

# State and Local Government in Louisiana: An Overview 2012-2016 Term

## CHAPTER 1 — ORGANIZATION OF STATE GOVERNMENT

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### Part B. The Judicial Branch

#### Judicial Branch Overview

**A**rticle V of the Louisiana Constitution establishes the judicial branch 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 including the supreme court, courts of appeal, district courts, and 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-9.)

In Louisiana, judges are elected by the voting electorate of their districts. Other states have varying methods of selecting judges. In some states, judges are nominated by a judicial selection committee and are appointed either by the governor or the legislature.

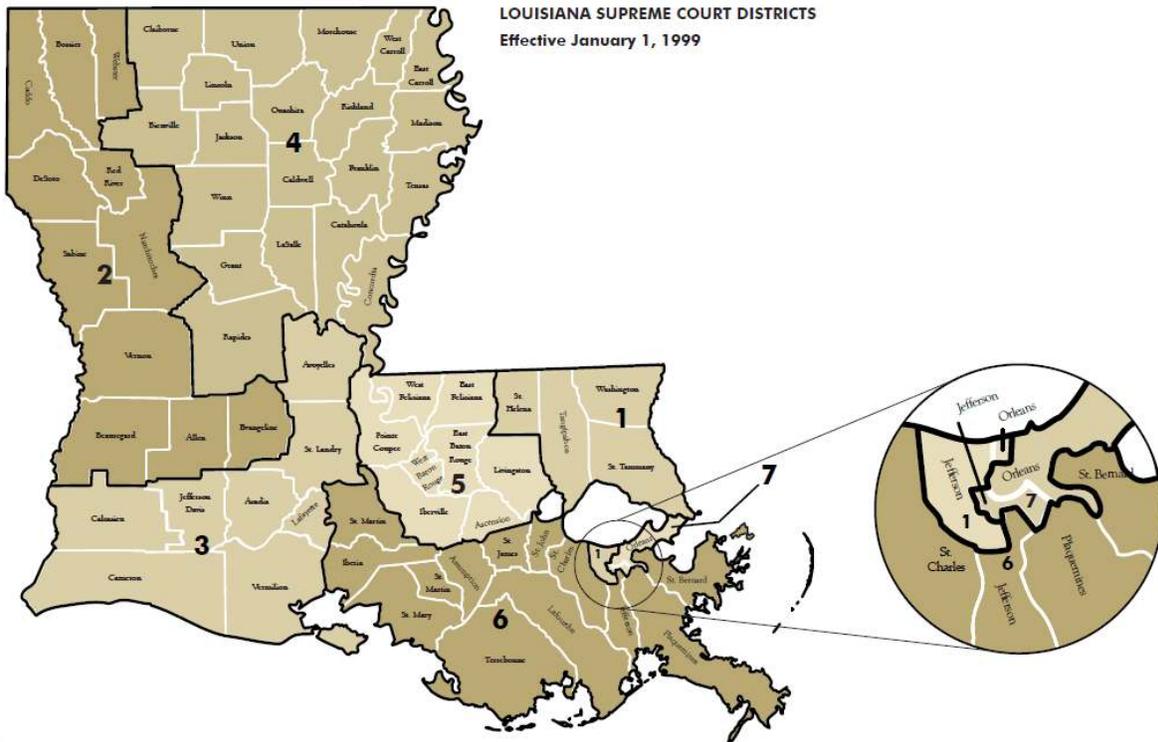
#### State Courts

##### Supreme Court

The supreme court is Louisiana's highest court and is domiciled in the city of New Orleans. 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). Currently, Louisiana is divided into seven supreme court districts (See R.S. 13:101 and 101.1) (See the map on the next page). The supreme court is composed of a chief justice and six associate justices, four of whom must concur to render judgment (Const. Art. V, §3).

The supreme court has the following jurisdiction:

- General supervisory jurisdiction over all other courts.
- Exclusive original jurisdiction of disciplinary proceedings against a member of the bar.
- Appellate jurisdiction over any case in which a law or ordinance has been declared unconstitutional.
- Appellate jurisdiction over any case in which the defendant has been convicted of a capital offense and a penalty of death actually has been imposed.
- Appellate jurisdiction over all issues involved in a civil action properly before it.



