



WYOMING LEGISLATIVE SERVICE OFFICE

SHORT REPORT

STATE COURT STRUCTURES AND JUDGE SELECTION

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INTRODUCTION

This report provides an overview of state court structures, administration, and funding in the 50 states. The report also summarizes judgeship allocation procedures in the Western states.

STATE COURT STRUCTURES

Like federal courts, State courts can be divided into two broad categories: trial courts and appellate courts. States differ in the structure of their trial court and appellate court systems.

TRIAL COURTS

Most states have a two-tier trial court system that includes courts of limited jurisdiction and courts of general jurisdiction. Five states (including Iowa and Minnesota) have a single-tier trial court system whereby all trial court cases are processed in a single trial court.¹

Trial Courts of Limited Jurisdiction

Trial courts of limited jurisdiction, sometimes referred to as inferior or lower courts, have jurisdiction over a small range of cases that generally consist of lesser criminal and civil matters. In some states they may also handle the preliminary stages of felony cases. Many states have multiple lower courts with specific jurisdictions, such as juvenile courts, probate courts or small claims courts. Other states have just one or two lower courts.

Wyoming has two types of lower courts: circuit and municipal courts. Wyoming is divided into nine judicial districts for district courts, with a circuit court in each of the 23 counties.² Municipal courts operate in 72 of Wyoming's incorporated cities and towns.³

Trial Courts of General Jurisdiction

Courts of general jurisdiction, or major trial courts, have primary jurisdiction over all cases not issued to the lower courts. These courts hear serious criminal cases or large civil cases where the damages sought exceed a certain dollar amount.

Wyoming has one court of general jurisdiction, the district court. The Wyoming Constitution gives the district court original jurisdiction over cases at law and equity and all criminal cases as well as all probate cases and all other cases which are not by law vested in another court.⁴ There are nine judicial districts in Wyoming. Each district is comprised of one or more counties.

¹ National Center for State Courts (NCSC), Court Statistics Project Trial Court Aggregation. <http://www.courtstatistics.org/~media/Microsites/Files/CSP/CSP%20Aggregation.ashx>

² Wyoming Judicial Branch 'About the Courts'

³ NCSC Judicial Selection in the US (2006)

⁴ Wyo. Constitution Art. 5, § 10

APPELLATE COURTS

Most states have an appellate court system that consists of one court of last resort, generally a supreme court, and one intermediate appellate court. State appellate courts differ in whether they have a mandatory or discretionary docket, as well as how many justices sit on the appellate court. Intermediate appellate courts hear appeals on cases decided in courts of limited and general jurisdiction. State supreme courts have final authority over all appeals filed in state courts. However, in states where the supreme court has discretionary jurisdiction, the intermediate appellate court is often the court of final review for the majority of state court appeals.

Most states only have one intermediate appellate court and one supreme court; however, some states, like Texas and Oklahoma, have separate appellate courts for civil and criminal matters. Ten states, including Wyoming, do not have an intermediate appellate court.

The Wyoming Supreme Court is the final arbiter of cases under state law. The Wyoming Constitution gives the Supreme Court general appellate jurisdiction for both civil and criminal matters as well as a general superintending control over all inferior courts.⁵ There are five Wyoming Supreme Court justices. **Appendix A** is a chart depicting Wyoming's court structure.

See **Appendix B** for a closer look into each state's court structures and processes.

COURT UNIFICATION

In recent years, there have been widespread efforts by states to unify their court systems in order to centralize court administrative authority and rulemaking powers and consolidate state and local trial court funding.⁶ Currently, there are 26 states with unified systems legally defined by statute or the state constitution.⁷ (See **Table 1**). Some state supreme courts have characterized their court systems as unified through case law.

