



UNIVERSITY OF  
**GEORGIA**

Carl Vinson  
Institute of Government

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**Georgia Criminal  
Justice Data  
Landscape Report**  
Criminal Court System

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## Georgia’s Criminal Court System

Georgia’s court system is made up of nine classes, or types, of courts: [business](#),<sup>a</sup> municipal, magistrate, probate, juvenile, state, [superior](#), [Court of Appeals](#), and [Supreme Court](#). Municipal, magistrate, probate, juvenile, state, and superior are the trial courts, or courts where cases initiate and trials may be held. The Court of Appeals and Supreme Court are the two appellate courts that hear appeals from other courts. Each class of trial court also has its own organizing council responsible for handling administrative functions, developing and writing rules (with approval from the justices of the Supreme Court), coordinating continuing judicial education, and other responsibilities. The Judicial Council provides coordination among the various classes of court on behalf of the judicial branch.

This supplement provides an overview of Georgia’s criminal court system.

### COURT SYSTEM ORGANIZATION AND FUNDING

The Georgia Constitution of 1983 states that the courts of the state “shall comprise a unified judicial system.”<sup>1</sup> In practice, however, Georgia’s court system is not unified in the same sense as many other states’ court systems. The US Department of Justice, Bureau of Justice Assistance (BJA) provides a definition of court unification. Table 1 compares the components of the BJA definition of a unified court system and Georgia’s approach.

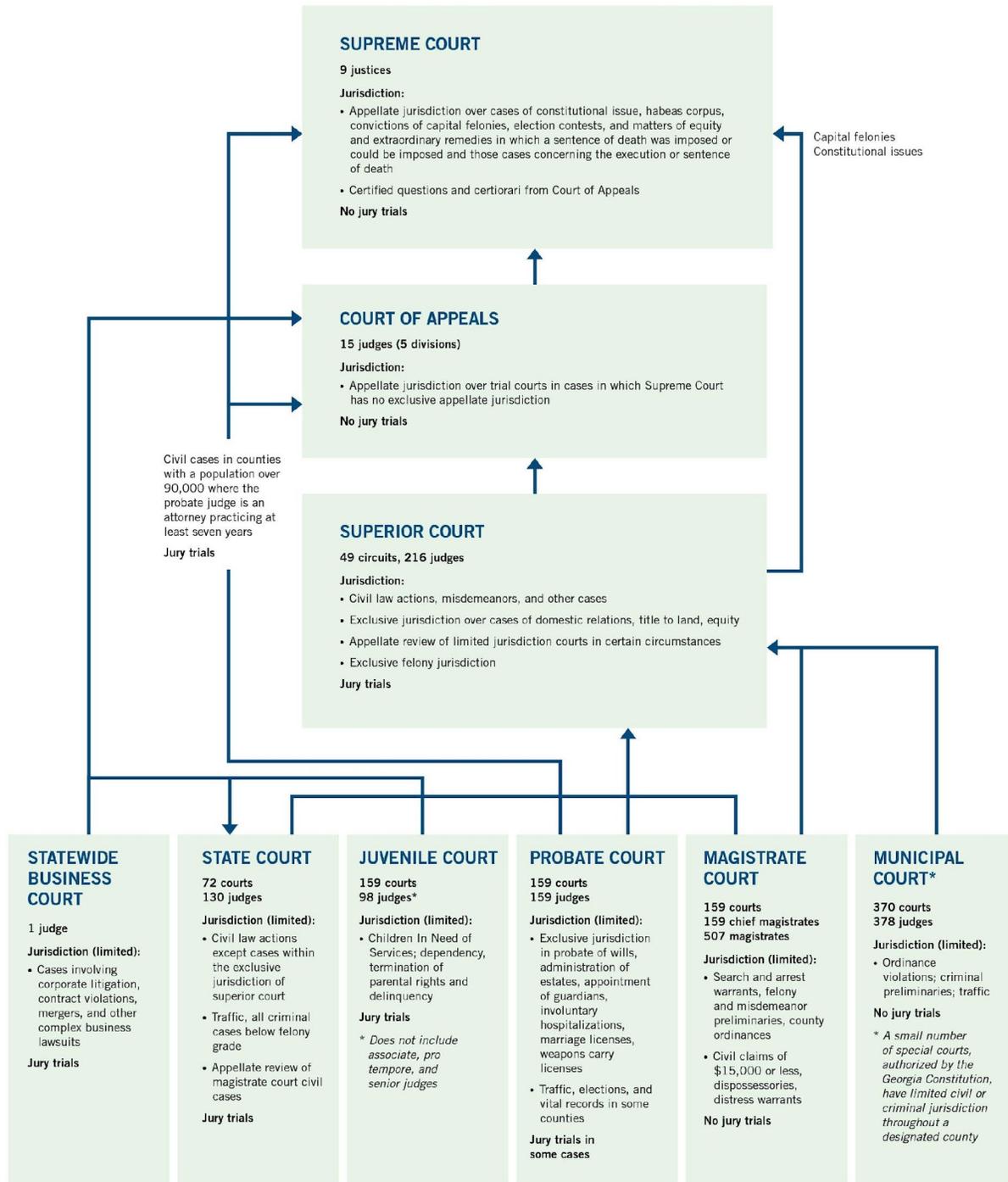
Table 1. Comparison of Court Organization Approaches

BJA Definition <sup>2</sup>	Georgia Approach
Centralized trial court structure	Federated or distributed model, in which each trial court type has some independence
Rule-making authority (practice, procedure, and administration) vested in the supreme court or judicial council	Rule-making authority is a combination of the Georgia Supreme Court and the organizing council for each court class
Governance authority and responsibility vested in the chief justice or supreme court, aided by a professional administrator and staff	Same
State funding of all or a substantial portion of the judicial system, with a budget prepared by the administrative office of the courts	Mix of state and local funding

Source: Bureau of Justice Assistance, Office of Justice Programs, US Department of Justice. 1988, April. *Court Unification Information Guide for the Judiciary, Court Administrators, Concerned Legislators and Other Public Officials, Citizen Court Improvement Organizations and Concerned Criminal Justice Personnel.*

<sup>a</sup> The statewide business court was created in 2019 and is the state’s newest class of court. Because it only handles civil cases, it is not included in this supplement.

Figure 1. Flow Chart of the Georgia Court System



Notes: As of February 2021. In March 2021, SB 9 was signed into law creating one additional Superior Court circuit. The state-wide business court is the state's newest class of court (created in 2019). Because it only handles civil cases, it is not included in this report.

Source: Judicial Council of Georgia, Administrative Office of the Courts

Funding for every class of trial court, except municipal courts, comes from state funds, county funds, or both. While the Supreme Court and Court of Appeals are purely state-funded, the superior courts are supported by both state and county funds.<sup>3</sup> Counties fund law clerks, case managers, court administrators, courtrooms, technology, security, publications, supplies, utilities, and office space. The state pays the bulk of the salaries for superior court judges, district attorneys, and public defenders and a portion of the salaries of the assistant district attorneys, assistant public defenders, secretaries, and law clerks.

In some instances, counties provide salary supplements for superior court judges, district attorneys, and public defenders. The state provides grants that partially cover the salaries of juvenile court judges and funds a judicial retirement system that includes many county-paid judges and solicitors. The state also traditionally supplies some funding for office equipment and initial setup needs when new superior court judgeships are created.

