

# ***Understanding Your Court System:***

***A Guide to the Judicial Branch***



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# Introduction to the Tennessee Judicial System

The **judicial branch**, one of the three basic divisions of state government, serves as a check on the powers of both the legislative and executive branches. Through the power of judicial review, the courts rule on the constitutionality of legislation passed by the General Assembly and consider the legality of administrative policies and regulations.

Tennessee's judicial system is derived from a **constitutional foundation**: "The judicial power of this state shall be vested in one Supreme Court and in such Circuit, Chancery, and other inferior courts as the legislature shall from time to time ordain and establish ..." (Article VI, Section 1, Constitution of the State of Tennessee).

Although not a part of the court system, the offices of the attorney general, district attorneys general and district public defenders are associated with the judicial branch of state government. The **attorney general** represents the interests of the state in civil litigation. The 31 **district attorneys** serve as prosecuting counsel in criminal cases. **Public defenders** and **court-appointed private attorneys** represent indigent defendants, primarily in criminal cases.

The **Supreme Court** is the highest court in the state. The five justices are nominated by the Judicial Selection Commission, appointed by the governor and retained by a "yes-no" vote for eight-year terms. The majority of this court's workload consists of cases appealed from lower state courts.

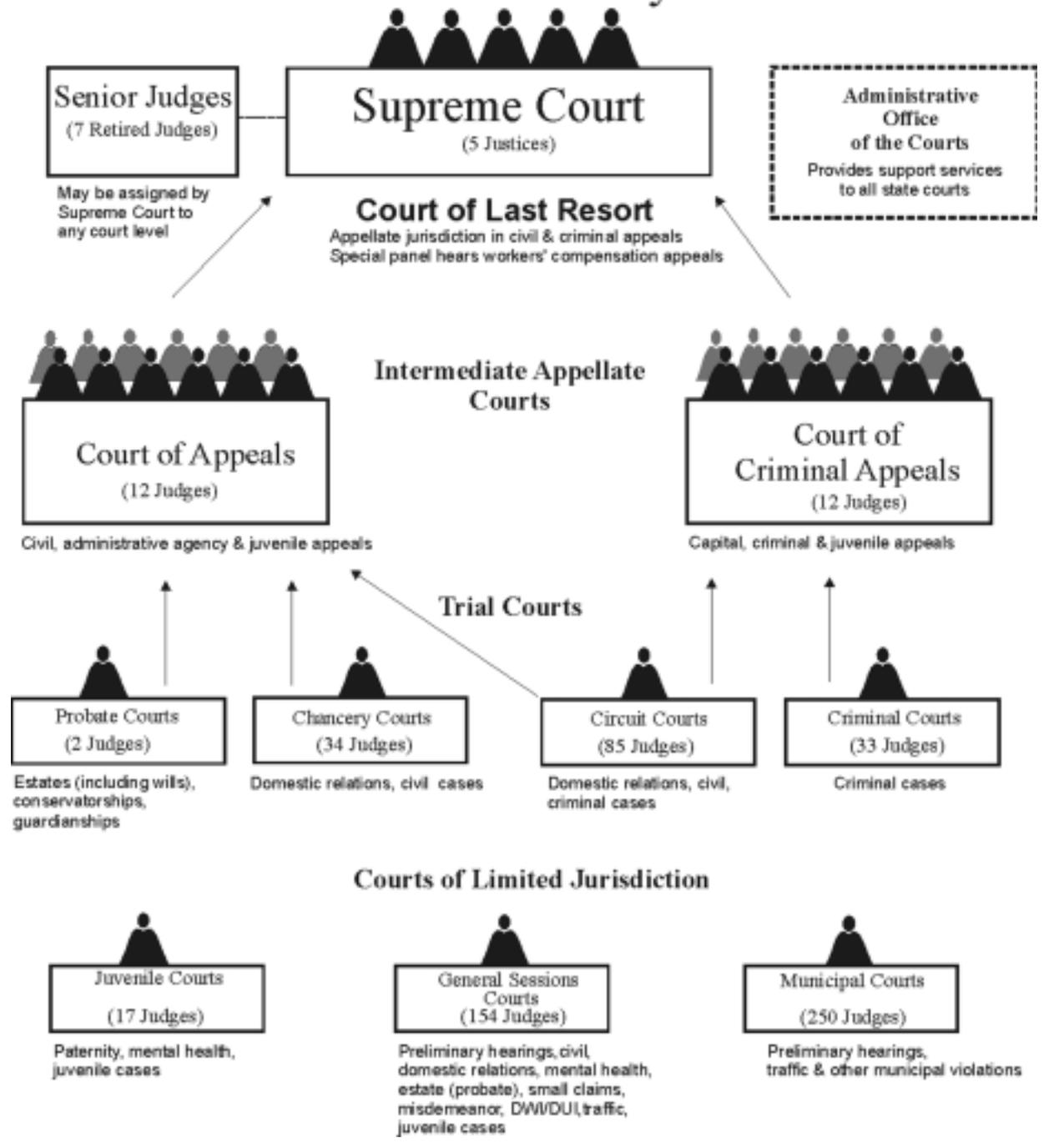
The **Intermediate Appellate Courts** - the Court of Appeals and Court of Criminal Appeals - hear civil and criminal cases appealed from the trial courts.