Table 1. Unified State Courts

State	Unified Court
Alabama	Alabama Constitution, Art. VI, Sec. 139; Amendment 328
Alaska	Alaska Constitution, Art. IV, Sec. 1
Arizona	Arizona Constitution, Art. VI, Sec. 1
California	--
Connecticut	State v. Ledbetter, 263 Conn. 1 (2003); State v. Angel C., 245 Conn. 93 (1998); State v. Faust, 237 Conn. 454 (1996)

⁵ Wyo. Const. Art. 5, § 2

⁶ State Resources for Court Unification can be found here: <https://www.ncsc.org/Topics/Court-Management/Court-Unification/State-Links.aspx?cat=State%20Resources%20for%20Court%20Unification>

⁷ Court Unification, National Center for State Courts

Florida	In re Certification of Need for Additional Judges, 889 So. 2d 734 (Fla. 2004)
Georgia	Georgia Constitution Art. VI, Sec. 1, Paragraph 2
Idaho	Idaho Constitution Art. V, Sec. 2
Illinois	Illinois Constitution, Article VI
Kansas	Kansas Constitution, Art. 3, Sec. 1
Kentucky	Kentucky Constitution, Section 109
Michigan	Michigan Constitution, Art. VI, Sec. 1
Missouri	Missouri Constitution, Art. V, 1945 as amended in 1976
Nebraska	136 Neb. 567 (1939)
New Hampshire	New Hampshire Constitution, Pt. II Art. 73a (1978)
New Jersey	New Jersey Constitution Art. VI, Section 303
New York	New York Constitution, Art. VI, Sec. 1(a)
North Carolina	North Carolina Constitution, Art. VI, Sec. 2
North Dakota	North Dakota Constitution, Art. VI, Sec. 1
Oklahoma	Oklahoma Constitution, Art. VII; <i>Petuskey v. Cannon</i> , 1987 OK 74 (1987)
Pennsylvania	Pennsylvania Constitution, Art. 5, Sec. 1
Rhode Island	Rhode Island Gen. Laws 8-15-1
South Carolina	South Carolina Constitution, Art. 5, Sec. 1
South Dakota	South Dakota Constitution, Art. 5, Sec. 1
Vermont	Vermont Constitution, Ch. II, Sec. 4
Virginia	Virginia Code Ann. 16.1-69.30
Wisconsin	Wisconsin Constitution, Art. VII, Sec. 2

Source: NCSC Court Unification Project

COURT FUNDING

According to a 2016 Council of State Governments (CSG) survey, approximately 60 percent of state court systems receive funding primarily from the state, 20 percent primarily from counties and municipalities, and 20 percent from a mix of state and local sources.⁸ In many states lower courts are funded at the local level by county or local governments, while courts of general jurisdiction are funded at the state level. In Wyoming, the state supreme court is entirely state funded, the district and circuit courts are funded with a combination of state and local funds, and municipal courts are locally funded.⁹

The National Center for State Courts (NCSC) provides an [interactive webpage](#) including comprehensive information about each state's court organization. Each state's court structure chart includes all court systems in the state and their interrelationship, the subject matter jurisdiction of

⁸ [NCSC Court Funding Project, Fall 2016](#)

⁹ Local funding here refers to city or county funds, not court fees

the court systems, and the type of funding that court receives. **Table 2** below provides an overview of trial court funding sources for judicial officer salaries.

Table 2. Trial Court Funding Sources for Judicial Officer Salaries¹⁰

State	Court Name	Judicial Officer Salary Funding Source
Alabama*	Circuit	State
	District	State
	Municipal	County/Locality
	Probate	State
Alaska*	District	State
	Superior	State
Arizona*	Justice of the Peace	State County/Locality
	Municipal	County/Locality
	Superior	State County/Locality
	Tax	State
Arkansas	Circuit	State
	District	State County/Locality
California*	Superior	State
Colorado	County	State
	Denver Juvenile	State
	Denver Probate	State
	District	State
	Municipal	County/Locality
	Water	State
Connecticut*	Probate	State Fees
	Superior	State
Delaware	Aldermans	County/Locality
	Court of Chancery	State
	Court of Common Pleas	State
	Family	State
	Justice of the Peace	State
	Superior	State
Florida*	Circuit	State
	County	State
Georgia*	Civil	County/Locality
	County Recorders	County/Locality
	Juvenile	State County/Locality
	Magistrate	County/Locality

¹⁰ Idaho, Maine, Mississippi, Montana, Nebraska, New York and Oklahoma were omitted from this NCSC report due to missing data.

