michigan | Multiple courts w/varying jurisdiction | Up to \$3,000 in some courts |
| Minnesota | No ltd. jurisdiction courts | ≤ \$7,500 |
| Mississippi | Multiple courts w/varying jurisdiction | No small claims |
| Missouri | No ltd. jurisdiction civil courts Ltd. jurisdiction division ≤ \$25,000 | ≤ \$3,000 |

| MONETARY LIMITS IN COURTS OF LIMITED JURISDICTION | | |
|---|--|--|
| State | Limited Jurisdiction Courts | |
| | Civil Jurisdiction | Small Claims Jurisdiction |
| Montana | Multiple courts w/varying jurisdiction | ≤ \$3,000 |
| Nebraska | ≤ \$51,000 | ≤ \$2,700 |
| Nevada | ≤ \$10,000 | ≤ \$2,500; ≤ \$5,000 (2 courts) |
| New Hampshire | ≤ \$25,000 | ≤ \$5,000 |
| New Jersey | No ltd. jurisdiction civil courts Ltd. jurisdiction division ≤ \$15,000 | ≤ \$3,000 |
| New Mexico | ≤ \$10,000 | No small claims |
| New York | Multiple courts w/varying jurisdiction | Multiple courts w/varying jurisdiction |
| N. Carolina | ≤ \$10,000 | ≤ \$4,000 |
| N. Dakota | No ltd. jurisdiction civil courts Ltd. jurisdiction division ≤ \$2,500 | ≤ \$5,000 |
| Ohio | Multiple courts w/varying jurisdiction | ≤ \$2,000 |
| Oklahoma | No ltd. jurisdiction civil courts | ≤ \$3,000 |
| Oregon | ≤ \$2,500 | ≤ \$2,500; ≤ \$5,000 (2 courts) |
| Pennsylvania | Multiple courts w/varying jurisdiction | ≤ \$8,000; ≤ \$10,000 (2 courts) |
| Rhode Island | ≤ \$10,000 | ≤ \$1,500 |
| S. Carolina | ≤ \$7,500 | ≤ \$7,500 |
| S. Dakota | ≤ \$10,000 | ≤ \$8,000 |
| Tennessee | Multiple courts w/varying jurisdiction | ≤ \$25,000 |
| Utah | ≤ \$7,500 | ≤ \$5,000; ≤ \$7,500 (2 courts) |
| Vermont | No ltd. jurisdiction civil courts | ≤ \$3,500 |
| Virginia | ≤ \$15,000 | No small claims |
| Washington | ≤ \$50,000 | ≤ \$4,000 |
| W. Virginia | ≤ \$5,000 | None |
| Wisconsin | No ltd. jurisdiction civil courts | ≤ \$5,000 |
| Wyoming | ≤ \$7,000 | ≤ \$3,000 |

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