The state's **Trial Courts** include Chancery, Criminal, Circuit and Probate Courts. Judges in these courts are chosen by popular election within their judicial districts.

The fourth level of courts in Tennessee is composed of the **Courts of Limited Jurisdiction** - General Sessions, Juvenile and Municipal Courts. These courts are funded by their respective counties.



# Tennessee Judicial System





# Tennessee Supreme Court

The **TENNESSEE SUPREME COURT** is the state's highest court and the court of last resort. The five justices may accept appeals of civil and criminal cases from lower state courts. They also interpret the laws and Constitutions of Tennessee and the United States.

The Supreme Court may assume jurisdiction over undecided cases in the Court of Appeals or Court of Criminal Appeals when there is special need for a speedy decision. The court also has appellate jurisdiction in cases involving state taxes, the right to hold public office and issues of constitutional law.

Attorneys may present oral arguments before the Supreme Court. Unlike trials in lower courts, there are no witnesses, juries or testimony in the Supreme Court, Court of Appeals and Court of Criminal Appeals.

After Supreme Court justices have heard oral arguments and reviewed the attorneys' written materials, or *briefs*, they issue written

decisions, known as *opinions*.

Tennessee Supreme Court opinions on constitutional issues can be appealed only to the federal courts, which may or may not agree to consider the appeals.

The court normally meets in Jackson, Knoxville and Nashville, as required by the state constitution.

Judges of the Supreme Court, Court of Appeals and Court of Criminal Appeals are elected on a "yes-no" ballot every eight years. When a vacancy occurs the 15-member Judicial Selection Commission interviews applicants and recommends three candidates to the governor, who appoints a new judge to serve until the next August general election.

By state law, judges on the three courts must be evaluated every eight years. Results of the evaluations are published in newspapers across the state to help voters decide whether the judges

## Intermediate Appellate Courts

The **COURT OF APPEALS**, created by the General Assembly in 1925, hears appeals in civil — or noncriminal — cases from trial courts and certain state boards and commissions.

The **COURT OF CRIMINAL APPEALS**, created by the legislature in 1967, hears trial court appeals in felony and misdemeanor cases, as well as post-conviction petitions.

State law requires the Court of Criminal Appeals to review all death sentences. If a capital case conviction and sentence are affirmed by the Court of Criminal Appeals, there is an automatic review by the state Supreme Court.

All other Court of Appeals and Court of Criminal Appeals decisions may be appealed, by permission, to the state Supreme Court

Each of the intermediate appellate courts has 12 members, who normally sit in panels of three in Jackson, Knoxville and Nashville. They may also meet in other places as necessary.

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**“The judicial power of this state shall be vested in one Supreme Court and in such Circuit, Chancery and other inferior courts as the Legislature shall from time to time ordain and establish ....”**

*Article VI, Section I, Tennessee Constitution*

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# State Trial Courts

Circuit, Chancery and Criminal Court judges in each of the 31 judicial districts annually choose one judge from among them to be the presiding judge for the district. It is the duty of the presiding judge to promote orderly and efficient administration of justice within the district. Trial judges, who are elected to eight year terms, are authorized by statute to exercise jurisdiction in any trial court in the state.