	Municipal	County/Locality
	Probate	County/Locality
	State	County/Locality
	Superior	State County/Locality
Hawai'i	Circuit	State
	District	State
Illinois*	Circuit	State
Indiana	Circuit	State County/Locality
	City	County/Locality
	Probate	State County/Locality
	Small Claims of Marion County	County/Locality
	Superior	State County/Locality
	Town	County/Locality
Iowa	District	State
Kansas*	District	State County/Locality
	Municipal	County/Locality
Kentucky*	Circuit	State
	District	State
	Family	State
Louisiana	City & Parish (County)	State County/Locality Fees
	District	State Fees Federal
	Family	State Fees
	Justice of the Peace	
	Juvenile	State Fees
	Mayors	
Maryland	Circuit	State
	District	State
	Orphans	County/Locality
Massachusetts	Boston Municipal Court Dept	State
	District Court Dept	State
	Housing Court Dept	State
	Juvenile Court Dept	State
	Land Court Dept	State
	Probate & Family Court Dept	State
	Superior Court Dept	State
Michigan*	Circuit	State
	Court of Claims	State
	District	State
	Municipal	County/Locality
	Probate	State
Minnesota	District	State
Missouri*	Circuit	State

	Municipal	County/Locality
Nevada	District	State
	Justice	County/Locality
	Municipal	County/Locality
New Hampshire*	Circuit	State
	Superior	State
New Jersey*	Municipal	County/Locality
	Superior	State
	Tax	State
New Mexico	Bernalillo County Metropolitan	State
	District	State
	Magistrate	State
	Municipal	County/Locality
	Probate	County/Locality
North Carolina*	District	State
	Superior	State
North Dakota*	District	State
	Municipal	State
Ohio	County	State County/Locality
	Court of Claims	State
	Court of Common Pleas	State County/Locality
	Mayors	County/Locality
	Municipal	State County/Locality
Oregon	Circuit	State
	County	NA
	Justice	County/Locality
	Municipal	County/Locality
	Tax	State
Pennsylvania*	Court of Common Pleas	State
	Magisterial District Judge	State
	Philadelphia Municipal	State
Rhode Island*	District	State Fees
	Family	State Federal
	Municipal	NA
	Probate	NA
	Superior	State Fees Federal
	Traffic Tribunal	State
	Workers Compensation	Fees
	Circuit	State

South Carolina*	Family	State
	Magistrate	County/Locality
	Municipal	County/Locality
	Probate	State County/Locality State supplement of \$1575 per county per FY
South Dakota*	Circuit	State
	Magistrate	State
Tennessee	Chancery	State
	Circuit	State
	Criminal	State
	General Sessions	County/Locality
	Juvenile	County/Locality
	Municipal	County/Locality
	Probate	State County/Locality
	Texas	Constitutional County
	County Court at Law	State County/Locality Fees
	District	State County/Locality Fees
	Justice	County/Locality Fees
	Municipal	County/Locality Fees
	Statutory Probate	State County/Locality Fees
Utah	District	State
	Justice	County/Locality
	Juvenile	State
Vermont*	Superior	State
Virginia*	Circuit	State
	District	State
Washington	District	State County/Locality A very small amount of funding is distributed to district courts that can be used to offset the cost of judicial salaries.
	Municipal	State County/Locality A very small amount of funding is distributed to municipal courts that can be used to offset the cost of judicial salaries.
	Superior	State County/Locality
West Virginia	Circuit	State
	Family	State
	Magistrate	State
	Municipal	UN
Wisconsin*	Circuit	State
	Municipal	County/Locality
Wyoming	Circuit	State County/Locality

	District	State County/Locality
	Municipal	County/Locality
* = Unified Courts		

Source: NCSC Trial Court Funding Sources for Selected Expenditure Items

JUDGES

Much like the courts, each state's judiciary varies quite substantially in the required qualifications, selection process, and retention procedure for judges. Judge selection is a complex process that differs substantially based on the state, the level of the court, and the type of vacancy being filled. Furthermore, qualification requirements and retention methods, although similar, vary between states and court-levels as well. Information for all 50 states' selection and retention processes can be found at the National Center for State Courts' Methods of Judicial Selection Webpage.¹¹ Some states also have guidelines for when and where judgeship positions will be appointed.