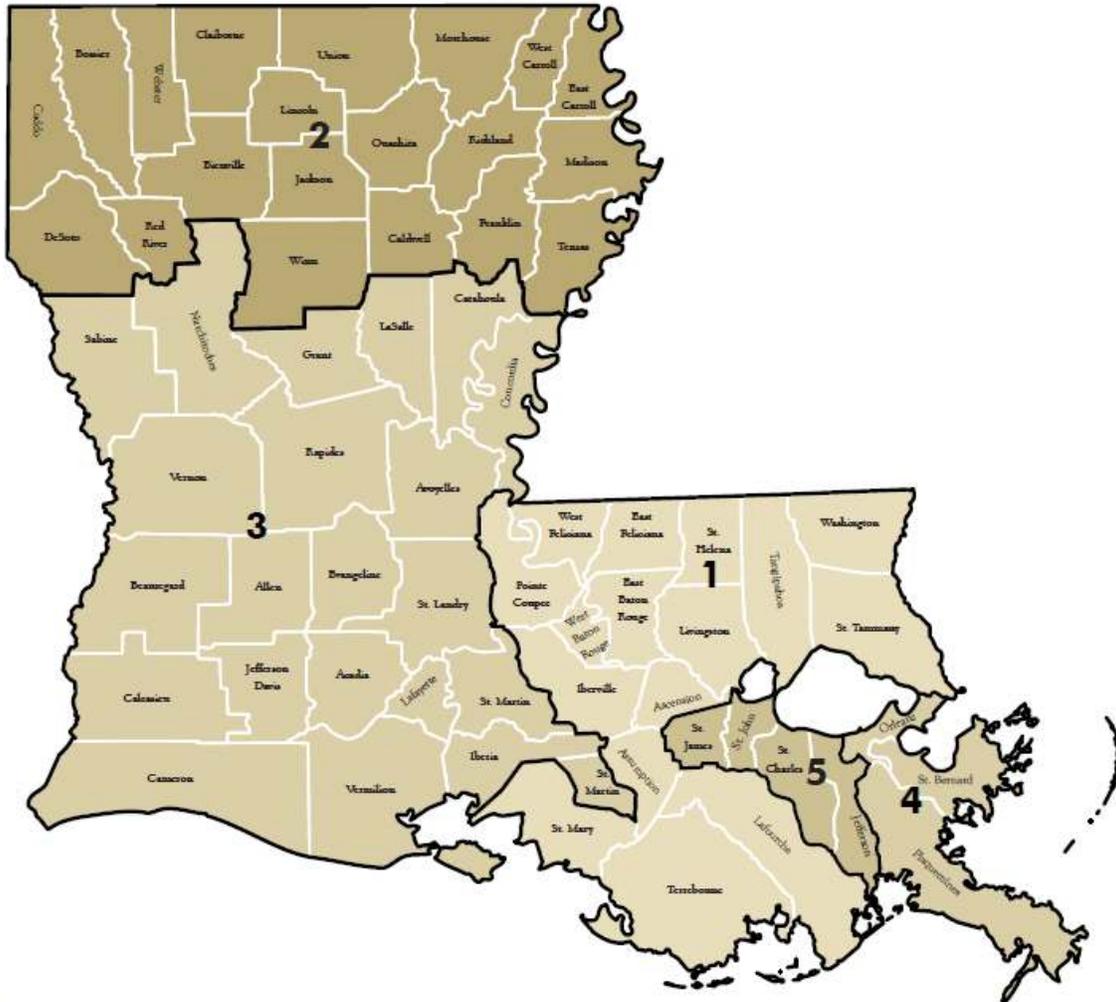
The scope of review of the supreme court in civil cases extends to both law and facts, and in criminal cases its appellate jurisdiction extends only to questions of law (Const. Art. V, §5). In addition, the supreme court has sole authority to provide by rule for appointments of attorneys as temporary or ad hoc judges of city, municipal, traffic, parish, juvenile, or family courts and may establish procedural and administrative rules not in conflict with law (Const. Art. V, §5).