**CIRCUIT COURTS** are courts of general jurisdiction in Tennessee. Circuit judges hear civil and criminal cases and appeals of decisions from City, Juvenile, Municipal and General Sessions courts. The jurisdiction of Circuit Courts often overlaps that of the Chancery Courts. Criminal cases are tried in Circuit Court except in districts with separate Criminal Courts.

**CRIMINAL COURTS** are established by the General Assembly in areas where they are justified by heavy caseloads. In addition to having jurisdiction over criminal cases, Criminal Court judges hear misdemeanor appeals from lower courts. In districts without Criminal Courts, criminal cases are handled by Circuit Court judges.

**CHANCERY COURTS** are a good example of the court system's English heritage. The equity courts are based on the English system in which the chancellor acted as the "King's conscience." Chancellors - as Chancery Court judges are known - may, by law and tradition, modify the application of strict legal rules and adapt relief to the circumstances of individual cases.

**PROBATE COURT** in Shelby County was created by the legislature and given jurisdiction over probate of wills and administration of estates. Probate judges also handle conservatorships and guardianships.

## Courts of Limited Jurisdiction

**GENERAL SESSIONS COURT** jurisdiction varies from county to county based on statutes and private acts enacted by the legislature. Every county is served by the court of limited jurisdiction, which hears civil and criminal cases, including matters formerly handled by justices of the peace. Civil jurisdiction of General Sessions Courts is restricted to specific monetary limits and types of actions. Criminal jurisdiction is limited to preliminary hearings in felony cases and trials of misdemeanor cases in which a defendant waives the right to a grand jury investigation and trial by jury in Circuit or Criminal Court. General Sessions judges also serve as juvenile judges in all counties except those in which the legislature has established a separate Juvenile Court. General Sessions judges must be attorneys, although non-attorney incumbent judges may continue in office until they retire or are defeated. The judges are elected to eight year terms.

**JUVENILE COURT** jurisdiction is vested in General Sessions Courts in all counties except those in which the law establishes special Juvenile Courts. Juvenile Courts have exclusive jurisdiction in proceedings involving minors alleged to be delinquent, unruly, dependent and neglected. Juvenile Courts also have concurrent jurisdiction with Circuit, Chancery and Probate Courts in some areas.

**MUNICIPAL COURT**, also known as city court, has jurisdiction in cases involving violations of city ordinances. Generally, a city judge has authority to assess fines up to \$50 and jail sentences up to 30 days. However, the jurisdiction varies widely from city to city.



# Clerks of the Appellate & Trial Courts

**COURT CLERKS** ensure the efficient operation of state courts by maintaining dockets and records, handling administrative matters and serving as goodwill ambassadors to the public.

The clerk of the appellate courts is appointed by the Supreme Court for a six-year term and is based in Nashville, the Middle Division. The appellate court clerk oversees the chief deputies and deputy clerks who serve each grand division.

Circuit Court clerks, elected in each county for four-year terms, also serve as General Sessions Court clerks in counties without designated General Sessions Court clerks. Clerks also are elected in counties with Probate and Criminal Courts. Each Chancery Court is served by a clerk and master who is appointed by the Chancery Court judge for a six-year term.

## Administrative Office of the Courts

The Administrative Office of the Courts (AOC) provides support services to the Tennessee Supreme Court and the entire state court system. The director, appointed by the Supreme Court, is administrative officer for the courts and oversees the AOC. Duties of the office include preparing the court system's annual budget; providing judicial education, law libraries, computers, other equipment, training and technical support for judges and other court personnel; assisting judges with case assignments; administering payroll accounts for the court system; conducting orientation for new judges; administering the official state criminal court reporters system; providing assistance to judicial committees; compiling data; and disbursing funds to court-appointed attorneys representing indigents.