ALLOCATION IN WESTERN STATES

Most Western states outline in statute the minimum number of judgeships required for each court, broken down by county or district. Wyoming statute establishes the number and distribution of district court judges and specifies where the district judges shall reside.¹² The statute also authorizes the legislature to determine the number and location of circuit court judges, and the supreme court to determine, based on caseload studies, where within a circuit the judge shall reside.

Most states including Wyoming regularly conduct studies to examine the workload and resources available to courts and judges. Some states, like Nebraska and Alabama, establish commissions in statute for the purpose of judicial resource review. Wyoming conducts its own workload study, which can be found on the [Wyoming Judicial Branch webpage](#). Most commonly, NCSC provides consultants to more than 25 states to utilize NCSC's weighted workload assessment for judges, public defenders, prosecutors and their support staff.¹³ These consultants help to establish an advisory committee, which usually consists of experienced judges representing both urban and rural courts as well as all geographic regions of the state. Some states also include court clerks, court administrators, or state-level administrators on the advisory committee. The weighted caseload method calculates judicial need based on total judicial workload. In most cases, three

¹¹ [Methods of Judicial Selection, NCSC](#)

¹² Wyo. Stat. Ann. § 5-9-103

¹³ NCSC Workload and Resource Assessment Resource Guide, <https://www.ncsc.org/Topics/Court-Management/Workload-and-Resource-Assessment/Resource-Guide.aspx>

critical elements are included: the number of case filings each year, the weight of each case which includes the average amount of judicial time needed to handle the case, and the amount of time each judge has available. Some other states also include a measure of the number of active pending cases. This method provides empirical data documenting the level of need within each court.

Unlike several other Western states, however, Wyoming statutes do not establish a process for determining the creation of new judgeship positions. Further, most states do not specify or outline a process in statute for allocating or authorizing additional judges for areas based on workload need. Some Western states have broad language in statute that simply allows the governing body of the judicial branch to create as many judicial positions as are required for administration of the court. Some states also have provisions for adding courts when necessary, based on increases in population. **Table 5** summarizes Western state statutes regarding judgeship and court allocations

Table 5. Western States Judgeship Allocation:

State	Lower Courts	Statute(s)	District Courts	Statute(s)
Colorado	<u>County Court:</u> The number of judges allocated to each county is specified in statute.	C.R.S.A. 13-6-202(1)	The state is divided into twenty-two judicial districts. Terms of court shall be fixed by rules adopted by the district court in each district; except that at least one term of court shall be held each calendar year in each county within the district, at the county seat of such county. C.R.S.A. 13-5-102 through 13-5-123 outlines each district specifically.	C.R.S.A. 13-5-101
Idaho	<u>Magistrate Division of the District Court</u> The district magistrates commission shall have the following powers and duties: To determine the number and location of magistrate judges to be appointed within the judicial district, subject to appropriations by the	I.C. 1-2205(a)	The state is divided into seven (7) judicial districts described in this chapter. The number of district judges for each judicial district shall be as described by this chapter. The resident chambers of a district judge within a judicial district shall be as described in this chapter.	I.C. 1-801

	<p>legislature, pursuant to section 1-2215, Idaho Code; provided, that there shall be at least one (1) resident magistrate judge appointed in each county, except for those counties in which the board of county commissioners, at any time, has adopted by majority vote, without subsequent rescission, a resolution waiving the right to a resident magistrate judge, pursuant to section 31-879, Idaho Code; To appoint the magistrate judges within the district on a nonpartisan merit basis, except as provided in section 1-2220, Idaho Code¹⁴ [...] The actions of the commission pursuant to subsections (a) and (b) of this section shall be subject to disapproval by a majority of the district judges in the district within thirty (30) days after written notice to the district judges of the commission's actions, unless such time be extended for good cause by order of the supreme court.</p>		<p>I.C. 1-802 through 1-808 outlines each district specifically.</p>	
<p>Iowa</p>			<p>The supreme court shall prescribe, subject to the restrictions of this section, a formula to</p>	<p>I.C.A. § 602.6201</p>