Supreme Court Districts	
First District	- Justice Greg Guidry
Second District	- Justice Jeffrey Victory
Third District	- Justice Jeannette Theriot Knoll
Fourth District	- Justice Marcus Clark
Fifth District	- Chief Justice Catherine Kimball
Sixth District	- Justice John Weimer
Seventh District	- Justice Bernette Johnson

The term of a supreme court judge is 10 years, and the judge with seniority on the supreme court shall serve as the chief judge.

### 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) (See the map on the next page.) 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. There are exceptions to this general rule, requiring a panel of five judges, in certain civil matters where a judgment of a district court is to be modified or reversed and in administrative agency determinations in workers' compensation claims.



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 jurisdiction over the following matters:

- Appellate jurisdiction of all civil matters, including direct review of administrative agency determinations 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.
- Jurisdiction of appeals from civil judgments of city courts and parish courts (C.C.P. Art. 5001 and R.S. 13:1452).
- 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 criminal matters, its appellate jurisdiction extends only to questions of law (Const. Art. V, §10).

The term of an appellate court judge is 10 years and the judge with seniority on each court of appeal shall serve as the chief judge of that court.

## 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 December 31, 2014.

District courts have jurisdiction as follows:

- Original jurisdiction of all civil and criminal matters except as otherwise provided by the state constitution, or provided by law for administrative agency determinations in workers' compensation matters (Const. Art. V, §16).
- 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).
- 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). The constitution further provides that district courts have appellate jurisdiction as provided by law (Const. Art. V, §16).

The term of a district court judge is six years and the number of judges in any judicial district may be changed by a law enacted by two-thirds vote of the legislature.

## Courts of Limited and Specialized Jurisdiction

Courts of limited and specialized jurisdiction are an important part of our judicial system. Courts of limited jurisdiction, such as city or parish courts, afford citizens of this state with access to courts within their communities and frequently at a lower cost. Courts of specialized jurisdiction enable the judges serving on those courts to develop their expertise in specific areas of the law, and in the case of family courts or juvenile courts, to become familiar with all of the issues involving that family or juvenile.

### Juvenile Courts / Family Courts

In the parishes of Caddo, East Baton Rouge, Jefferson, and Orleans, juvenile jurisdiction is exercised by juvenile courts; in all other parishes, that jurisdiction may be exercised by district, parish, or city courts. The following matters are dealt with by these juvenile courts:

- Certain juvenile delinquency proceedings, child in need of care proceedings, families in need of services proceedings, traffic proceedings, termination of parental rights proceedings, adoption proceedings, mental health proceedings, etc. (The juvenile jurisdiction of the courts is set forth in Title III of the Louisiana Children's Code, Articles 301 et seq.)

The East Baton Rouge Parish Family Court is a specialized court with jurisdiction over the following matters:

- Actions for divorce, annulment of marriage, establishment or disavowal of the paternity of children, spousal and child support and nonsupport, custody and visitation of children, partition of community property, termination or modification of a matrimonial regime, etc. (See R.S. 13:1401 for the jurisdiction of the East Baton Rouge Parish Family Court.)

### Parish Courts

The only two parishes with parish courts are Ascension and Jefferson. Art. V, §15(A) of the La. Constitution provides that the legislature may establish trial courts of limited jurisdiction with parishwide territorial jurisdiction and subject matter jurisdiction which shall be uniform throughout the state. 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.

The three existing parish courts have civil jurisdiction which 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 (R.S. 13:2561.1 et seq. and C.C.P. Art. 4842). 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). (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.)

### City Courts

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 1732(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))).

### Municipal and Traffic Courts of New Orleans

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

"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 \$5,000 (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)).

## Issues Concerning the State Judiciary

### 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, with some expenses being funded by legislative appropriations. The operations of the Louisiana Supreme Court and the courts of appeal, as well as the salaries of supreme court justices and judges of the courts of appeal, district courts, family court, and juvenile court 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.

