

STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2008-2012 TERM

CHAPTER 1 — ORGANIZATION OF STATE GOVERNMENT

Part B. The Judicial Branch State Courts

Article V of the Louisiana Constitution establishes the "judicial branch" and specifies the judicial power of state government. The judicial power of the state, which is the power to interpret the constitution and the laws of this state, is vested in a system of courts, with the supreme court being the state's highest court, below which are the courts of appeal, followed by the district courts, and then the courts of limited or specialized jurisdiction which include family, juvenile, parish, city, municipal, traffic, justice of the peace, and mayor's courts. In the Louisiana court structure there are five courts of appeal, 42 district courts, five family or juvenile courts, 50 city courts, and three parish courts. (See the "Louisiana Court Structure" chart on page 1B-15.)

The offices of district attorneys, sheriffs, clerks of court, and coroners are "constitutional offices" also provided for in Article V and are discussed later in this publication. (See "Chapter 3, Part B. Constitutional Offices" beginning on page 3B-1.)

Supreme Court

The supreme court is composed of a chief justice and six associate justices, four of whom must concur to render judgment, and the term of a supreme court justice is 10 years. (Const. Art. V, §3) The state constitution requires that the state be divided into at least six supreme court districts and that at least one judge be elected from each district. (Const. Art. V, §4) The composition of the seven supreme court districts is provided for in R.S. 13:101 and 101.1. The supreme court is Louisiana's highest court and is domiciled in the City of New Orleans.

The jurisdiction of the supreme court consists of general supervisory jurisdiction over all other courts. It has authority to establish procedural and administrative rules not in conflict with law and to assign a sitting or retired judge to any court. (Const. Art. V, §5(A)) Disciplinary proceedings against a member of the bar are within the supreme court's exclusive original jurisdiction. (Const. Art. V, §5(B)) The supreme court has appellate jurisdiction over any case in which a law or ordinance has been declared unconstitutional and also over any case in which the defendant has been convicted of a capital offense and a penalty of death actually has been imposed. (Const. Art. V, §5(D)) The scope of review of the supreme court in civil cases extends to both law and facts, and in criminal cases its appellate jurisdiction extends only to questions of law. (Const. Art. V, §5(C)) In addition, the supreme court has sole authority to provide by rule for appointments of attorneys as temporary or ad hoc judges of city, municipal, traffic, parish, juvenile, or family courts.

Courts of Appeal

The Louisiana Constitution (Const. Art. V, §8(A)) requires that the state be divided into at least

four circuits, each having a court of appeal. State law currently provides for five court of appeal circuits. (R.S. 13:312) Each circuit is required to be divided into at least three districts, with at least one judge elected from each such district. (Const. Art. V, §9) Each court of appeal sits in panels of at least three judges, and a majority of the judges sitting in a case must concur to render judgment. If, however, in civil matters only, a judgment of a district court is to be modified or reversed and one judge dissents, the case must be reargued before a panel of at least five judges prior to rendition of judgment, and a majority must concur in the judgment.

Except in cases appealable to the supreme court and except as otherwise provided by the constitution (Const. Art. V, §10(A)), a court of appeal has appellate jurisdiction of all civil matters, including direct review of administrative agency determination in workers' compensation matters, all matters appealed from family and juvenile courts, and all criminal matters triable by a jury, except capital cases where the death penalty has been imposed. A court of appeal has jurisdiction of appeals from civil judgments of city courts and parish courts. (C.C.P. Art. 5001 and R.S. 13:1452) A court of appeal has supervisory jurisdiction over cases which arise within its circuit. (Const. Art. V, §10(A)) Except as limited to questions of law by the constitution, or as provided by law in the review of administrative agency determinations, appellate jurisdiction of a court of appeal in civil matters extends to law and facts. (Const. Art. V, §10(B)) In the review of an administrative agency determination in a workers' compensation matter, a court of appeal may render judgment as provided by law or, in the interest of justice, remand the matter to the administrative agency for further proceedings. In criminal matters its appellate jurisdiction extends only to questions of law. (Const. Art. V, §10(C))

District Courts

The Louisiana Constitution (Const. Art. V, §14) requires that the state be divided into judicial districts, each composed of at least one parish and served by at least one judge. Currently there are 42 judicial districts in the state, each constituting a district court. The parish of Orleans is served by a civil district court and a criminal district court, which courts will become consolidated into the 41st Judicial District, effective January 1, 2009, pursuant to Const. Art. V, §32 and Act No. 621 of the 2006 Regular Session. Act No. 416 of the 2007 Regular Session, effective January 1, 2009, divided the 11th Judicial District and provided that the parish of DeSoto shall compose the 42nd Judicial District and the 11th Judicial District shall be composed of the parish of Sabine.