¹⁴ I.C. 1-2220 retention or non-retention of magistrate by vote

			determine the number of district judges who will serve in each judicial election district. The formula shall be based upon a model that measures and applies an estimated case-related workload formula of judicial officers, and shall account for administrative duties, travel time, and other judicial duties not related to a specific case.	
Montana	<p><u>Justices' Courts</u>¹⁵ There must be at least one justice's court in each county of the state, which must be located at the county seat. The board of county commissioners shall designate the number of justices in each justice's court. The board of county commissioners of each county of the state may establish: one additional justice's court located anywhere in the county; and one additional justice's court located in each city having a population of over 5,000, as provided in subsection (3). A city having a population of over 5,000 may, by resolution, request the board of county commissioners to</p>	M.C.A. 3-10-101(1)-(4)	The number of judges allocated to each district is specified in statute	M.C.A. 3-5-102

¹⁵ These courts are comparable to Wyoming's circuit courts

	<p>constitute a justice's court in the city. A justice's court must be established in the city if the board of county commissioners approves the request by resolution. A justice of the peace of a court established pursuant to subsection (3) may act as the city judge upon passage of a city ordinance authorizing the action and upon approval of the ordinance by resolution of the board of county commissioners. If the ordinance and resolution are passed, the city and the county shall enter into an agreement for proportionate payment of the justice's salary, as established under 3-10-207 and 3-11-202, and for proportionate reimbursement for the use of facilities.</p>			
<p>Nebraska¹⁶</p>	<p><u>County Court</u> The number of judges allocated to each</p>	<p>Neb. Rev. Stat. 24-503</p>	<p>The number of judges allocated to each district is specified in statute</p>	<p>Neb. Rev. Stat. 24-301.02</p>

¹⁶ Nebraska §24-1201 also establishes a judicial resources commission consisting of: Four judges, including one district court judge, one county court judge, one separate juvenile court judge, and one Justice or judge of the Supreme Court, all of whom shall be appointed by the Supreme Court; (2) one member of the Nebraska State Bar Association from each of the six judicial districts prescribed in Article V, section 5, of the Constitution of Nebraska who shall have practiced law in this state for at least ten years and who shall be appointed by the Executive Council of the Nebraska State Bar Association; and (3) one citizen from each of the six judicial districts prescribed in Article V, section 5, of the Constitution of Nebraska appointed by the Governor and one additional citizen who shall be appointed at large, none of whom shall be (a) a justice or judge of the Supreme Court or a judge of any other court, active or retired, (b) a member of the Nebraska State Bar Association, or (c) an immediate family member of any person listed in subdivisions (a) and (b) of this subdivision.

	county is specified in statute.			
	Statute establishes a judicial resources commission to consider the need for additional judges or consolidation of current positions. ¹⁷	Neb. Rev. Stat. § 24-1201	By December 15, 1995, and each year thereafter, the Judicial Resources Commission shall hold a hearing to determine whether (1) a new judgeship is appropriate in any judicial district or a reduction in judgeships is appropriate in any judicial district or (2) the judicial district boundaries or the number of judicial districts should be changed for the district or county courts. The commission shall also examine current caseload statistics and make any appropriate recommendations for the more balanced use of existing judicial resources. The State Court Administrator shall provide adequate administrative support and information as requested by the commission. A report of this hearing and any	Neb. Rev. Stat. § 24-1205

¹⁷ Nebraska §24-1201 also establishes a judicial resources commission consisting of: Four judges, including one district court judge, one county court judge, one separate juvenile court judge, and one Justice or judge of the Supreme Court, all of whom shall be appointed by the Supreme Court; (2) one member of the Nebraska State Bar Association from each of the six judicial districts prescribed in Article V, section 5, of the Constitution of Nebraska who shall have practiced law in this state for at least ten years and who shall be appointed by the Executive Council of the Nebraska State Bar Association; and (3) one citizen from each of the six judicial districts prescribed in Article V, section 5, of the Constitution of Nebraska appointed by the Governor and one additional citizen who shall be appointed at large, none of whom shall be (a) a justice or judge of the Supreme Court or a judge of any other court, active or retired, (b) a member of the Nebraska State Bar Association, or (c) an immediate family member of any person listed in subdivisions (a) and (b) of this subdivision.