## The Jury System

**“That the right of trial by jury shall remain inviolate and no religious or political test shall ever be required as a qualification for jurors...”**

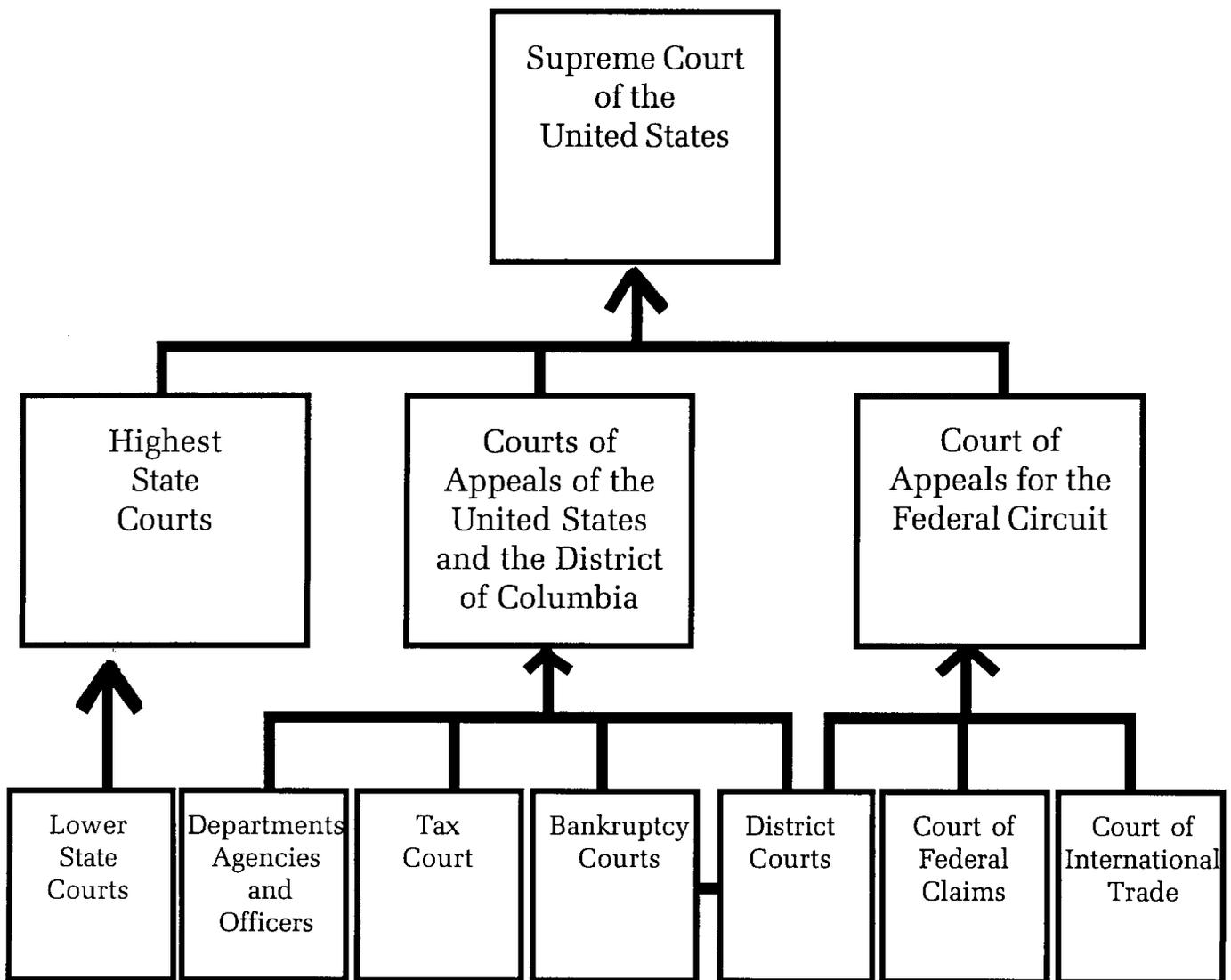
*Article I, Section VI, Tennessee Constitution*

The Sixth Amendment to the United State Constitution also guarantees any citizen accused of a crime a speedy and public jury trial. A jury in Tennessee consists of 12 citizens selected from public records, such as voter registration, to hear evidence and make a decision based on facts in a case. State law regulates the right to a jury trial in civil - or noncriminal - cases, but in a criminal case where the accused could be imprisoned, there is an absolute right in Tennessee to a trial by jury. Juries are chosen from a “jury pool,” selected at random to come to court for possible jury service. Lawyers for both sides in a case and the judge may ask potential jurors questions during a process called “voir dire,” a French term meaning “to speak the truth.” The process is intended to ensure that jurors who are chosen will be impartial and fair. Prospective jurors may be excused “for cause,” such as conflict of interest or bias. Parties also may exercise a limited number of “peremptory challenges,” and dismiss a potential juror without stating a reason. While there is a right to a trial by jury, there is no requirement that a defendant have a jury trial. In some cases, the accused asks for a “bench trial” in which the judge hears the case and renders a decision. In Tennessee, judges impose sentences on defendants found guilty by juries except in death penalty cases. Juries also impose fines over \$50 in criminal cases.