The district court, except as otherwise provided by the state constitution, or provided by law for administrative agency determinations in workers' compensation matters, has original jurisdiction of all civil and criminal matters. It has exclusive original jurisdiction of felony cases and of cases involving title to immovable property, except for divorce or annulment cases in a family court involving community property partitions or matrimonial regimes claims; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or political subdivisions, or a succession, as a defendant; and the appointment of receivers or liquidators for corporations or partnerships. (Const. Art. V, §16(A)) The state constitution provides that a district court shall have appellate jurisdiction as provided by law. (Const. Art. V, §16(B)) The Louisiana Code of Civil Procedure provides for appellate review of civil cases from a justice of the peace court to the district court, if the justice of the peace court is in a parish having no parish court to which the appeal would otherwise lie. (C.C.P. Art. 4924(A)) Appeals to the district court also lie in certain criminal matters from mayor's courts, justice of the peace courts, and city, parish and municipal courts. (R.S. 13:1896)

Courts of Limited and Specialized Jurisdiction

Family, juvenile, parish, city, municipal, traffic, and magistrate courts existing on the effective date of the 1974 Louisiana Constitution were retained. (Const. Art. V, §15(A) and §32)

The East Baton Rouge, Caddo, Jefferson, and Orleans Parish Juvenile Courts and the East Baton Rouge Parish Family Court are specialized courts exercising jurisdiction which in other parishes is exercised by the district court. (The juvenile jurisdiction of the courts is set forth in Title III of the Louisiana Children's Code, Articles 301-338. Additionally, R.S. 13:1401 provides for the jurisdiction of the East Baton Rouge Parish Family Court.)

The Uniform Parish Court Jurisdiction and Procedure Act (R.S. 13:1441-1458) provides for uniform subject matter jurisdiction for all "parish courts" as required by the constitution. (Const. Art. V, §15(A)) The Act provides that it shall not change the territorial jurisdiction of the First and Second Parish Courts of Jefferson Parish, which courts were created prior to the effective date of the 1974 Louisiana Constitution. (R.S. 13:1455) C.C.P. Article 4842 and R.S. 13:1443(A) provide that the civil jurisdiction of a parish court is concurrent with that of the district court in cases where the amount in dispute, or the value of the property involved, does not exceed \$20,000 (Ascension Parish Court). In addition, the Uniform Parish Court Jurisdiction and Procedure Act provides that a parish court shall have criminal jurisdiction concurrent with the district court over all violations of state law and parish or municipal ordinances committed within its territorial jurisdiction, which are punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding six months, or both. (R.S. 13:1446(A)) (See R.S. 13:2561.3 and R.S. 13:2562.3 for the criminal jurisdiction of the First and Second Parish Courts of Jefferson Parish.)

Presently, Louisiana has 50 "city courts", including, in the city of New Orleans, the First and Second City Courts, a municipal court, and a traffic court. Generally, the civil jurisdiction of a city court is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed a range depending on the particular city court, from \$15,000 to an amount which does not exceed the amount provided for in C.C.P. Article 1731(1) for purposes of demanding a jury trial (\$50,000). (C.C.P. Article 4843) The criminal jurisdiction of a city court (except in the parish of Orleans) is limited to the trial of offenses committed within the territorial jurisdiction of the court which are not punishable by imprisonment at hard labor, including the trial of cases involving the violation of any city or parochial ordinance. (R.S. 13:1894, R.S. 13:2485.21, R.S. 13:2487.21, R.S. 13:2488.24) The First and Second City Courts of New Orleans have civil but no criminal jurisdiction. (La. Const. 1921, Art. 7, §91 (continued as a statute under La. Const. Art. XIV, §16(A)(5)))

The jurisdiction of the Municipal Court of New Orleans extends to the trial of violations of ordinances of the city of New Orleans, except traffic violations, and the court also has concurrent jurisdiction with that of the Criminal District Court for the Parish of Orleans with respect to the trial of violations of state statutes which are not triable by a jury. The Housing and Environmental Court Division of the municipal court has jurisdiction over violations of the city building code, zoning ordinances, and certain chapters of the City Code. (R.S. 13:2493) The jurisdiction of the Traffic Court of New Orleans extends to the trial of violations of city ordinances regulating traffic within the city, and the court also has concurrent jurisdiction with that of the Orleans Parish Criminal District Court with respect to the trial of offenses involving traffic and the regulation thereof punishable by state statute, including violations of the Criminal Code of Louisiana involving traffic, and the trial of violations relating to street and highway laws, and such other state laws as relate to the operation of a vehicle. (R.S. 13:2501.1(F))

