

# NC JUDICIAL BRANCH



## North Carolina's Judicial Branch

The judicial power of the state is outlined in Article IV of the North Carolina Constitution. North Carolina runs a statewide court system. There are two divisions: Appellate Court and Trial Court.

### APPELLATE COURT DIVISION

[www.nccourts.org/courts/appellate/default.asp](http://www.nccourts.org/courts/appellate/default.asp)

The Appellate Court Division is made up of the Court of Appeals, and the Supreme Court of North Carolina. The Court of Appeals has 15 judges who sit in rotating panels of three. The Supreme Court has a Chief Justice and 6 Associate Justices. Both Court of Appeals judges and Supreme Court judges are elected to 8-year terms.

#### Court of Appeals

[www.nccourts.org/Courts/Appellate/Appeal/Default.asp](http://www.nccourts.org/Courts/Appellate/Appeal/Default.asp)



The Court of Appeals hears cases appealed from Superior and District Courts and decides cases on questions of law ranging from parking tickets to murder cases. This court mostly reviews matters decided by trial courts to determine if there are legal errors in the trial. The Court of Appeals does not have a jury.

#### Supreme Court

[www.nccourts.org/Courts/Appellate/Supreme/Default.asp](http://www.nccourts.org/Courts/Appellate/Supreme/Default.asp)



The Supreme Court hears cases appealed from the Court of Appeals. The Court also hears some cases that bypass the Court of Appeals, such as death sentence cases, which must be heard by the Supreme Court. The role of the Supreme Court is to determine legal error or interpretation of the laws. The court does not hear the case to determine fact. The Supreme Court does not have a jury.

# NC JUDICIAL BRANCH



## TRIAL DIVISION

[www.nccourts.org/Courts/Trial/Default.asp](http://www.nccourts.org/Courts/Trial/Default.asp)

North Carolina's Superior and District Courts handle more than 3.2 million cases each year. The Superior and District Courts are divided into districts across the state. Mecklenburg County is North Carolina's 26<sup>th</sup> Judicial District.



### Superior Court

[www.nccourts.org/Courts/Trial/Superior/Default.asp](http://www.nccourts.org/Courts/Trial/Superior/Default.asp)

The Superior Court tries civil cases involving more than \$10,000, felony criminal cases, and misdemeanor and infraction appeals from District Court. The Superior Court employs a jury of 12 people in all criminal and some civil cases.

Superior Court is divided into eight divisions and 50 districts across the state. Superior Court judges are elected to 8-year terms. Every six months, Superior Court judges rotate among the districts within their division. The rotation system helps avoid favoritism that might result from having a permanent judge in one district.

### District Court

[www.nccourts.org/Courts/Trial/District/Default.asp](http://www.nccourts.org/Courts/Trial/District/Default.asp)

Trial Courts, or District Courts, can be divided into four categories, civil, criminal, juvenile, and magistrate. Like the Superior Court, District Court sits in the county seat of each county. It may also sit in certain other cities and towns, specifically authorized by the General Assembly.

Civil cases such as divorce, custody, child support and cases involving less than \$25,000 are heard in District Court, along with criminal cases involving misdemeanors and infractions. The trial of a criminal case in District Court is always without a jury.

The District Court also hears juvenile cases involving children under the age of 16 who are delinquent and children under the age of 18 who are undisciplined, dependent, neglected or abused.

Magistrates accept guilty pleas for minor misdemeanors, accept guilty pleas for traffic violations, and accept waivers of trial for worthless-check cases among other things.

In civil cases, the magistrate is authorized to try small claims involving up to \$10,000 including landlord eviction cases

NC District Court judges serve 4-year terms. Magistrates are appointed to an initial two-year term and subsequent four-year-terms by the senior resident Superior Court judge from among persons nominated by the clerk of superior court.

# NC JUDICIAL BRANCH



## OTHER COURT OFFICIALS

In addition to judges, these elected or appointed officials play crucial roles in the processing of cases and the disposition of justice.

### **Clerk of Court**

[www.nccourts.org/Courts/OCO/Clerk/Default.asp](http://www.nccourts.org/Courts/OCO/Clerk/Default.asp)

The voters of each county elect the Clerk of Superior Court for a 4-year term. The clerk is responsible for all clerical and record-keeping functions of the Superior Court and District Court. The Clerk also has numerous judicial functions. The Clerk handles the probate of wills and the administration of estates of decedents, minors and incompetents. The Clerk also hears a variety of special proceedings such as adoptions, incompetency determinations, and partitions of land. The Clerk is empowered to issue arrest and search warrants, and to exercise the same powers as a Magistrate with respect to taking pleas of guilty to minor littering, traffic, wildlife, boating, marine fisheries, alcoholic beverage, state park recreation and worthless-check offenses.