			recommendations shall be filed by the commission with the Legislature, the Governor, and the Supreme Court on or before December 31 of each year. The report submitted to the Legislature shall be submitted electronically. ¹⁸	
Oklahoma			The state is hereby divided into twenty-six (26) district court judicial districts with the number of authorized districts and district judges to be as provided in Sections 2 through 27 of this Act.	20 Okl. St. Ann. § 92.1 et seq.
Oregon	<u>Circuit Courts</u> The number of judges allocated to each circuit is specified in statute	O.R.S. § 3.012		
South Dakota	The number of judges allocated to each circuit is specified in statute	SDCL § 16-6-1		
Utah	<u>Justice Courts</u> The county legislative body may establish a single precinct or divide the county into multiple precincts to create county justice courts for public convenience.	U.C.A. 1953 78A-7-204(2)(3)	The number of district court judges allocated to each district is specified in statute.	U.C.A. 78A-1-103

¹⁸ § 24-1206(2) states “After making a determination, the commission shall report the results electronically to the Legislature and recommend any legislative changes which are needed. If no changes in existing law are needed and none are recommended by the commission, no legislative action shall be necessary to fill any judicial vacancy determined to exist. **The Legislature shall not create a new judgeship unless the commission recommends the creation of a new judgeship in its report.** If legislative action is required but none is taken in the first legislative session commencing after receipt of the report by the Legislature, the commission shall hold another hearing on the matter and shall determine whether a judicial vacancy exists or again recommend legislative changes to the Legislature in its report.”