"Justice of the peace courts" are not courts of record but exercise civil jurisdiction concurrent with the district court in cases where the amount in dispute does not exceed \$3,500. (C.C.P. Art. 4911 and R.S. 13:2586(A)) Justices of the peace have criminal jurisdiction as committing magistrates only and shall have the power to bail or discharge, in cases not capital or necessarily punishable at hard labor, and may require bonds to keep the peace. (R.S. 13:2586(C))

Judicial Administrator

The supreme court appoints its judicial administrator, who under the court's rules also serves as the administrator for the judicial council and chief executive officer of the judiciary commission. (Const. Art. V, §7 and Sup. Ct. Rules XXII and XXIII) Members of the administrator's office staff the many task forces and committees of the Judicial Council, and the judicial administrator is the chief executive officer of the Judiciary Commission of Louisiana. Through its fiscal department, the administrator's office manages the judicial component of the state budget. The current judicial administrator is Hugh M. Collins, Ph.D.

Judiciary Commission

Initially established by constitutional amendment in 1968, the Judiciary Commission is continued by the Constitution of 1974. (Const. Art. V, §25; see also R.S. 13:32-36, R.S. 44:10 and Sup. Ct. Rule XXIII)

On recommendation of the Judiciary Commission, the supreme court may: (1) censure, suspend with or without salary, remove from office, or involuntarily retire a judge for willful misconduct relating to his official duty, willful and persistent failure to perform his duty, persistent and public conduct prejudicial to the administration of justice that brings the judicial office into disrepute, and conduct while in office which would constitute a felony, or conviction of a felony; (2) disqualify a judge from exercising any judicial function, without loss of salary, during pendency of disciplinary proceedings in the supreme court; and (3) retire involuntarily a judge for disability that seriously interferes with the performance of his duties and that is or is likely to become permanent. The jurisdiction of the commission includes justices and judges of all courts of this state, including commissioners, magistrates, justices of the peace, and mayors who perform judicial functions.

All proceedings, until filed with the supreme court are confidential. (Const. Art. V, §25(C) and Sup.Ct Rule XXIII, §23)

The commission is composed of one court of appeal judge and two district court judges selected by the supreme court; two attorneys admitted to the practice of law for at least 10 years, and one attorney admitted for at least three years but not more than ten, selected by the Conference of Court of Appeal Judges or its successor; and three citizens, not lawyers, judges active or retired, or public officials, selected by the Louisiana District Judges' Association or its successor. Each member of the commission serves a four-year term and is ineligible to succeed himself. Vacancies are filled by appointment for a four-year term by the authority which appointed the predecessor. (Const. Art. V, §25(A) and (B))

The judicial administrator is the chief executive officer of the judiciary commission. (Sup. Ct. Rule XXIII, Sec. 5(a))

Judicial Council

The judicial council was created in 1950 by the supreme court. (Sup. Ct. Rule XXII) It consists of not more than seventeen voting members who serve for terms of three years unless otherwise specified by rule. Of the seventeen members eight are judges, including the chief justice, who serves as chairman. The balance of the membership consists of persons representing the Louisiana State Bar Association, the Young Lawyers Section of the State Bar, the Louisiana State Law Institute, the Louisiana District Attorneys' Association, the Louisiana Clerks of Court Association, the legislature, and one nonlawyer citizen and a nonvoting secretary appointed by the judicial council. The legislature has two persons on the council. One is appointed by the speaker of the House of Representatives and one by the president of the Senate who serve at the pleasure of their respective appointing authorities.

The primary functions of the council are to study judicial organization, rules, procedures, practices and exercise of discretionary powers, to formulate methods for simplifying judicial procedure, expediting the transaction of judicial business and correcting faults in the administration of justice, and to make an annual report. The legislature has urged each committee of both houses not to take any action on a bill that would alter territorial jurisdiction or change the number of judges at the district court level until the committee has received a report from the judicial council. (SCR No. 8, 1975 Extraordinary Session) When there is a proposal to create a new judgeship, judicial district, or court, the council organizes an evaluation team to investigate the proposal. Among other criteria, the team analyzes the efficiency and case load of the present court and makes a recommendation to the full council. The council then makes its recommendation to the legislature. Its recommendations in this area are given much weight in the legislative process. HCR No. 9 of the 1998 Regular Session requested the judicial council to work with and to communicate with the Louisiana Legislature on pending legislation which affects the court system. With few exceptions, no new judgeships have been created without a recommendation from the judicial council based on specific criteria showing the need for additional judgeships. Act No. 163 of the 2003 Regular Session codifies this practice into law. (R.S. 13:61)