# Organization of the Federal Court System

The federal judicial branch of government is composed of the federal courts. The United States Supreme Court is the highest court in the federal system and has the last word on issues of federal law and the federal Constitution. The courts just below the U.S. Supreme Court, the intermediate federal courts, are known as circuit courts of appeal. There are 13 federal circuit courts in the country. Tennessee is within the jurisdiction of the Sixth Circuit Court of Appeals. Thus, federal cases originating in Tennessee are appealed to the Sixth Circuit Court of Appeals. The federal trial court in which federal lawsuits originate is the federal district court. Tennessee is divided into three federal districts - western, middle and eastern. Federal courts may constitutionally hear only two types of cases: cases involving a federal law question and cases involving citizens of two different states when the amount in dispute is greater than \$75,000.





## Glossary of Legal Terms

### A

**acquit** - To find a defendant not guilty in a criminal trial.

**adjudication** - A judgment or decree.

**affidavit** - A written or printed declaration or statement under oath.

**affirm** - The ruling of an appellate court that the judgment of a lower court is correct and should stand.

**appeal** - Review of a case by a higher court.

**appellant** - Party appealing a decision or judgment to a higher court.

**appellee** - The party against whom an appeal is filed.

**arbitration** - The hearing and settlement of a dispute between opposing parties by a third party whose decision the parties have agreed to accept.

**arraignment** - A court hearing in a criminal case where a defendant is advised of the charges and asked to plead guilty or not guilty. Most arraignments in Tennessee are held in General Sessions Court.

### B

**bail bond** - An agreement by a third party to pay a certain sum of money if the defendant fails to appear in court.

**bench trial** - Trial held before judge sitting without a jury; jury waived trial.

**bench warrant** - Process issued by the court or "from the bench" for the attachment or arrest of a person.

**binding over** - The act by which a court or magistrate requires a person to enter into a recognizance or furnish bail to appear for trial, to keep the peace, to attend as a witness, etc. Also describes act of lower court in transferring case to higher court or to grand jury after a finding of probable cause to believe that defendant committed crime.

**brief** - A legal document, prepared by an attorney, which presents the law and facts supporting his or her client.

### C

**caseload** - The number of cases a judge handles.

**cause of action** - A legal claim.

**certiorari** - A procedure for removing a case from a lower court to a higher court for review.

**change of venue** - Moving a case from one court, or location, to another.

**civil law** - All law that is not criminal law.

**class** - There are five classifications of felonies and three classifications of misdemeanors. With the exception of murder in the first degree, all felonies in the Revised Criminal Code, in the old Title 39 and in titles other than Title 39 are classified. Each felony has an A, B, C, D, or E classification. "A" is the most serious and "E" is the least serious. Each misdemeanor has either an A, B, or C classification with "A" being most serious and "C" being least serious. Murder in the first degree carries three possible penalties: life (with the possibility of parole), life without parole, and death.

**code** - A collection of laws promulgated by legislative authority.

**common law** - A system of jurisprudence based on precedent rather than statutory laws.

**commutation** - Change of punishment from a greater to a lesser degree or ending a sentence that has been partially served.

**corpus delicti** - The body or material substance upon which crime has been committed; e.g., the corpse of a murdered person or the charred remains of a burned house.



## D

**de novo** - "Anew." A trial de novo is a completely new trial.

**declaratory judgment** - A judgment declaring the rights of the parties on a question of law.

**decree** - Decision or order of the court. A final decree completes the suit; an interlocutory decree is provisional or preliminary.

**default judgment** - Under Rules of Civil Procedure, when a party against whom a judgment for affirmative relief is sought has failed to plead (i.e., answer) or otherwise defend, he is in default and a judgment by default may be entered either by the clerk or the court.

**defendant** - A person charged with a crime or a person against whom a civil action is brought.

**deposition** - Sworn testimony taken outside the courtroom according to the rules of the court.

**discovery** - A pretrial proceeding where a party to an action may be informed of the facts known by other parties or witnesses.