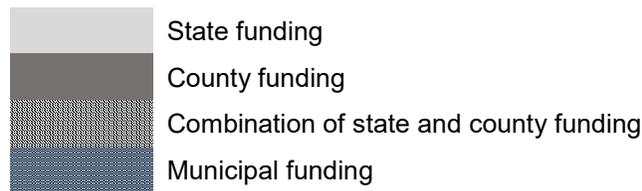
Local governments fund state, probate, magistrate, and municipal courts and retain the revenues from base fines<sup>b</sup> and fees generated by cases in these courts. Each of these classes of court has an organizing council, usually with at least one employee funded by the state. An estimated 80% of the costs of the trial court system are provided by county funds.<sup>4</sup> Table 2 illustrates the mix of state and local funds provided for courts in Georgia.

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<sup>b</sup> There are many “fine add-ons” collected in local courts on behalf of special state-managed funds.

Table 2. Sources of Court Funding in Georgia

Class of Court	Official Salary & Travel Expenses	Staff Salary & Travel Expenses	Office Space & Equipment
Supreme Court Justices	State funding	State funding	State funding
Court of Appeals Judges	State funding	State funding	State funding
Superior Court Judges	State funding	Combination of state and county funding	County funding
District Attorney	State funding	Combination of state and county funding	County funding
Public Defender	State funding	Combination of state and county funding	County funding
State Court Judges	County funding	County funding	County funding
Solicitor	County funding	County funding	County funding
Public Defender	County funding	County funding	County funding
Juvenile Court Judges	Combination of state and county funding	County funding	County funding
Prosecutor	Combination of state and county funding	County funding	County funding
Public Defender	Combination of state and county funding	County funding	County funding
Probate Court Judges	County funding	County funding	County funding
Prosecutor	County funding	County funding	County funding
Public Defender	County funding	County funding	County funding
Magistrate Court Judges	County funding	County funding	County funding
Prosecutor	County funding	County funding	County funding
Public Defender	County funding	County funding	County funding
Municipal Court Judges	Municipal funding	Municipal funding	Municipal funding
Prosecutor	Municipal funding	Municipal funding	Municipal funding
Public Defender	Municipal funding	Municipal funding	Municipal funding



Note: Office space, utilities, phones, computers, and offices supplies are usually provided by the local government, but in superior courts, the state sometimes provides initial equipment and furniture for new judges or allows equipment purchases with year-end funds.

## JUDICIAL COUNCIL

The [Judicial Council](#) was created in 1945 to develop policies for administering and improving Georgia's courts.<sup>5</sup> The Judicial Council is made up of 27 judges who represent every class of court, plus the president of the State Bar of Georgia who serves as a nonvoting member. The Supreme Court appoints members of the council and determines their terms.<sup>6</sup> The chief justice of the Supreme Court serves as the chair of the Judicial Council, the presiding justice of the Supreme Court serves as the vice-chair, and the director of the [Administrative Office of the Courts \(AOC\)](#) serves as the secretary.<sup>7</sup>

The AOC was created in 1973 to serve as staff to the Judicial Council and provide subject matter expertise on policy, court innovation, legislation, and court administration.<sup>8</sup> The AOC staff supports Judicial Council committees and initiatives that cross all classes of court.

The Judicial Council meets at least four times a year and may hold emergency meetings as deemed necessary by the chief justice.<sup>9</sup> Committees of the Judicial Council meet separately and include the following:

- Access to Justice — Works to improve the public's trust in the judicial branch by promoting meaningful and effective access to courts and fairness for all<sup>10</sup>
- Budget — Reviews and recommends Judicial Council and AOC budgets
- Court Reporting Matters — Reviews and recommends changes to court reporting rules and fees; handles appeals and opinions of the Board of Court Reporting
- Education and Training — Recommends best practices in training and education required for trial court judges
- Grants — Administers grant funds and reviews applications for those awarded by the Judicial Council/AOC
- Judicial Workload Assessment — Determines the methodology for collecting data through trial court case counts and makes recommendations for new superior court judgeships to be created
- Legislation — Reviews legislation affecting the judicial branch and recommends policy positions
- Strategic Plan — Creates and implements the Judicial Council strategic plan
- Technology — Provides guidance and oversight for the Judicial Council's technology initiatives<sup>11</sup>



The Georgia Constitution of 1983 and the Appellate Jurisdiction Reform Act of 2016 provide the Supreme Court with the sole authority to decide certain cases:

- cases involving Georgia or US treaties or constitutionality of a law, ordinance, or provision of the constitution;
- cases of election contest;
- habeas corpus cases;<sup>c</sup>
- extraordinary cases involving a sentence or potential sentence of death; and
- all cases certified to the Supreme Court by the federal courts and cases where the Court of Appeals is equally divided.<sup>14</sup>

The Supreme Court also considers hundreds of petitions seeking review of a Court of Appeals decision and issues orders and opinions in judge and lawyer discipline matters. The Supreme Court must issue decisions within two terms of court (about 6–8 months).<sup>15</sup> All nine Supreme Court justices participate fully in the decision of every case and petition that comes before it.<sup>16</sup> This means each justice participates in the publication of about 430 opinions and 1,300 orders on petitions each year as well as other case types.<sup>17</sup>

The Supreme Court has a range of other responsibilities concerning the regulation of the legal and judicial professions, such as oversight of the Office of Bar Admissions, the State Bar, the Institutes for Continuing Judicial Education, the Commission on Interpreters, and the Chief Justice’s Commission on Professionalism. The justices are also assigned administrative responsibilities related to the court’s oversight and regulation of the judicial branch.

## **COURT OF APPEALS**

The [Georgia Court of Appeals](#) is the intermediate appellate court for the state, meaning it reviews appeals from the trial courts or lower courts when jurisdiction is not exclusively reserved for the Supreme Court or other courts. The Court of Appeals was established in 1906, with three judges, to alleviate some of the growing caseload of the Supreme Court. There are currently 15 judges on the Court of Appeals, with three most recently added by the Appellate Jurisdiction Reform Act of 2016.

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<sup>c</sup> A case of habeas corpus involves the effort of an incarcerated person to question the legality of their detention outside of the more traditional appeal process.

Cases come to the Court of Appeals in three ways:

1. by direct appeal, which is provided by rights;
2. by discretionary appeal, which the court agrees to hear upon application at the end of a case; and
3. by interlocutory appeal, which are appeals the court agrees to hear before a trial ends.<sup>18</sup>

The jurisdiction of the Court of Appeals is established in the Georgia Constitution as “all cases not reserved for the Supreme Court or conferred on other courts by law.”<sup>19</sup> The Appellate Jurisdiction Reform Act of 2016 expanded the Court of Appeals’ jurisdiction to include review on appeal the following:

- cases involving title to land,
- equity cases<sup>d</sup> that do not involve the death penalty,
- cases involving wills,
- cases involving extraordinary remedies, except those involving the death penalty,
- divorce and alimony cases, and
- all other cases not reserved for the Supreme Court or conferred on other courts.<sup>20</sup>

The Court of Appeals is divided into five divisions of three judges, each with a presiding judge. Most often, a three-judge division decides an appeal. In some cases, such as when the court considers whether to change case law precedent or the issue is significant, all 15 judges will decide an appeal.<sup>21</sup>

Over 3,000 cases per year are filed with the Court of Appeals, with each division averaging 600 cases, or 200 cases per judge.<sup>22</sup> Appellants who disagree with the decision of the Court of Appeals may apply for appeal to the Supreme Court, which may or may not grant the review.