Act No. 16 of the 2006 First Extraordinary Session authorized the council to conduct a review of judicial districts not later than March 1, 2007, and provide information and recommendations to the legislature on the appropriate number of district court judgeships within each district based upon caseload, population, or other pertinent factors. The recommendations may include proposed revisions to specific constitutional or statutory language addressing the number of such judges in each district, the need for district merger or other actions, and the filling of judicial office vacancies in each district. (R.S. 13:61(E)) On February 15, 2007, a final report was issued stating that it was premature to attempt to reduce the number of judgeships in time for the 2008 election, due to the impact of the 2005 hurricanes and that the entire judicial system needs to be reviewed in order to determine the number of district court judgeships. The report is available on the Louisiana Supreme Court's web site at http://www.lasc.org/la_judicial_entities/judicial_council.asp.

SCR No. 91 of the 2007 Regular Session requests the Supreme Court of Louisiana in conjunction with the Judicial Council to study case filing and other data used to determine the need for judgeships and reporting on judicial performance, and to report its findings and recommendations to the legislature no later than March 14 of each year.

Act No. 202 of the 2003 Regular Session also requires that no law to provide for a new court cost or fee or to increase an existing court cost or fee shall be enacted unless first submitted to

the Judicial Council for review and recommendation to the legislature. A copy of the proposal for a new or increased court cost or fee shall be provided to the legislature, through the clerk of the House of Representatives and the secretary of the Senate, at the time it is submitted to the Judicial Council for review. (R.S. 13:62)

The supreme court appoints and fixes the salary of the judicial administrator for the Judicial Council. (Const. Art. V, §7; R.S. 13:10; Supreme Court Rule XXII) The administrator is responsible for studying the administration of the courts and making recommendations to the supreme court and the council and for attending to matters assigned to him by the court or the judicial council. He is charged with investigating and making recommendations regarding violations of the time limits set by statute within which trial court judges must render decisions on certain matters. (R.S. 13:4207 et seq.) Violation of these statutory standards may subject a judge to a loss of a portion of his pay. (R.S. 13:4210)

Judicial College

The Louisiana Judicial College, established by order of the Supreme Court of Louisiana in 1976, provides continuing education of Louisiana judges and provides special pre-bench training for new judges. As an adjunct to this primary function, the college publishes and distributes "bench books" and other publications (including legislative analyses and a criminal law newsletter) to members of the judiciary. It also prepares and distributes other publications designed to assist in the training of court personnel, such as clerks of court and judicial law clerks. The Judicial College also works closely with the judges' associations in developing programs and fostering continuing education among the state's judiciary.

Indigent Defender System

The Louisiana Constitution requires that the legislature provide for a uniform system of securing and compensating qualified counsel for indigents who are accused in criminal prosecutions. (Const. Art. I, §13)

Act No. 307 of the 2007 Regular Session enacted the Louisiana Public Defender Act. The Act renamed the Louisiana Indigent Defense Assistance Board the Louisiana Public Defender Board and provides that board with broad regulatory and enforcement capabilities. The Act authorized the development of uniform standards and guidelines for the delivery of indigent defender services and provides for the authority to sanction attorneys for noncompliance with those standards. The Act requires monthly reporting on the district level revenues and expenditures. Through the adoption of uniform standards, regular reporting and enforcement provides for a system of consistency, monitoring, and compliance regarding the delivery of indigent defender services.

Act No. 307 transfers the existing board members from the Indigent Defense Assistance Board to the Louisiana Public Defender Board. The makeup of the board remains the same except there is a requirement that the supreme court appoint a retired judge with criminal justice experience and that all members be confirmed by the Senate. The governor still appoints the chairman, and the number of board members remains unchanged. The board is granted more autonomy, and authority with respect to the regulation of indigent defender services.

The board is charged with developing mandatory statewide standards and guidelines for the practice of indigent defense delivery. These standards are to be adopted by rules in accordance

with the Administrative Procedure Act.

The indigent defender boards from each district were repealed. The chief indigent defenders employed in a judicial district as of January 1, 2007, remained in their positions. The Act provided for special provisions for filling vacancies, and the board can create up to 11 regions to provide services for individual districts.

There are provisions which allow the board to regionalize a district (take over a district) with specific criteria for such regionalization.

The board can enforce compliance through issuance of various sanctions. The Act provided a due process hearing for any district public defender who feels he is demoted or terminated without just cause.

The board is authorized to employ an executive staff consisting of a state public defender, a deputy public defender-director of training, a deputy public defender-director of juvenile defender services, a budget officer, a technology and management officer, a trial level compliance officer, and a juvenile justice compliance officer.