**docket** - Book containing entries of all proceedings in a court.

**double jeopardy** - Prohibition against more than one prosecution for the same crime.

**due process** - Constitutional guarantee that an accused person receives a fair and impartial trial.

## E

**en banc** - "On the bench." All judges of a court sitting together to hear a case.

**et al.** - "and others."

**ex parte** - A proceeding brought for the benefit of one party only without notice to or challenge by an adverse party.

## F

**felony** - A serious criminal offense for which the minimum sentence is one year.

## G

**grand jury** - A panel of citizens sworn to inquire into crime and if appropriate bring accusations, or indictments, against the suspects.

**guardian ad litem** - A person appointed by a court to manage the interests of a minor or incompetent person whose property is involved in litigation.

## H

**habeas corpus** - "You have the body." A writ of habeas corpus requires that a person be brought before a judge. It is usually used to direct an official to produce a prisoner so the court may determine if liberty has been denied without due process.

## I

**indictment** - Written accusation of a grand jury charging a crime.

**injunction** - Court orders prohibiting specific actions from being carried out.

**interrogatories** - Written questions which must be answered under oath.

## J

**judgment** - Final determination by a court.

**judgment document** - Document that explains the sentence an offender receives from a trial court.

**jurisprudence** - The science of law.

## L

**limited jurisdiction** - Courts limited in the types of criminal and civil cases they may hear.

**litigant** - Person or group engaged in a lawsuit.

## M

**misdemeanor** - Criminal offense that is less than a felony and punishable by less than a year in jail.

**mitigating circumstances** - Do not justify or excuse an offense, but may be considered as reasons for reducing the degree of blame.

**motion** - Oral or written request before, during or after a trial on which a court issues a ruling or order.

**moot** - Unsettled or undecided.



## N

**negligence** - The absence of ordinary care.

**nolo contendere** - Latin phrase meaning "I will not contest it"; a plea in a criminal case which has a similar legal effect as pleading guilty. A defendant may plead nolo contendere only with the consent of the court.

## O

**opinion, per curiam** - Phrase used to distinguish an opinion of the whole court from an opinion written by only one judge.

## P

**parole** - The conditional and revocable release of an inmate by the Board of Paroles to parole supervision.

**peremptory challenge** - Procedure for rejecting prospective jurors without a reason. Each side is permitted a limited number of peremptory challenges.

**power of attorney** - Document authorizing another to act as one's agent or attorney in fact (not an attorney at law).

**probable cause** - Reasonable belief that a crime has been committed; the basis for all lawful searches.

**probate** - The legal process of establishing the validity of a will and settling an estate.

**probation** - A sentence of confinement which is suspended upon a term of probation supervision. It may include community service or restitution or both. Probation must automatically be considered if the defendant is eligible.

**pro bono** - Legal services provided without attorney fees.

**pro se** - Legal representation of oneself

**pro tem** - "Temporary."

## R

**recess** - A short interval during which court suspends business, but without adjourning.

**remand** - To send back.

## S

**sentence, concurrent** - Two or more sentences which run at the same time.

**sentence, consecutive** - Two or more sentences which run one after another.

**sentence, determinate** - A sentence that states exactly the time to be served or money to be paid.

**sequester a jury** - To place members of a jury into 24 hour a day seclusion until a verdict is reached.

**settlement conference** - A meeting between parties of a lawsuit, their attorneys and a judge to attempt a resolution of the dispute without a trial.

**statute** - A law created by the Legislature.

**stay** - Halting a judicial proceeding by order of the court.

**subpoena** - A written legal notice requiring a person to appear in court and give testimony or produce documentary evidence.

**subpoena duces tecum** - "Under penalty you shall take it with you." A process by which the court commands a witness to produce specific documents or records in a trial.

## T

**tort** - An injury or wrong committed with or without force to the person or property of another giving rise to a claim for damages.

## V

**venue** - The specific county, city or geographical area in which a court has jurisdiction.

**voir dire** - (pronounced "vwar-deer") - "To speak the truth." The process of preliminary examination of prospective jurors regarding their qualifications.

## W

**writ** - A written court order directing a person to perform or refrain from performing a specific act.

**writ of mandamus** - An order issued by a court of superior jurisdiction commanding performance of a particular act by an inferior court or public official.