## **SUPERIOR COURT**

[Superior court](#) is the trial court of general jurisdiction and has exclusive jurisdiction over felony trials, divorce cases, adoptions, and issues involving titles to land.<sup>23</sup> Superior courts also hear appeals from probate and magistrate courts.<sup>24</sup>

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<sup>d</sup> Equity cases are those seeking a remedy that does not involve monetary damages.

The superior courts were the first courts established in Georgia in the Constitution of 1777.<sup>25</sup> Every county has a superior court. Counties are grouped together into 50 judicial circuits.<sup>e</sup> Some circuits have as many as six counties. The largest circuit (Ocmulgee) has eight counties. The Atlanta circuit has only one county (Fulton).<sup>26</sup>

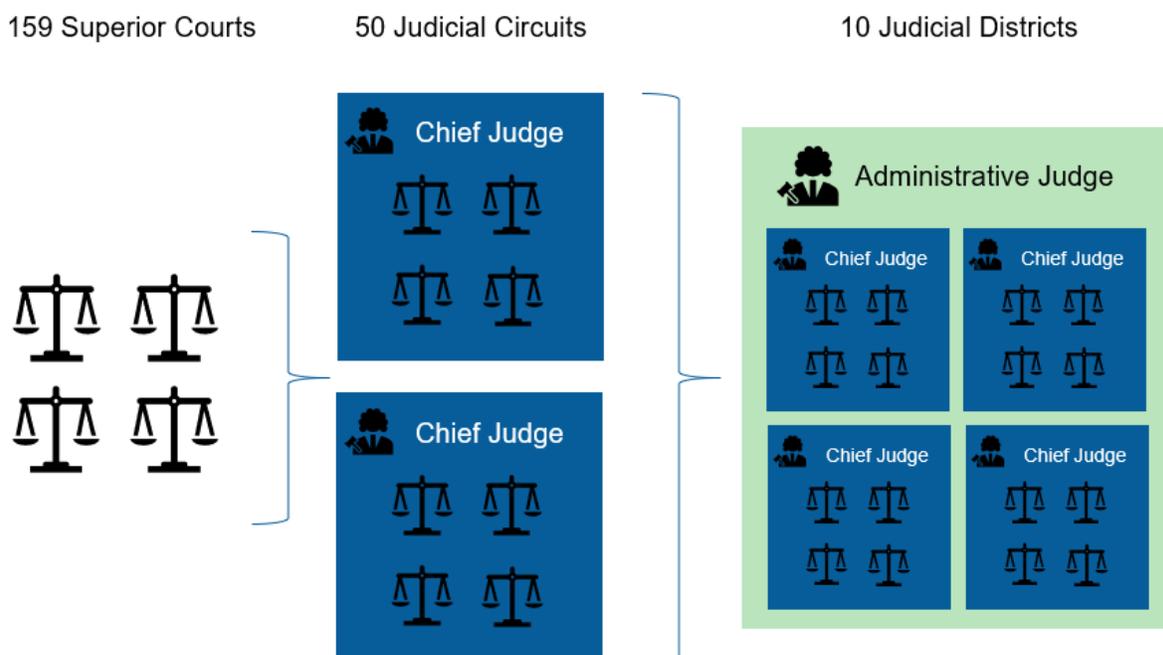
Judicial circuits are further organized into 10 judicial administrative districts. These were created by the legislature in 1976 to have roughly equal population based on the congressional districts in place at the time. Although Georgia currently has 14 congressional districts, the number of judicial administrative districts remains at 10. Judicial circuits may not be split between more than one judicial administrative district.<sup>27</sup> An administrative judge presides over each judicial administrative district<sup>28</sup> and represents the district on the Council of Superior Court Judges and the Judicial Council of Georgia.<sup>29</sup>

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<sup>e</sup> The newest judicial circuit, Columbia Judicial Circuit, is composed of Columbia County and was created by SB 9 during the 2021 legislative session. Columbia County was formerly part of the Augusta Circuit. The new circuit became effective on July 1, 2021.



Figure 4. Diagram of Superior Court Judicial Circuit and District Organization



Note: The chief judge of a circuit handles the administrative tasks for that circuit. The administrative judge provides administrative oversight for the judicial district.

The Council of Superior Court Judges was created by the General Assembly in 1985 to “effectuate the constitutional and statutory responsibilities conferred upon it by law and to further the improvement of the superior courts and the administration of justice.” The council provides administrative services for the superior court judges and the state-paid staff of the superior courts. The council consists of a president, a president-elect, a secretary-treasurer, and the 10 administrative district judges.<sup>30</sup>

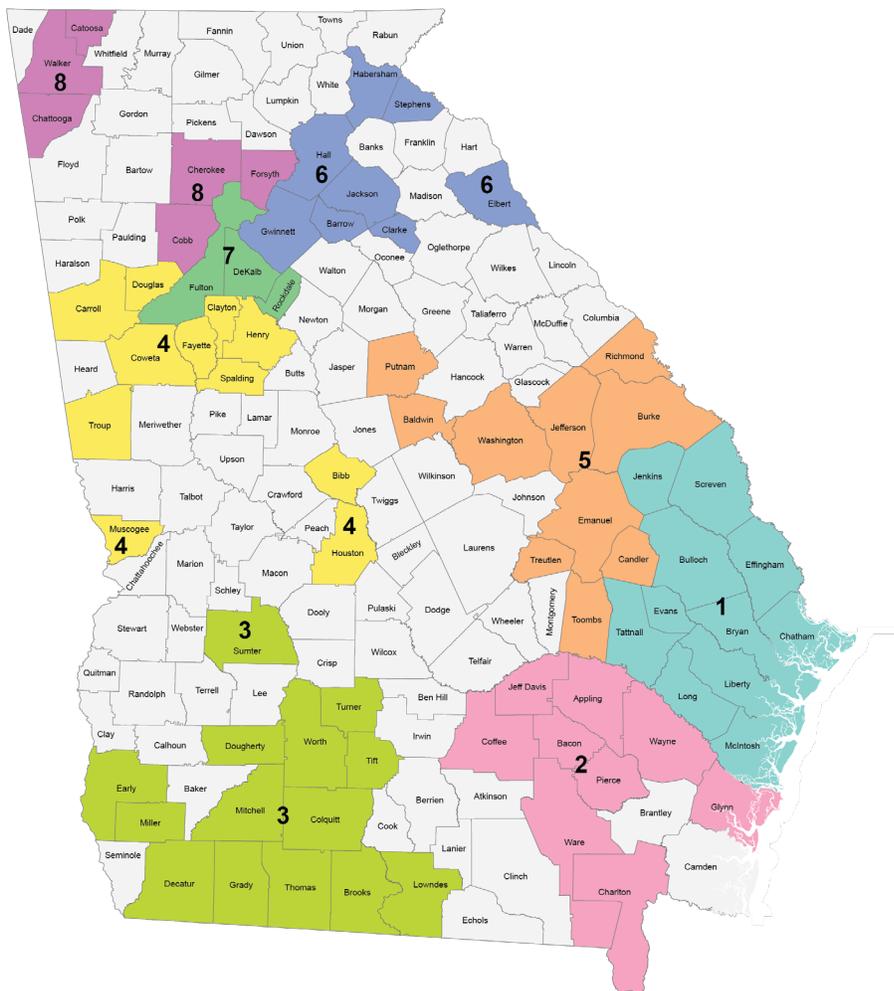
## STATE COURTS

State courts are confusingly named because they are actually county courts. The name derives from their jurisdiction to adjudicate offenses of state laws.<sup>31</sup> They are created by local legislation that must be approved by the General Assembly. A state court serves only the county in which it is located. When a new state court is being considered, state court staff conduct a feasibility study. The county commission must approve the creation of a state court before authorizing

legislation is drafted. Counties typically request the creation of state courts to relieve increasing superior court caseloads and to capture revenue from traffic offenses.