Arbitration, Mediation, and Other Alternative Methods of Dispute Resolution

The high cost of litigation, combined with the length of time involved in the court system, has caused a growth of alternative methods of dispute resolution, and the district courts of Louisiana have encouraged and supported the use of alternative dispute resolutions by court rule. Usually, these alternatives are written into contracts so that disputes are heard and decided by easier, faster, and less expensive methods.

Arbitration is the process in which the parties to a dispute submit the dispute to a third person for a decision or resolution which the parties agree, in advance, to abide by. The Louisiana Civil Code defines the term submission as a covenant by which persons who have a lawsuit or difference with one another name arbitrators to decide the matter and bind themselves reciprocally to perform what shall be arbitrated. (C.C. Art. 3099) The Code provides that all persons may be arbitrators, except those suffering from incapacity or infirmity, and it requires them to take an oath before a judge or justice of the peace that they will render their award with integrity and impartiality. (C.C. Arts. 3107 and 3111)

The Louisiana Arbitration Law sets forth general provisions governing the validity of arbitration agreements, the appointment of arbitrators, the award, the effect and enforcement, and the appeals process. (R.S. 9:4201 et seq.) Louisiana law also includes more specific statutes regarding the arbitration of medial and dental services or supplies contracts. (R.S. 9:4230) However the legislature has made it clear in all of the arbitration statutes that a provision or agreement requiring arbitration to be conducted outside of this state is null, void, and unenforceable.

Mediation is a process of attempting to guide the parties who are involved in a dispute to come to a mutually acceptable solution. The purpose of mediation is to encourage and assist parties to reach their own mutually acceptable settlement by facilitating communication, helping to clarify issues and interests, fostering joint problem-solving, and exploring settlement alternatives. Mediation procedures are nonbinding unless all the parties specifically agree otherwise in writing. (R.S. 9:4110) The Louisiana Mediation Act, the purpose of which is to encourage and support the use of mediation to promote the settlement of legal disputes, provides general

guidelines for the referral of a case for mediation, the costs of mediation, and the confidentiality of communications and records. (R.S. 9:4101 et seq.) Although the legislature has set forth specific qualifications for persons serving as mediators in different types of proceedings, all mediators must have completed forty hours of mediation training. (R.S. 9:334 and 4106 and Ch.C. Art. 439)

Under Louisiana law, a court may order parties to mediate their differences in a custody or visitation proceeding or in any proceeding authorized under the Children's Code, except domestic abuse assistance proceedings, actions brought pursuant to the Post-Separation Family Violence Relief Act, and the informal family services plan procedure. (R.S. 9:332 and 363 and Ch.C. Art. 437)

In civil cases, on motion of any party, a court may order mediation. However, mediation in civil suits is not mandatory, and the mediation order shall be rescinded if any party objects within fifteen days of receiving notice of the order. (R.S. 9:4103) The proponents of mediation have attempted to require court-ordered mediation, but such changes have been unsuccessful due to the costs of mediation.

Administrative Hearings

Louisiana has an Administrative Procedure Act (APA) (R.S. 49:950 et seq.) which provides for adjudicatory hearings by administrative agencies. The APA provides for the rules of procedure for adjudicatory hearings, including rules on evidence, subpoenas, discovery, and judicial review. These hearings are held in connection with the administration of laws establishing a regulatory scheme, and the jurisdiction of these hearings is limited to the subject matter of the respective state agencies. R.S. 49:951(1) defines "adjudication" as ". . . agency process for the formulation of a decision or order". R.S. 49:964 provides for de novo review by the district court of the parish in which the agency is located. A court of appeal has appellate jurisdiction of administrative agency determinations in worker's compensation cases. (La. Const. Art. V, §10(A)) R.S. 49:967 specifically exempts from the APA the Board of Tax Appeals, the Department of Revenue, except for the Louisiana Tax Commission, Louisiana Employment Security Law, Pilot Fee Commission, and orders of the commissioner of conservation. (Also see "Chapter 2, Part M. Administrative Procedure" beginning on page 2M-1.)

CHAPTER 1 — ORGANIZATION OF STATE GOVERNMENT

Part B. The Judicial Branch Federal Courts

United States Supreme Court

Article III, §1, of the United States Constitution provides that the "judicial power of the United States, shall be vested in one supreme Court and such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuation in Office." The term "good Behavior" has generally meant life terms.

The United States Supreme Court consists of the chief justice of the United States and such number of associate justices as may be fixed by congress. The number of associate justices is currently fixed at eight. (28 U.S.C. 1) The power to nominate the justices is vested in the president of the United States, and appointments are made with the advice and consent of the Senate.