### **District Attorney**

[www.nccourts.org/Courts/OCO/DA/Default.asp](http://www.nccourts.org/Courts/OCO/DA/Default.asp)

District attorneys are the elected representatives of the state in all criminal and some juvenile matters. The primary responsibility of the District Attorney, with his or her assistants, is to prosecute all criminal cases filed in the Superior and District Courts. District attorneys also advise local law enforcement and prepare the criminal trial docket.

### **Public Defender**

[www.aoc.state.nc.us/www/ids/](http://www.aoc.state.nc.us/www/ids/)

Public Defenders are full-time, state-paid attorneys whose function is to represent indigent criminal defendants and indigent respondents in civil cases in which there is a right to counsel. If a defendant cannot afford an attorney and is accused of a crime that could result in imprisonment, the defendant is eligible for the services of a lawyer at state expense. If the defendant is found guilty, he or she must pay back the money spent on his or her defense. Sixteen districts in the state have Public Defenders.

## JURORS

The right to a trial by jury is one of our most important rights and is guaranteed by the US and NC Constitutions. Jurors are asked to make decisions that affect others' civil or property rights, right to freedom or even to life itself. Jurors' contributions are invaluable to the court and our democratic tradition. Citizens' names are randomly selected from the Master Jury List, made from voter registration and driver's license records. Jury summons are issued for those whose names are drawn. To be eligible to serve as a juror in NC, a person must be a citizen of the state, a resident of the county, have not served as a trial juror in the past two years or served a full term as a grand juror in the past six years, be at least 18 years of age, mentally and physically competent, able to understand English, and not have been convicted of a felony, unless their citizenship rights have been restored.

*Adapted from NC Civic Education Consortium: Judicial Branch and NCCourts.org. Find more information and educational resources at [www.generationnation.org/learn](http://www.generationnation.org/learn).*

## **ARTICLE IV JUDICIAL**

### **Section 1. Judicial power.**

The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

### **Sec. 2. General Court of Justice.**

The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

### **Sec. 3. Judicial powers of administrative agencies.**

The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

### **Sec. 4. Court for the Trial of Impeachments.**

The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

### **Sec. 5. Appellate division.**

The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

### **Sec. 6. Supreme Court.**

(1) Membership. The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) Sessions of the Supreme Court. The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

### **Sec. 7. Court of Appeals.**

The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

### **Sec. 8. Retirement of Justices and Judges.**

The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court or courts of the division from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.

### **Sec. 9. Superior Courts.**

(1) Superior Court districts. The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) Open at all times; sessions for trial of cases. The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) Clerks. A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

### **Sec. 10. District Courts.**

The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside

in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The initial term of appointment for a magistrate shall be for two years and subsequent terms shall be for four years. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office, unless otherwise provided by the General Assembly. (2004-128, s. 16.)

#### **Sec. 11. Assignment of Judges.**

The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

#### **Sec. 12. Jurisdiction of the General Court of Justice.**

(1) Supreme Court. The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts. The Supreme Court also has jurisdiction to review, when authorized by law, direct appeals from a final order or decision of the North Carolina Utilities Commission.

(2) Court of Appeals. The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) Superior Court. Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) District Courts; Magistrates. The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) Waiver. The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) Appeals. The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

#### **Sec. 13. Forms of action; rules of procedure.**

(1) Forms of action. There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) Rules of procedure. The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

#### **Sec. 14. Waiver of jury trial.**

In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

#### **Sec. 15. Administration.**

The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

#### **Sec. 16. Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.**

Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

#### **Sec. 17. Removal of Judges, Magistrates and Clerks.**

(1) Removal of Judges by the General Assembly. Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) Additional method of removal of Judges. The General Assembly shall prescribe a procedure, in addition to impeachment and

address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) Removal of Magistrates. The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) Removal of Clerks. Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least 10 days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

#### **Sec. 18. District Attorney and Prosecutorial Districts.**

(1) District Attorneys. The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a District Attorney. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) Prosecution in District Court Division. Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

#### **Sec. 19. Vacancies.**

Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 60 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

#### **Sec. 20. Revenues and expenses of the judicial department.**

The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

#### **Sec. 21. Fees, salaries, and emoluments.**

The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

#### **Sec. 22. Qualification of Justices and Judges.**

Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a Justice of the Supreme Court, Judge of the Court of Appeals, Judge of the Superior Court, or Judge of District Court. This section shall not apply to persons elected to or serving in such capacities on or before January 1, 1981.