The first state court was created in 1966.<sup>32</sup> Currently 72 of Georgia’s 159 counties have state courts,<sup>33</sup> serving three-quarters of Georgia citizens.<sup>34</sup> Two additional courts—in Barrow and Paulding counties—were added in the 2020 legislative session, to become effective in 2021 and 2022.<sup>35</sup> A total of 130 state court judges currently preside in the 72 counties,<sup>36</sup> with one additional judge to be added in the newest court in 2022.<sup>37</sup> An additional judge was also added to an existing state court, effective in 2022.<sup>38</sup> Nonpartisan state court judges are elected every four years by the voters of the county in which the court is located.<sup>39</sup>

**Figure 5. Map of Counties with State Courts and Districts, 2021**



Source: Council of State Court Judges

State courts share jurisdiction with superior courts over the following matters:

- trial of misdemeanor criminal cases (including possession of one ounce or less of marijuana),
- trial of civil actions with no limit on the amount of damages sought, except those actions where superior courts have exclusive jurisdiction,
- hearing applications for and issuing arrest and search warrants,
- holding courts of inquiry (conducting investigations of public officials in special circumstances),
- punishment of contempt of court, and
- review of decisions of other courts (for example, magistrate courts).<sup>40</sup>

One difference between jury trials in state and superior courts is that state courts permit juries of only six people for misdemeanor trials and civil cases involving claims of \$25,000 or less. For cases involving more than \$25,000, either the plaintiff or defendant may request a 12-person jury.<sup>41</sup>

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The [Council of State Court Judges](#) provides for statewide administration of the state court judges, with the expenses of the council paid from state funds, including state judicial pension benefits through the Georgia Judicial Retirement System.<sup>42</sup> County funds pay for the salaries of judges and all other court expenses.<sup>43</sup>

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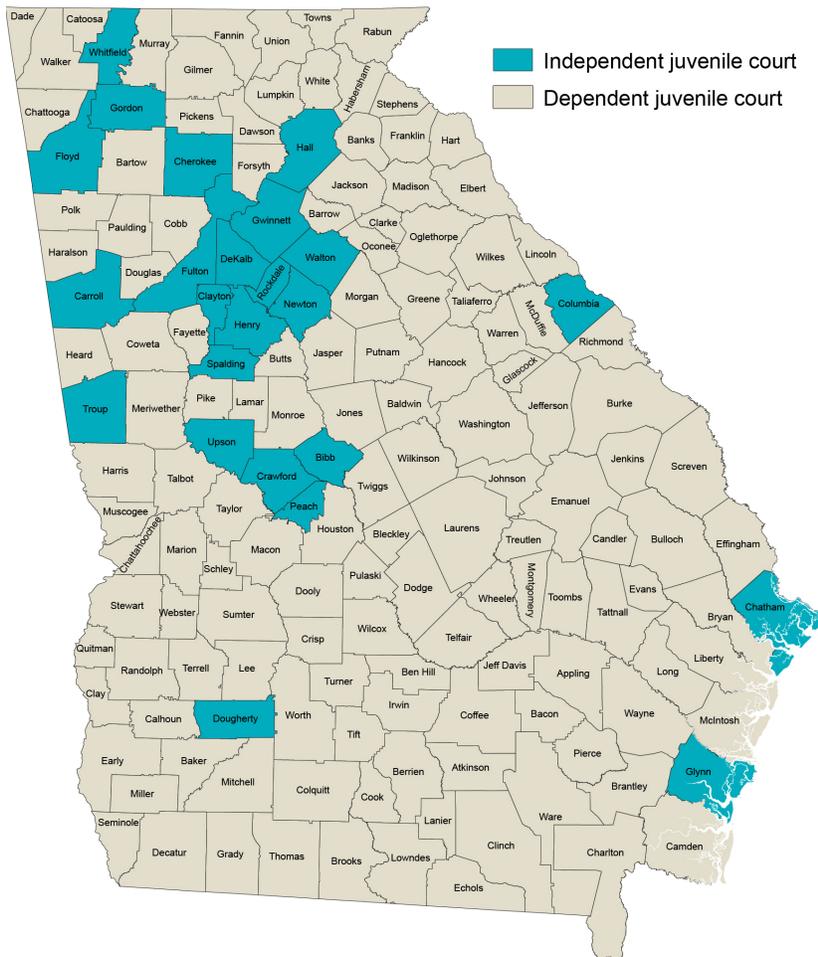
## JUVENILE COURTS

The juvenile court system covers offenses committed by children and youth under the age of 17 (with some exceptions), child dependency issues (removal from and reunification with parents), and children in need of services (formerly called unruly or status offenses, such as truancy and loitering).<sup>44</sup> Prior to the establishment of juvenile courts, juvenile matters were handled in superior court.<sup>45</sup>

Juvenile court judges are appointed by a majority of superior court judges in a circuit, or by the chief superior court judge if the circuit has only two superior court judges.<sup>46</sup> The Rome Circuit is the only circuit that elects its juvenile court judges.<sup>47</sup> Each juvenile court judge serves a term of four years.<sup>48</sup> Juvenile court judges must be attorneys and have practiced law for at least five years.<sup>49</sup> There are currently 98 full-time and part-time juvenile court judges in Georgia.<sup>50</sup>

Georgia has two types of juvenile justice courts: dependent and independent. Dependent courts are funded by the state [Department of Juvenile Justice \(DJJ\)](#) and handle all aspects of the process: intake services, case management, and probation.<sup>51</sup> Dependent courts also report to a central information and reporting system run by DJJ. Georgia has 142 such courts. In comparison, 17 counties have independent courts, which are run and funded by the county they serve. County court employees handle the services provided in independent courts. Independent courts also manage their own information and reporting systems, which are often separate from the system used by the dependent courts.<sup>52</sup>

**Figure 6 Map of Dependent and Independent Juvenile Courts, 2021**



Source: Carl Vinson Institute of Government

Georgia’s juvenile code has existed since 1951, with substantial changes made in 1971 and 2013.<sup>53</sup> In 1994, Senate Bill 440 gave superior courts exclusive jurisdiction over youth 13 to 17 years old who are charged with murder, voluntary manslaughter, rape, aggravated sodomy,

aggravated child molestation, aggravated sexual battery, or armed robbery if committed with a firearm.<sup>54</sup> The list of offenses was later expanded to include second-degree murder, aggravated assault with a firearm against a public safety officer, and aggravated battery against a public safety officer. However, state law now gives more discretion to the district attorney to decline prosecution of youth in superior court.<sup>55</sup>

In 2012, the [Special Council on Criminal Justice Reform](#) recommended changes to the juvenile justice system that were enacted in [House Bill 242](#) in 2013. These changes included the creation of two tiers of designated felonies for youth that allow for restrictive custody in only the most severe cases. More community supervision programs were also recommended.<sup>56</sup>

Juvenile court decisions can be appealed to the Court of Appeals or Supreme Court in the same manner as appeals from superior court.<sup>57</sup>

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The [Council of Juvenile Court Judges](#) provides statewide administrative support to Georgia's juvenile court judges. The council is charged with establishing policies, creating uniform rules and forms, publishing an annual report, recommending legislation, and hiring an executive director.<sup>58</sup> Expenses of independent juvenile courts are funded by counties, with the exception of the council office, salary grants for judges, and state retirement contributions that are provided by the state.<sup>59</sup>