Appeals from the federal courts of appeal are to the United States Supreme Court. Approximately 8,000 petitions concerning civil and criminal cases from the various state and federal courts are filed with the court each term. Plenary review, with oral arguments by attorneys, is granted in only 100 cases per term. Formal written opinions are delivered in 80 to 90 cases. In addition, some 1,200 applications of various kinds are filed each year that can be acted upon by a single justice.¹ The term of the supreme court begins, by statute, on the first Monday in October and continues until late June or early July. The term is divided between "sittings" when the justices hear cases and deliver opinions and intervening "recesses" when they consider business before the court and write opinions. Sittings and recesses alternate at approximately two-week intervals.

In general, the supreme court hears cases for the purpose of resolving "splits among the circuits" and to announce new directions in cases involving significant federal questions. "Splits among the circuits" occur when the various circuit courts of appeal, in acting on cases involving significant federal questions, reach decisions which are opposite to each other or are widely divergent from each other.

United States Courts of Appeal

Appeals from decisions in United States district courts lie to United States circuit courts of appeal. There are 11 numbered circuits, the United States Court of Appeal for the District of Columbia Circuit, and the United States Court of Appeal for the Federal Circuit. The courts of appeals for the numbered circuits hear appeals from the district courts within their circuit, as well as appeals from decisions of federal administrative agencies. The D.C. Circuit has jurisdiction over cases from the D.C. District. The United States Court of Appeal for the Federal Circuit has

¹ From information prepared by the Supreme Court of the United States. See <http://www.supremecourtus.gov/>.

nationwide jurisdiction to hear appeals in cases involving other specific federal laws, such as when the federal government is a defendant, and those involving patents, trademarks, and copyrights and cases decided by the Court of International Trade and the Court of Federal Claims. Also included within each circuit are United States bankruptcy courts. The court of appeals judges are nominated by the president and confirmed by the United States Senate, as stated in the Constitution.

United States District Courts

There are three United States district courts in Louisiana. These courts are the United States District Court for the Eastern District of Louisiana, which is located in New Orleans; the United States District Court for the Middle District of Louisiana, which is located in Baton Rouge; and the United States District Court for the Western District of Louisiana, which is located in Alexandria, Lafayette, Lake Charles, Monroe, and Shreveport.

The United States district courts are the trial courts of the federal court system. Within limits set by Congress and the Constitution, the district courts have jurisdiction to hear nearly all categories of federal cases, including both civil and criminal matters. There are 94 federal judicial districts, including at least one district in each state, the District of Columbia, and Puerto Rico. Three territories of the United States—the Virgin Islands, Guam, and the Northern Mariana Islands—have district courts that hear federal cases, including bankruptcy cases.

There are two types of federal jurisdiction: "federal question" and "diversity". "Federal question" jurisdiction exists in all civil actions arising under the constitution, laws, or treaties of the United States. "Diversity" jurisdiction exists when the controversy before the court is between citizens of different states, or between citizens of a state and citizens or subjects of a foreign state, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

There are two special trial courts that have nationwide jurisdiction over certain types of cases. The Court of International Trade addresses cases involving international trade and customs issues. The United States Court of Federal Claims has jurisdiction over most claims for money damages against the United States, disputes over federal contracts, unlawful "takings" of private property by the federal government, and a variety of other claims against the United States.

The district court judges are nominated by the president and confirmed by the United States Senate, as stated in the constitution.

United States Bankruptcy Courts

Federal courts have exclusive jurisdiction over bankruptcy cases. Bankruptcy cases cannot be filed in state court. Each of the current 94 federal judicial districts handles bankruptcy matters. The primary purposes of the law of bankruptcy are: (1) to give an honest debtor a "fresh start" in life by relieving the debtor of most debts, and (2) to repay creditors in an orderly manner to the extent that the debtor has property available for payment.

A U.S. bankruptcy judge is a judicial officer of the U.S. district court who is appointed by the majority of judges of the U.S. court of appeals for that circuit to exercise jurisdiction over bankruptcy matters. The number of bankruptcy judges is determined by congress. The Judicial Conference of the United States is required to submit recommendations from time to time regarding the number of bankruptcy judges needed. Bankruptcy judges are appointed for 14-year terms.

Federal Magistrates

A U.S. magistrate judge is a judicial officer of the district court and is appointed by majority vote of the active district judges of the court to exercise jurisdiction over matters assigned by statute as well as those delegated by the district judges. The number of magistrate judge positions is determined by the Judicial Conference of the United States, based on recommendations of the respective district courts, the judicial councils of the circuits, and the director of the Administrative Office of the U.S. Courts. A full-time magistrate judge serves a term of eight years. Duties assigned to magistrate judges by district court judges may vary considerably from court to court.