### Court Costs and Fees

District, parish, and city courts are funded through the use of court costs and fees which are imposed by those persons appearing before the court. The term "court costs" is a term referring to many different types of fees assessed and collected by the courts. For example, "court costs" may refer to fees charged to file a civil lawsuit, fees charged for making copies or the recordation of official documents, fees imposed on persons who are sentenced in criminal cases, and fees imposed on persons guilty of traffic violations. Every year, legislation is introduced to increase existing court costs and fees or to create new ones. Louisiana law prohibits the enactment of such legislation unless first submitted to the Judicial Council of the Supreme Court for review. The Judicial Council is required to make a recommendation as to whether the cost is reasonably related to the operation of the court or court system (R.S. 13:62). Legislative proposals shall be submitted by January 15<sup>th</sup> of each year, and the Judicial Council shall forward its recommendation to the legislature by March 15<sup>th</sup> of that same year.

### 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.

When there is a proposal to create a new judgeship, judicial district, or court, the Judicial Council organizes an evaluation team to conduct a site visit to the affected court. 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.

### Redistricting / Minority Subdistricts

The consent decree in the case of *Clark v. Edwards* established election subdistricts in nine district courts in response to violations of the Voting Rights Act of 1965 with regard to the manner in which judges were elected in certain courts. Minority subdistricts were created in the 1<sup>st</sup>, 4<sup>th</sup>, 9<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 18<sup>th</sup>, 19<sup>th</sup>, 24<sup>th</sup>, and 40<sup>th</sup> judicial districts, the East Baton Rouge Family Court, and one court of appeal circuit (1st Circuit, 2nd District). The consent decree also required the legislature to create subdistricts in two other district courts (23<sup>rd</sup> JDC and 27<sup>th</sup> JDC) and one other court of appeal circuit (2nd Circuit, 1st and 3rd Districts).

The creation of minority subdistricts for election purposes continues to be of interest to the legislature. When legislation is introduced to create a new judgeship, some of the issues involve 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.

Following the release of the 2010 U.S. Census population figures, the legislature re-drew the boundary lines of the legislative districts, congressional districts, BESE districts, and the PSC districts. Despite being included in the proclamation for the 2011 First Extraordinary Session, no legislation was enacted to redraw the election districts of the supreme court or appellate court districts.

### Judicial Compensation

In 1995, the legislature established the Judicial Compensation Commission to study the salaries payable to judges (R.S. 13:42 et seq.). The law requires 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. Any increase in salaries may be enacted by the legislature only after submission of the recommendations and must be approved by a favorable vote of the majority of the elected members of each house, whether in an odd-numbered or even-numbered year, or at any extraordinary session if included within the proclamation (or call) of that session.

Pursuant to the recommendation of the Judicial Compensation Commission, the legislature provided salary increases in 2007 for the supreme court, courts of appeal, and district court judges 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 purpose (R.S. 13:49). This

provision of law also increased the state-paid actual salary of city court and parish court judges by 4-9/10% each year on July 1, 2008, July 1, 2009, and on July 1, 2010, subject to an annual appropriation. It is important to note that the compensation of a judge shall not be decreased during the term for which he is elected (Const. Art. V, § 21).

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).

### 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.

### Judicial Misconduct

Const. Art. V, §25 provides for the Judiciary Commission. (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.