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## PROBATE COURTS

Every county in Georgia has a probate court and a probate court judge. Probate judges are elected by the citizens of their counties for terms of four years, and they may appoint associate judges. To be eligible, candidates must meet certain citizenship and residency requirements, be at least 25 years old, possess a high school diploma or GED, and have no felony convictions. In counties with populations of 90,000 or more, probate court judges must be 30 years old and have practiced law for seven years. In smaller counties, probate court judges are not required to be attorneys. There are currently 187 judges and associate judges of probate courts in Georgia; 43 of the 159 elected probate court judges are attorneys.<sup>60</sup>

Probate courts have jurisdiction over the appointment and removal of guardians of minors, incapacitated adults, and persons deemed incompetent due to mental illness or disability; conservatorships; involuntary commitments for mental health reasons; and all matters relating to wills, trusts, and estates of deceased persons. In some counties, probate judges perform

county government administration duties and duties relating to elections. They administer oaths to public officers, issue marriage licenses, and hear traffic cases, among other duties.<sup>61</sup>

They may also hear cases involving violations of game and fish laws, state park and historic site rules, and boating safety laws. They may hear certain drug and alcohol offenses if the defendant waives a jury trial. They also have jurisdiction over cases involving litter, operation of off-road vehicles, and animal control cases.<sup>62</sup> Georgians meeting the criteria to carry a concealed firearm must apply to probate court for a license.

Some probate courts are permitted to have jury trials in civil cases within their areas of jurisdiction. Procedures are the same as in superior court and appeals are made to the Court of Appeals or Supreme Court. Georgia has 27 such probate courts.<sup>63</sup> There is some overlap between magistrate and probate courts, and in some counties the elected probate court judge also performs duties of the magistrate court. There are currently 34 courts where the probate and magistrate courts are combined.<sup>64</sup>

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The [Council of Probate Court Judges](#) provides statewide coordination of matters affecting probate courts, including training for judges and staff. The expenses of the council are paid with state funds.<sup>65</sup>

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## **MAGISTRATE COURTS**

Magistrate courts are often called “people’s courts” or “small claims court” because citizens often represent themselves without an attorney in cases against other people.<sup>66</sup> Every county has a magistrate court.<sup>67</sup> The general jurisdiction of magistrate court includes civil cases involving claims of less than \$15,000, hearings for arrest and search warrants, nonjury trials for county ordinance violations, dispossessory proceedings and distress warrants (issues in which a landlord evicts a tenant and attempts to recover unpaid rent), foreclosure of liens on abandoned motor vehicles and mobile homes, and trial and sentencing of certain misdemeanor offenses, such as writing bad checks and possession of less than one ounce of marijuana. Magistrates<sup>f</sup> also set bail in certain cases.<sup>68</sup>

Jury trials are not permitted in magistrate court. Punishments are limited to fines of \$1,000 and incarceration for six months, with the magistrate required to allow the offender to serve four

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<sup>f</sup> Magistrate court judges are called magistrates.

months of the sentence on probation. Revocations of probation are limited to two months in jail.<sup>69</sup> Magistrate court decisions can be appealed to state court or superior court.<sup>70</sup>

Unless otherwise provided by law, voters elect a chief magistrate for each county every four years. The chief magistrate then selects other magistrates, with the approval of a majority of the superior court judges of that county. A vacancy in the office of chief magistrate is filled by appointment of a majority of superior court judges, while a vacancy in any other magistrate office is filled by an appointment from the chief magistrate and approval by the superior court judges.<sup>71</sup>

Magistrates have residency and age requirements, but are only required to have a high school diploma or GED. They are not required to be attorneys, but those who are attorneys are not allowed to practice law in their own courts.<sup>72</sup> New magistrates who are not attorneys are required to obtain 80 hours of training within two years of taking office, and to participate in a mentoring program. Some counties have local laws requiring magistrates to be attorneys; others require the chief magistrate to be an attorney. Approximately 50% of the more than 500 magistrates and chief magistrates in Georgia are attorneys.<sup>73</sup>

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The [Council of Magistrate Court Judges](#) provides statewide coordination of magistrates; the expenses of the council are paid through state funds.<sup>74</sup>

Magistrate court salaries and expenses are paid by the counties in which they are located.<sup>75</sup>

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## **MUNICIPAL COURTS**

Municipal courts are created by cities to have jurisdiction over municipal ordinances and property violations. They may impose fines; assign community service; and require defensive driving classes, drug or alcohol evaluations, and treatment as deemed appropriate within the confines of the law. They may impose sentences of up to six months of confinement or probation.

Municipal courts have specific jurisdiction over certain misdemeanor offenses that occur within the municipality, including misdemeanor traffic offenses, driving under the influence of alcohol or drugs, driving on a suspended license, possession of an ounce or less of marijuana, possession of drug objects, operating a motor vehicle without proper insurance or without having a current emissions inspection, misdemeanor shoplifting, having alcohol when

underage or furnishing alcohol to underage persons, criminal trespass, and littering, among others.

Municipal court judges have the same powers as magistrates, but they are usually not elected. Instead, most municipal court judges are appointed by the municipal governing authority for a minimum of one year. An appointed judge may likewise be removed by a two-thirds vote of the governing authority for specific reasons outlined in law.

Municipal court judges are required to be attorneys, but a 2011 law grandfathered in approximately 35 municipal court judges who were not attorneys but were already judges when the law was passed. Municipal court judges are required to obtain 20 hours of training within the first year of becoming a judge and maintain continuing judicial education hours of 12 hours per year.<sup>76</sup> There are currently 380 municipal courts in Georgia and 358 municipal court judges. (Some judges sit for more than one city by appointment.<sup>77</sup>)

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The [Council of Municipal Court Judges](#) provides statewide support and coordination for all municipal court judges. The expenses of the council are paid with state funds.<sup>78</sup>

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## ACCOUNTABILITY COURTS

Accountability courts are specialty courts that operate within one of the trial courts. They can be found in superior court, where they are known as drug courts, mental health courts, or veterans courts. They may also be found in state courts, where they are most often called DUI courts, though state courts may also have mental health, veterans, and drug courts. Family treatment courts are most often found in juvenile courts, but juvenile courts also have drug courts and mental health courts.<sup>79</sup>

Accountability court participants are generally charged with nonviolent felonies and/or misdemeanors and have a diagnosed mental illness and/or co-occurring substance abuse disorder that has resulted in repeated arrests and time in jail. Veterans courts are designed to address the unique issues facing veterans, such as the struggles of returning to society after serving in a war.<sup>80</sup>

All accountability courts share similar methods of treating mental illness and/or co-occurring substance abuse disorders. These methods include intensive counseling, frequent drug and alcohol testing, curfews, supervision, and other requirements to obtain employment and housing, continue mental health medications, avoid further arrests, and meet frequently with

judges and other court staff to assess progress.<sup>81</sup> Accountability court teams include judges, prosecutors, public defenders, law enforcement officers, community supervision officers, treatment providers, coordinators, and case managers.<sup>82</sup>

Most participants are recommended to accountability courts pre-adjudication.<sup>g</sup> If they successfully complete an accountability court program, their charges may be dismissed. However, some participants, as part of their sentence, or post-adjudication, must complete an accountability court program.<sup>h</sup> In that case, if the individual successfully completes the program, the court may reduce or modify the sentence previously imposed.