Part B. The Judicial Branch Issues Concerning the State Judiciary

Hurricanes Katrina and Rita wreaked havoc on the state judiciary. In response to these catastrophic events, in the 2005 First Extraordinary Session, the legislature enacted Act No. 6 to assist those persons who were prevented by the hurricanes from timely access to courts and offices in the exercise of their legal rights, including the filing of documents and pleadings, by extending prescriptive and preemptive periods and other legal deadlines. Act No. 52 was also enacted to provide for emergency sessions of criminal courts in the event of future disasters or emergencies. The Louisiana Supreme Court has implemented a number of technological advancements to ensure continuity of court operations in the event of future emergencies or disasters. Restoration of the court systems in those parishes hardest hit by the hurricanes is continuing.

Funding of State Courts

Louisiana does not have a unified state court funding system. The operations of district, parish, and city courts are primarily funded by local governments. The operations of the Louisiana Supreme Court, the five circuit courts of appeal, and salaries of supreme court justices, courts of appeal judges, and district court judges, including family and juvenile courts, are funded through an annual legislative appropriation. The state also funds a portion of the salaries of parish and city court judges, as well as the compensation of retired and ad hoc judges. Funding of the court operations at all levels, including salaries of judges, continues to be an issue before the legislature. (See "Judicial Compensation" on the next page.)

Court Costs and Fees

In recent years, in order to fund district, parish, and city courts, the number of bills filed to increase existing court costs and fees or to create new ones had increased to such an extent that in the 2001 Regular Session, SCR No. 148 established a special committee to study court costs and the uses of court costs. The recommendations of the committee resulted in the enactment of Act No. 202 of the 2003 Regular Session which requires the Judicial Council to make recommendations to the legislature on the necessity of any legislation authorizing new court costs or increasing any existing court costs. The council establishes deadlines before each session for submitting requests to the council for consideration of increases in costs and fees. (R.S. 13:62)

Creation of New Courts

The 1974 Louisiana Constitution provides that the legislature may establish new trial courts of limited jurisdiction with parishwide territorial jurisdiction and subject matter jurisdiction which shall be uniform throughout the state. (Const. Art. V, §15(A)) The legislature is also authorized to establish, divide, or merge judicial districts with approval in a referendum in each district and parish affected. (Const. Art. V, §15(B))

Since 1986, the legislature has passed several acts creating new lower courts. Those acts include measures: creating a new juvenile court in East Baton Rouge Parish; creating and/or abolishing justice of the peace courts in Jefferson Parish, West Carroll Parish, Morehouse Parish, Grant

Parish, and St. Charles Parish; and creating several new mayor's courts.

Two major reasons for this apparent trend in favor of creating new district and local courts: the citizens of the districts and localities are looking for convenience, and the governing authorities of the localities are looking for revenues from the imposition of fines for violations of local ordinances. In addition to the fines, court "costs" may be added to the fine. These "costs" pay for court expenses and a variety of programs without the imposition of taxes.

With few exceptions, no new judgeships have been created without a recommendation from the judicial council based on specific criteria showing the need for additional judgeships. Act No. 163 of the 2003 Regular Session codifies this practice into law. (R.S. 13:61)

Redistricting/Minority Subdistricts

Issues affecting the judiciary continue to be redistricting and the creation of minority subdistricts for election purposes. When a new judgeship is created, there is the potential for disagreement concerning whether a judge should be elected at large from the judicial district as a whole or whether a subdistrict should be created containing a majority minority population, which subdistrict electorate would vote for a judge who would have districtwide jurisdiction. Since the consent decree in *Clark v. Edwards* covered existing judgeships at that time, the issue is whether certain newly created judgeships are required to be elected from subdistricts. In the 2007 Regular Session, two additional judgeships were created in both the 4th and the 22nd judicial district courts, and one of the additional judgeships in each court is to be elected from a minority subdistrict.