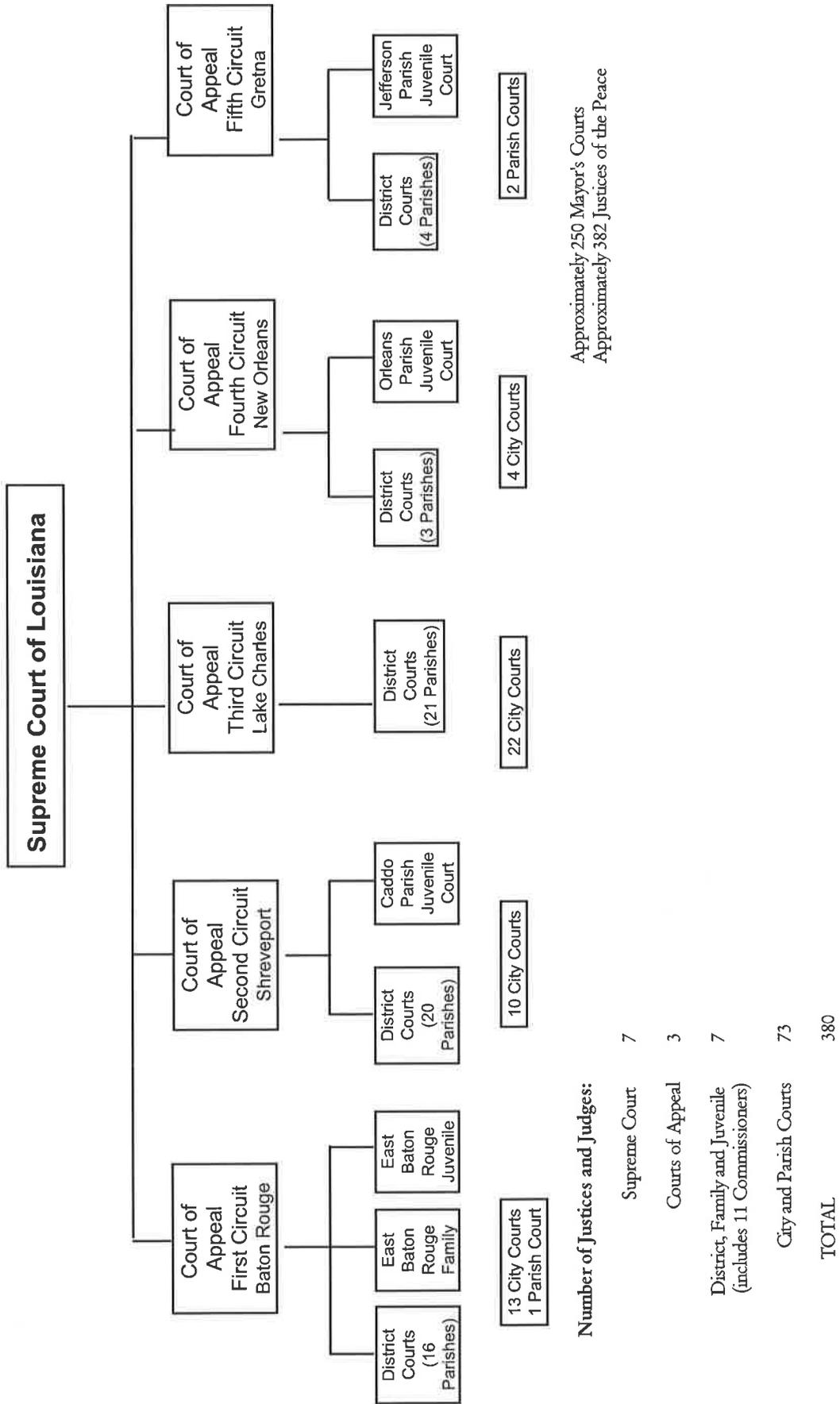
### Emergency Sessions of Court

In response to Hurricanes Katrina and Rita, the legislature enacted provisions of law to assist those persons who were prevented by the hurricanes from timely access to courts. This legislation extended civil prescriptive and preemptive periods and other legal deadlines. Legislation 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.

### Case Management Information System

The Case Management Information System (CMIS) was created by the Supreme Court in 1993 to provide a statewide information system for tracking and managing criminal, civil, juvenile, traffic, and appellate cases as well as protective orders. Data is received from courts statewide and transferred to the CMIS registry. It is funded from a court cost assessed on all criminal and traffic convictions pursuant to C.Cr.P. Art. 887(F).

# LOUISIANA COURT STRUCTURE



NOTE: This chart has been adapted from the chart included in the 2010 Annual Report of the Judicial Council of the Supreme Court of Louisiana.