Accountability courts offer the possibility of alternative sentences or reduced or dismissed charges if participants graduate from one of the programs, which are specifically designed to treat rather than incarcerate, saving tax dollars and reducing recidivism. Numerous studies prove their effectiveness in both regards.<sup>83</sup> Several recidivism studies have shown that “any amount of participation in an accountability court, regardless of completion, leads to lower recidivism.”<sup>84</sup> A recent recidivism<sup>i</sup> study found that fewer than one-quarter of participants who graduated from any accountability court were re-arrested within 24 months of graduation, and fewer than one-third had been re-arrested 36 months after graduation.<sup>85</sup> Nationally, recidivism<sup>j</sup> after prison is approximately 68% within three years.<sup>86</sup>

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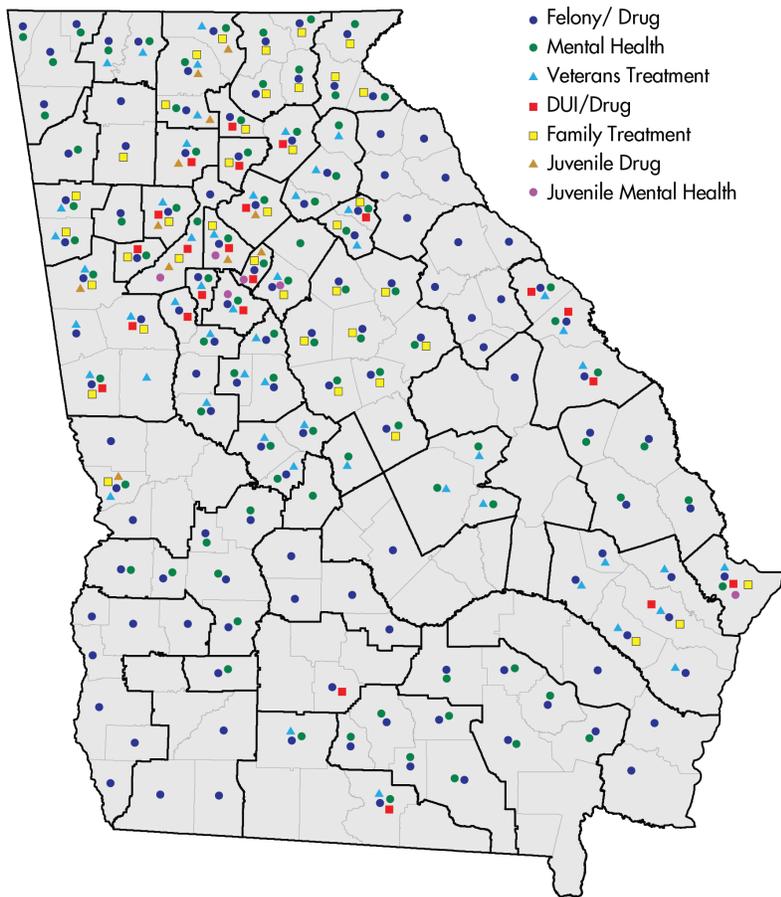
<sup>g</sup> “Adjudication” means a final decision by the court.

<sup>h</sup> All DUI court participants are post-adjudication.

<sup>i</sup> Georgia’s definition of recidivism is “returning to prison or jail within three years of being placed on probation or being discharged or released from a Department [of Corrections] or jail facility” (O.C.G.A. §42-2-11). However, for the purposes of CACJ’s recidivism analysis, arrests only within 12, 24, and 36 months following graduation or termination from an accountability court program were used.

<sup>j</sup> The National Institute of Justice defines recidivism as “criminal acts that resulted in re-arrest, reconviction, or return to prison with or without a new sentence during a three-year period following a prisoner’s release.”

Figure 7. Map of Accountability Courts in Georgia



Note: As of July 1, 2020.

Source: Council of Accountability Court Judges

Accountability courts have existed in Georgia since 1995, and the number of these courts continues to grow. As of July 1, 2020, there were 169 accountability courts in the state: 53 drug courts, 35 mental health courts, 21 veterans courts, 21 DUI courts, and 23 family treatment courts. In addition, there are 16 juvenile drug and mental health courts. Since 2013, accountability courts have served over 26,000 participants.

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The [Council of Accountability Court Judges](#) provides statewide support for accountability courts, including standards, certification, and state grant awards. The council includes all judges who preside over accountability courts, whatever their class of court.<sup>87</sup>

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## PROSECUTING ATTORNEYS

Every judicial circuit has one district attorney who is elected by the people of that circuit for a term of four years. The district attorney represents the state in all criminal cases in the superior and juvenile courts of that circuit, and in all cases appealed from that circuit to the Court of Appeals or Georgia Supreme Court. The district attorney also represents the state in federal court in certain circumstances<sup>88</sup> and brings petitions to validate debt instruments issued by local governments.<sup>89</sup>

The district attorney is responsible for appointing assistant district attorneys, investigators, victim assistance coordinators, and other staff. The district attorney (or an assistant district attorney) must attend court, attend grand juries, draw up indictments, prosecute offenses, attend appeals, advise law enforcement officers on the sufficiency of evidence, assist victims and witnesses through the complexities of the justice system, and ensure victims are aware of their rights.<sup>90</sup>

Whereas district attorneys work primarily in superior and juvenile courts, state courts almost always utilize prosecutors known as solicitors general. However, local law may provide for an assistant district attorney to prosecute cases in state court. Local law may also provide for a solicitor general to serve more than one county in a judicial circuit.

The duties of solicitors mirror those of district attorneys: attend court, attend appellate courts if necessary, review and investigate cases prosecuted in state court, and prosecute in municipal court or probate court if requested by the governing authority. Both district attorneys and solicitors have the authority to decide not to prosecute a case.<sup>91</sup> In magistrate courts, the county attorney or another attorney designated by the county prosecutes cases.<sup>92</sup>

The counties pay for office space, utilities, telephones, supplies, and materials for both district attorneys and solicitors general. District attorneys are considered state employees and their salaries are paid through state funds. Solicitors are paid by the counties they serve.<sup>93</sup>

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The [Prosecuting Attorneys' Council](#) provides statewide coordination of all prosecuting attorneys, including district attorneys, assistant district attorneys, and solicitors. The council creates and disseminates educational materials; sample indictments, warrants, and other common documents; and training. Unlike the councils for judges, which coordinate with the Institute for Continuing Judicial Education, the Prosecuting Attorneys' Council maintains in-house staff to plan and conduct the required continuing legal education for prosecutors. The council also serves as a fiscal office for prosecutors, processing payroll and expense reimbursements for state-paid prosecutors and submitting budget requests to the General Assembly.<sup>94</sup>

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## INDIGENT DEFENSE

Georgia's statewide indigent defense system was created during the 2003 legislative session.<sup>95</sup> Prior to the creation of this system, each of Georgia's 159 counties managed its own individual indigent defense system, with minimal state oversight. The county systems varied, with some having general contracts with local attorneys, others appointing attorneys specific to each case, and others creating county public defender offices. The burden of funding indigent defense fell largely on each county.<sup>96</sup>

The Georgia Public Defender Standards Council was created to ensure that effective legal representation is provided independent of political considerations or private interests.<sup>97</sup> Each of the 50 judicial circuits has one circuit defender appointed by a local panel of attorneys.<sup>98</sup> That circuit defender then hires the assistant public defenders<sup>99</sup> who represent defendants in superior, state, and juvenile courts.<sup>100</sup> Currently, 600 public defenders work in the statewide system. The average annual caseload is 255 per attorney.<sup>101</sup>