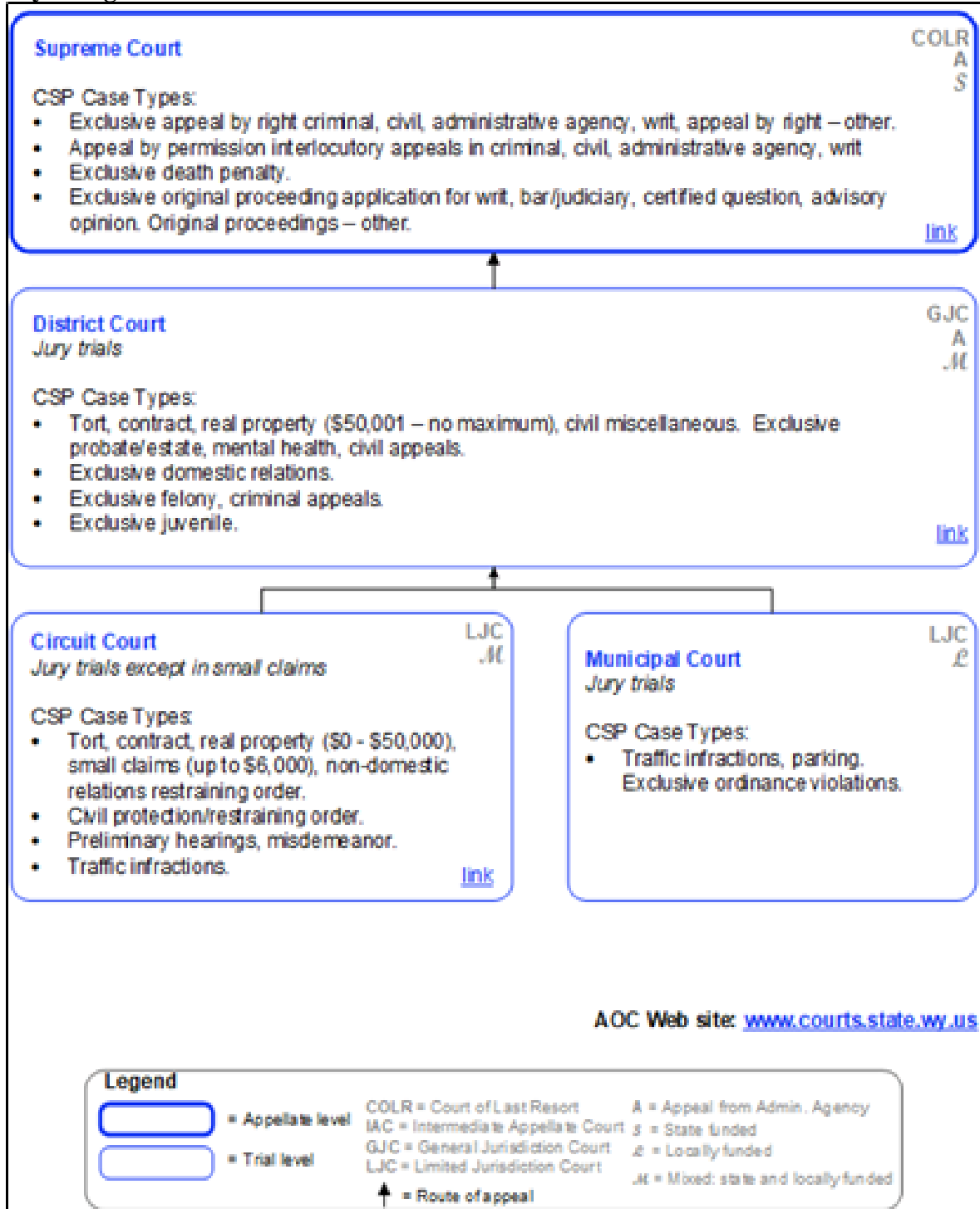
	<p>The governing body may create as many judicial positions as are required for the efficient administration of a justice court. If more than one judge is assigned to a court, all filings within that court shall be assigned to the judges at random unless the governing body has been authorized to create specialized judicial calendars to serve the interests of justice.</p>			
<p>Washington</p>			<p>Any change in the number of full and part-time district judges after January 1, 1992, shall be determined by the legislature after receiving a recommendation from the supreme court. The supreme court shall make its recommendations to the legislature based on an objective workload analysis that takes into account available judicial resources and the caseload activity of each court.</p>	<p>Wash. Rev. Code Ann. § 3.34.020</p>
<p>Wyoming</p>	<p>W.S. 5-9-103 states the legislature shall from time to time authorize the number and location of circuit court judges. The supreme court may, based on caseload studies, determine where within a circuit the judge shall reside.</p>		<p>W.S. 5-3-102 (a) establishes the following number and distribution of judges: two (2) judges each in Districts 2, 4, 5, and 8; three (3) judges in Districts 3, 6, 7, and 9; four (4) judges in District 1. The statute also states that all district judges in the state shall have concurrent jurisdiction</p>	

			<p>throughout the state and for purposes of assignment, shall have concurrent jurisdiction throughout the state with all circuit court judges.</p> <p>W.S. 5-3-102 (b) states the district courts shall be free of administrative and fiscal control by the supreme court. The statute authorizes a judicial conference of all district judges to meet biennially.</p> <p>Among other duties, the conference is required to adopt rules for the division of work between judges in multi-judge districts.</p>	
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OTHER STATE EXAMPLE: ALABAMA

Alabama Code § 12-9A-1 establishes a judicial resources allocation commission, which is a permanent study commission on judicial resources in Alabama. The commission includes the Chief Justice of the Supreme Court, the legal advisor to the Governor of Alabama, the attorney general, three incumbent circuit court judges appointed by the president of the district judges association (one of whom must be from a county without a dedicated circuit judge), three licensed attorneys (two appointed by the president of the Alabama state bar and one appointed by the president of the Alabama lawyers association). This commission annually reviews the need for an increase or decrease in the number of judgeships in each district and circuit court. The commission must utilize a judicial weighted caseload study as described above, the population of the district or circuit, the judicial duties within the district or circuit, and any other information deemed relevant by the commission. The commission ranks each court according to the need to increase or decrease judgeships and sends the list to the Governor and the Legislature within 30 days of completion. Then, the legislature may take further action if it sees fit.

**Appendix A:
Wyoming Court Structure Chart**



Source: Court Statistics Project, NCSC