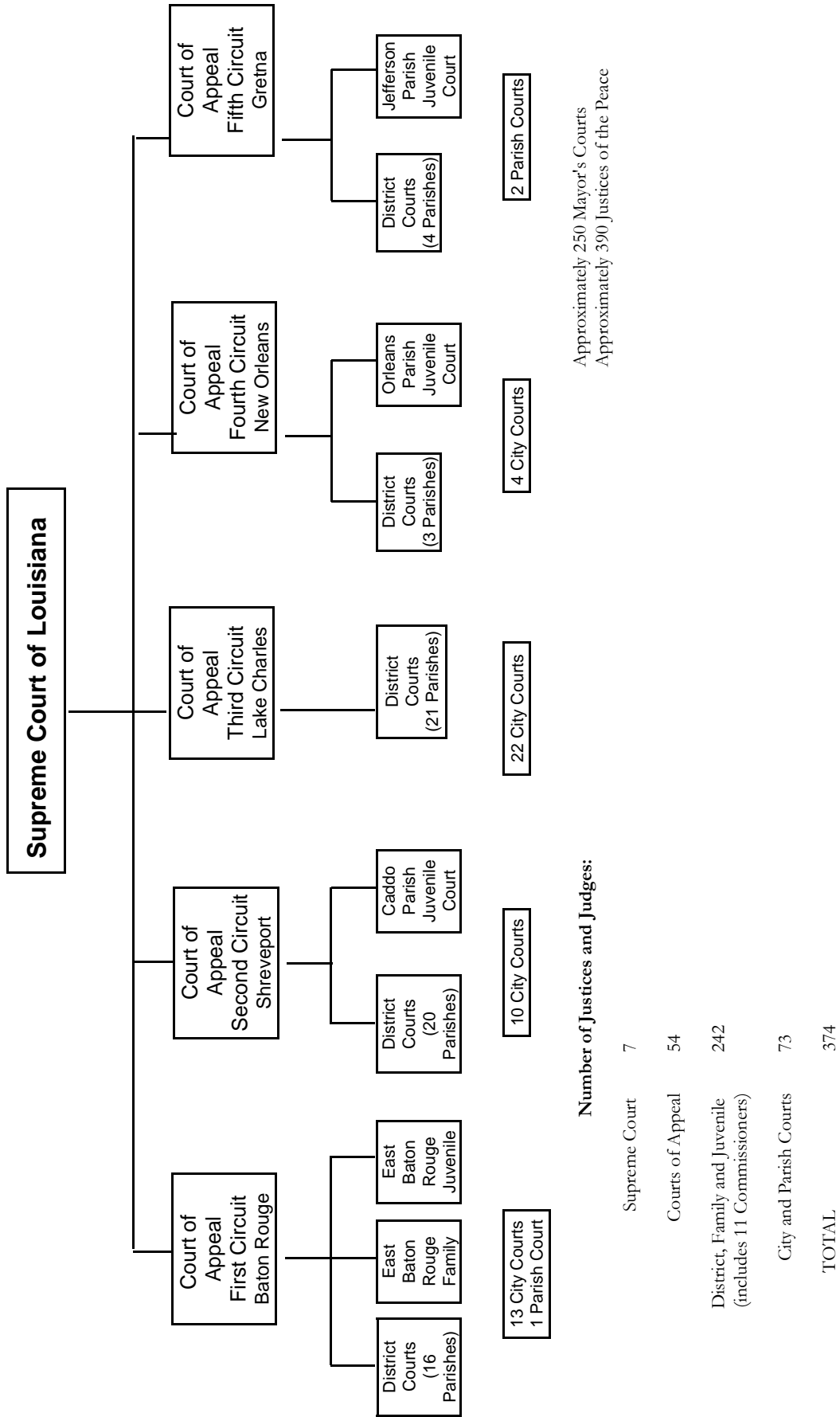
Judicial Compensation

Judicial compensation and the funding thereof has been an issue for many years. In 1995, Act No. 1077 was enacted, which established the Judicial Compensation Commission. (R.S. 13:42 et seq.) This act authorized the commission to submit a report to the legislature recommending judicial salaries 60 days prior to the commencement of any regular session of the legislature in even-numbered years. Pursuant to the recommendation of the Judicial Compensation Commission, Act No. 422 of the 2007 Regular Session (R.S. 13:49) provided that the actual salary of the supreme court, courts of appeal, and district court judges shall be increased by 4-1/2%, 4-6/10%, and 4-9/10%, respectively, each year on July 1, 2008, July 1, 2009, and July 1, 2010, subject to an annual appropriation for such purposes. The act also provided that the state-paid actual salary of city court and parish court judges shall be increased by 4-9/10% each year on July 1, 2008, July 1, 2009, and on July 1, 2010, subject to an annual appropriation for such purposes. Pursuant to Act No. 58 of the 2007 Regular Session, \$138,681,153.00 was appropriated to defray the expenses of the Louisiana judiciary.

In addition, the Judges' Supplemental Compensation Fund, funded by filing fees, is used exclusively to pay for salary supplements and other administrative expenses of all judges and commissioners. (R.S. 13:10.3)

LOUISIANA COURT STRUCTURE

January 1, 2007



NOTE: This chart has been adapted from the January 1, 2007, chart included in the 2006 Annual Report of the Supreme Court of Louisiana.