If the office of the local circuit defender has a conflict of interest in a case, another attorney in a different circuit defender's office may be appointed, or a local attorney may be hired to represent the defendant.<sup>102</sup> The council also includes an appellate division to handle appeals; an office of capital defender to handle death penalty cases; and an office of mental health advocate to handle cases of defendants who may be incompetent to stand trial or who are found guilty by reason of insanity.<sup>103</sup>

The law permits some counties to "opt out" of the state system as long as they are a single-county judicial circuit, had a system in effect for at least two years prior to the effective date of

the act, and meet certain other staffing and certification requirements.<sup>104</sup> The opt-out circuits are Gwinnett, Bell-Forsyth, Blue Ridge, Cobb, Douglas, and Houston.<sup>105</sup>

To qualify for representation, a defendant must demonstrate indigency as measured by federal poverty guidelines. For example, a person who is single and charged with a felony must show they earned less than \$12,760 per year.<sup>106</sup>

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The [Georgia Public Defender Council](#) was initially created as an agency of the judicial branch. However, in 2007 it was moved to the executive branch. The same bill added language stating that the General Assembly is not obligated to appropriate all the funds collected for indigent defense.<sup>107</sup> Funding for public defense in Georgia is derived from a mix of add-on fees for various criminal fines.

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Table 3. Court Summary

	Superior	State	Juvenile	Probate	Magistrate	Municipal
<b>Number of Courts</b>	159	72	159	159	159	380
<b>Number of Judges</b>	216	130	98	159	666	378
<b>Judge Salary</b>	State funds	County funds	State and county funds	County funds	County funds	Municipal funds
<b>Elected</b>	Every 4 years by residents of circuit	Every 4 years by residents of county	Appointed by majority of circuit superior court judges	Every 4 years by residents of county	Varies by county	Usually appointed by the municipality
<b>Jury Trial</b>	Yes	Yes	No	Certain courts, only for civil cases	No	No
<b>Limit on civil monetary claims</b>	No	No	N/A	N/A	\$15,000	N/A
<b>Jurisdiction</b>	Felonies, misdemeanors, appeals from probate, municipal, and magistrate courts, divorce, adoptions, titles to land	All criminal cases below felony grade, traffic, appeals from magistrate courts	Offenses committed by youth under age 17, child dependency, children in need of services	Wills, trusts, estates, guardianship, conservatorship, involuntary commitment, certain misdemeanors, concealed weapons permits, marriage licenses	Search and arrest warrants, felony and misdemeanor preliminary hearings, county ordinances	City ordinances, traffic violations, certain misdemeanor offenses
<b>Can have state accountability court</b>	Yes	Yes	Yes	No	No	No
<b>Governing Council</b>	Council of Superior Court Judges	Council of State Court Judges	Council of Juvenile Court Judges	Council of Probate Court Judges	Council of Magistrate Court Judges	Council of Municipal Court Judges
<b>Prosecute on behalf of the state</b>	District attorney	Solicitor general or assistant district attorney	District attorney	Solicitor general	County attorney or any other attorney designated by county	City attorney or solicitor
<b>Prosecutor Funding</b>	State funds	County funds	State and county funds	County funds	County funds	Municipal funds
<b>Indigent Defense Funding</b>	State funds	County funds	State and county funds	County funds	County funds	Municipal funds

Note: As of February 2021.

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## End Notes

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- <sup>1</sup> Ga. Const. Art. 6, §, ¶2.
- <sup>2</sup> Bureau of Justice Assistance, Office of Justice Programs, US Department of Justice. 1988, April. *Court Unification Information Guide for the Judiciary, Court Administrators, Concerned Legislators and Other Public Officials, Citizen Court Improvement Organizations and Concerned Criminal Justice Personnel*.
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- <sup>4</sup> Interview with associate legislative director, Association County Commissioners of Georgia. 2020, December 4.
- <sup>5</sup> Judicial Council Administrative Office of the Courts Annual Report, FY 2019, introduction.
- <sup>6</sup> O.C.G.A. §15-5-20.
- <sup>7</sup> Judicial Council Bylaws, Article I.
- <sup>8</sup> *Annual Report FY 2019*. Judicial Council Administrative Office of the Courts. Retrieved from [georgiacourts.gov/wp-content/uploads/2020/01/FY2019-AR.pdf](https://georgiacourts.gov/wp-content/uploads/2020/01/FY2019-AR.pdf)
- <sup>9</sup> Judicial Council Bylaws, Article III.
- <sup>10</sup> Website of the Committee on Access to Justice. Retrieved from [georgiacourts.gov/a2j/](https://georgiacourts.gov/a2j/).
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- <sup>12</sup> HB 927/Act 626, enacted by the 2016 Georgia General Assembly, effective May 3, 2016.
- <sup>13</sup> The Supreme Court of Georgia History. Retrieved from the website of the Supreme Court of Georgia: [gasupreme.us/court-information/history/](https://gasupreme.us/court-information/history/)
- <sup>14</sup> Ga. Const. Art. 6, §6, ¶¶2, 3; HB 927/Act 626, enacted by the 2016 Georgia General Assembly, effective May 3, 2016.
- <sup>15</sup> O.C.G.A. §15-2-4
- <sup>16</sup> Supreme Court of Georgia FY 2021 Strategic Plan submitted to the Office of Planning and Budget.
- <sup>17</sup> Aimee Hadden, public information associate, Supreme Court of Georgia, Script of 2020 Tour Talking Points.
- <sup>18</sup> Georgia Court of Appeals. 2020. *A Citizen's Guide to Filing Appeals in the Court of Appeals of Georgia*. Retrieved from [gaappeals.us/cguide/citizens\\_guide\\_2020new4.pdf](https://gaappeals.us/cguide/citizens_guide_2020new4.pdf)
- <sup>19</sup> Ga. Const. Art. 6, §5, ¶3.
- <sup>20</sup> O.C.G.A §15-3-3.1.
- <sup>21</sup> Georgia Court of Appeals. 2020. *A Citizen's Guide to Filing Appeals in the Court of Appeals of Georgia*. Retrieved from [gaappeals.us/cguide/citizens\\_guide\\_2020new4.pdf](https://gaappeals.us/cguide/citizens_guide_2020new4.pdf)
- <sup>22</sup> Caseload Statistics. Court of Appeals of the State of Georgia. Retrieved from [gaappeals.us/stats/index.php](https://gaappeals.us/stats/index.php)
- <sup>23</sup> Ga. Const. Art. 6, §6, ¶3.
- <sup>24</sup> O.C.G.A. §15-2-4.
- <sup>25</sup> Georgia Constitution of 1777, Art. 36.
- <sup>26</sup> O.C.G.A. §15-6-1.
- <sup>27</sup> O.C.G.A. §15-5-2.
- <sup>28</sup> O.C.G.A. §15-5-3.
- <sup>29</sup> O.C.G.A. §§15-6-34; 15-5-20; Supreme Court Order December 20, 2019.
- <sup>30</sup> O.C.G.A. §15-6-34.
- <sup>31</sup> Interview with executive director, Council of State Court Judges, November 5, 2020.
- <sup>32</sup> The City Court of Macon became the State Court of Bibb County; *Georgia Laws*, 1966, p. 3302.
- <sup>33</sup> Judicial Council/Administrative Office of the Courts Annual Report FY 2019, p. 52.
- <sup>34</sup> Webpage of Council of State Court Judges: [georgiacourts.gov/statecourt/](https://georgiacourts.gov/statecourt/)
- <sup>35</sup> HB 1157, Act 347, 2020 legislative session, effective January 1, 2021; HB 1119, Act 339, 2020 legislative session, effective January 1, 2021.
- <sup>36</sup> Judicial Council/Administrative Office of the Courts Annual Report FY 2019, p. 52.
- <sup>37</sup> HB 1157, Act 347, 2020 legislative session, effective January 1, 2021; HB 1119, Act 339, 2020 legislative session, effective January 1, 2021.
- <sup>38</sup> SB 508, Act 397, 2020 legislative session, effective January 1, 2022.

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- <sup>39</sup> O.C.G.A. §15-7-20 (b).
- <sup>40</sup> O.C.G.A. §15-7-4.
- <sup>41</sup> O.C.G.A. §§15-12-122, 15-12-125.
- <sup>42</sup> O.C.G.A. §15-7-26.
- <sup>43</sup> O.C.G.A. §15-7-22.
- <sup>44</sup> O.C.G.A. Title 15, Chapter 11.
- <sup>45</sup> Interviews with executive director, Council of Juvenile Court Judges, September 25 and November 5, 2020.
- <sup>46</sup> O.C.G.A. §15-11-50.
- <sup>47</sup> Ga. L. 1982, p. 4190, approved April 12, 1982.
- <sup>48</sup> O.C.G.A. §15-11-52.
- <sup>49</sup> O.C.G.A. §15-11-51.
- <sup>50</sup> Webpage of the Council of Juvenile Court Judges: [georgiacourts.gov/cjcj/](http://georgiacourts.gov/cjcj/)
- <sup>51</sup> Georgia Council on Criminal Justice Reform, 2012 December. *Report of the Special Council on Juvenile Justice Reform for Georgians*. Retrieved from [dcs.georgia.gov/important-links/georgia-council-criminal-justice-reform](http://dcs.georgia.gov/important-links/georgia-council-criminal-justice-reform)
- <sup>52</sup> Serving Youth in Newton County. 2013, September 12. *Models for Change: Systems Reform in Juvenile Justice Initiative, System Integration to Improve Outcomes for Dually-Involved Youth*. Retrieved from [rfknrcjj.org/images/PDFs/Newton-County-Dual-Status-Youth-Initiative-Site-Manual-2013.pdf](http://rfknrcjj.org/images/PDFs/Newton-County-Dual-Status-Youth-Initiative-Site-Manual-2013.pdf)
- <sup>53</sup> Mark H. Murphy. 2020. *Georgia Juvenile Practice and Procedure with Forms*. Thomson Reuters, p. 6; HB 242, Act 127, Effective January 1, 2014.
- <sup>54</sup> SB 440, Act 1125, effective May 1, 1994.
- <sup>55</sup> O.C.G.A. §15-11-560.
- <sup>56</sup> Report of the Special Council on Criminal Justice Reform for Georgians, December 2012, pp. 14–18.
- <sup>57</sup> O.C.G.A. §15-11-35.
- <sup>58</sup> O.C.G.A. §15-11-58.
- <sup>59</sup> O.C.G.A. §15-11-54.
- <sup>60</sup> Interview with executive director, Council of Probate Court Judges, October 13, 2020.
- <sup>61</sup> O.C.G.A. §15-9-30.
- <sup>62</sup> O.C.G.A. §§15-9-30.3 through 15-9-30.9.
- <sup>63</sup> O.C.G.A. §§15-9-121 through 15-9-127; interview with executive director, Council of Probate Court Judges, October 13, 2020.
- <sup>64</sup> O.C.G.A. §15-9-63.1; interview with executive director, Council of Probate Court Judges, October 13, 2020.
- <sup>65</sup> O.C.G.A. §15-9-16.
- <sup>66</sup> Webpage of Council of Magistrate Court Judges. Retrieved from [georgiamagistratecouncil.com](http://georgiamagistratecouncil.com)
- <sup>67</sup> O.C.G.A. §15-10-1.
- <sup>68</sup> O.C.G.A. §15-10-2.
- <sup>69</sup> O.C.G.A. §15-10-60.
- <sup>70</sup> O.C.G.A. §15-10-41.
- <sup>71</sup> O.C.G.A. §15-10-20.
- <sup>72</sup> O.C.G.A. §15-10-22.
- <sup>73</sup> Interview with executive director, Council of Magistrate Court Judges, October 6, 2020.
- <sup>74</sup> O.C.G.A. §15-10-7.
- <sup>75</sup> O.C.G.A. §§15-10-5, 15-10-23.
- <sup>76</sup> O.C.G.A. §§36-32-1.1, 36-32-27.
- <sup>77</sup> Interview with trial court liaison, October 7, 2020.
- <sup>78</sup> O.C.G.A. §§36-32-40.
- <sup>79</sup> Carl Vinson Institute of Government, University of Georgia. 2018, October. *Council of Accountability Court Judges Processes and Outcomes*.
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<sup>83</sup> Ibid.

<sup>84</sup> Carl Vinson Institute of Government, University of Georgia. 2018, October. *Executive Summary of the Council of Accountability Court Judges Processes and Outcomes*. Retrieved from [cacj.georgia.gov/process-outcomes-report](http://cacj.georgia.gov/process-outcomes-report)

<sup>85</sup> Council of Accountability Court Judges. 2021, January 11. *Recidivism Analysis Report by Accountability Court Type, 2013–2019*.

<sup>86</sup> Alper, Mariel, and Joshua Markman. 2018, May. *2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005–2014)*. Bureau of Justice Assistance, Office of Justice Program, US Department of Justice. Retrieved from [bjs.ojp.gov/content/pub/pdf/18upr9yfup0514.pdf](http://bjs.ojp.gov/content/pub/pdf/18upr9yfup0514.pdf)

<sup>87</sup> O.C.G.A. §15-1-18.

<sup>88</sup> Georgia Constitution of 1983, Art. 6, §8, ¶1; O.C.G.A. §§15-18-6.1, 15-18-7.

<sup>89</sup> O.C.G.A. §36-82-21

<sup>90</sup> O.C.G.A. §§15-18-14, 15-18-14.1, 15-18-14.2, 15-18-6.

<sup>91</sup> O.C.G.A. §§15-18-66, 15-18-9.

<sup>92</sup> O.C.G.A. §15-10-62

<sup>93</sup> O.C.G.A. §§15-18-23, 15-18-73, 15-18-71.

<sup>94</sup> O.C.G.A. §§15-18-40, 15-18-45.

<sup>95</sup> HB 770, Act 32, effective July 1, 2003.

<sup>96</sup> Georgia State University Law Review. 2012. *Criminal Procedure, Legal Defense of Indigents: Create the Georgia Public Defender Standards Council to Set State-Wide Standards for the Legal Representation of Indigent Defendants and Provide Budget Authority to Such Council*. Vol 20.

<sup>97</sup> O.C.G.A. §17-12-1.

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<sup>100</sup> Interview with chief legal officer, Georgia Public Defenders Council, November 13, 2020.

<sup>101</sup> Interview with chief legal officer, Georgia Public Defenders Council, November 19, 2020.

<sup>102</sup> O.C.G.A. §17-12-22.

<sup>103</sup> Interview with chief legal officer, Georgia Public Defenders Council, November 13, 2020; O.C.G.A. §§17-12-11, 17-12-12.

<sup>104</sup> O.C.G.A. §17-12-36.

<sup>105</sup> Interview with chief legal officer, Georgia Public Defenders Council, November 13, 2020.

<sup>106</sup> Interview with chief legal officer, Georgia Public Defenders Council, November 13, 2020.

<sup>107</sup> SB 139, Act 22, Effective July 1, 2007.