ARTICLE 36

The Courts

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THE FRAMEWORK OF North Carolina's court system is established in Article IV, the judicial article, of the state constitution, which was substantially revised in 1962. This article calls for a unified statewide and state-operated General Court of Justice, which is comprised of three divisions: the Appellate Division (which includes the Supreme Court and the Appellate Division), the Superior Court Division, and the District Court Division.

Virtually all current operating costs of the General Court of Justice are borne by the state, and it employs all those assigned to the judicial system. (Some local personnel, such as bailiffs, assist the courts, but are not, strictly speaking, court employees.) However, local governments—primarily the counties—must provide appropriate and adequate space as well as furniture for those functions of the court system that are carried out at the local level. These include practically all operations of the system, except its central administration and the work of the appellate courts. Thus the court system is a major governmental function carried on largely at the level of the county and housed at its expense. For more information about the county's responsibility for court operations, see the discussion of that subject at the end of this article.

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History

The current structure of the court system, in its most important organizational principles, dates back to the 1950s and 1960s. During a fifteen-year period beginning around 1955, the organizational structure of that period was studied, the resulting new recommended structure was approved by the people as they approved a series of constitutional amendments, and the new structure was implemented across the state. The final counties came under the new system in December 1970, fifteen years after the initial studies began.

What were the organizational principles that directed that reform effort? There are several that were important.

- The trial court system of the 1950s was largely a local system, with almost every county having a slightly different structure. The reformed court structure eliminated all those local courts and replaced them with a system that was state funded in almost all respects, and for administrative purposes was unified into a single General Court of Justice.
- The trial court system of the 1950s had unique jurisdictional rules for each local court, the costs charged were different and the methods of selection for judges and justices of the peace varied from county to county. The reformed court structure had uniform jurisdictions, cost structures, and methods of selection for all judicial officials.
- The court system of the 1950s compensated lots of officials from the fees they collected, and in criminal cases, only those found guilty were assessed fees. The reformed court structure made all court officials state employees, paid only by salaries.
- The court system of the 1950s had no central administration, since counties and cities provided most of the funding. The reformed court structure is administered by a state agency, the Administrative Office of the Courts.

The result of that sustained reform effort is a system that has as its guiding principle the notion that a person who seeks justice from the courts should find that the matter is heard by a person who has the same powers, is selected in the same way, and who has no financial stake in the outcome, regardless of where that person may live in North Carolina. In short, the goal is equal justice for all, in small towns and large cities; in the east and the west; in mountains and on the coast. The remainder of this article is a brief description of that organizational structure, as it was suggested by the court reform efforts of the 1950s and 1960s, and as it has been modified since then.

Appellate Division

Supreme Court

The supreme court has seven justices (G.S. Ch. 7A, Subchapter II). Justices (and all judges) must be lawyers and may not practice law while serving as a judge. They are elected in statewide nonpartisan elections for eight-year terms. Meeting as a body in Raleigh, the court hears oral arguments by attorneys representing the various parties in cases appealed from the lower courts. It is also authorized to meet in up to two sessions per year in the Old Chowan County Courthouse in the Town of Edenton. The supreme court does not have a jury, and it makes no determinations of fact; it considers cases on the written record of the trial only, and it decides questions of law. Its opinions (decisions) are printed in bound volumes and become state law to the same extent as enactments of the General Assembly.

The supreme court primarily decides cases involving questions of constitutional law, legal questions of major significance to the state as a whole, or murder cases including a sentence of death. These cases may already have been decided in the court of appeals or may have come to the supreme court directly from the trial court. The supreme court also must hear cases heard by the court of appeals in which one of the judges hearing the case dissents from the position taken by the majority.

Court of Appeals

The court of appeals is composed of fifteen judges who are elected in the same manner and for the same number of years as the justices of the supreme court. Court of appeals judges, however, sit and render decisions in panels of three. Panels are authorized to convene in various localities throughout the state, although they usually do so in Raleigh. Like the supreme court, this court decides only questions of law, including whether the trial procedure was free of error that was prejudicial to the appellant.

The court of appeals was created in 1967 to relieve the supreme court of a portion of its case load, which had become more than it could reasonably handle. Unlike the supreme court (which is required to hear only certain kinds of cases), the court of appeals initially hears and decides all appealed cases, except those that go directly to the supreme court. No matter what the issue, every appellant has a right to be heard by at least one of these appellate courts, except in one instance: a defendant who pleads guilty to a criminal charge in the superior court may have his conviction reviewed only by petitioning the court of appeals for a *writ of certiorari*. It is up to that court to decide whether to issue the writ and hear the case.

Operation of the Appellate Courts

The supreme court is housed in the Justice Building, across the street from the southeast corner of the capitol. The court of appeals is located in the Ruffin Building, similarly situated, but on the southwest corner. Both courts are supported by the Supreme Court Library, housed primarily in the Justice Building, and each has a clerk, who is that court's administrative officer. The opinions of each court are prepared for publication by an appellate division reporter. Each justice or judge has two research assistants, who must be law school graduates.

When a vacancy arises in the membership of the supreme court or the court of appeals other than at the end of a judge's term—usually through death or midterm retirement—the governor may fill the vacancy by an appointment effective until the next general election. Vacancies often occur in this fashion. At the general election, the incumbent appointee almost always runs for the office. Appellate judges (and challengers) may receive public financing for their elections, as provided by Article 22D of Chapter 163 of the General Statutes. Appellate judges may be removed by impeachment or by the appellate courts (the supreme court in the case of a court of appeals judge and the court of appeals for a supreme court justice) on recommendation of the Judicial Standards Commission, which is discussed later in this article.

Justices of the supreme court and judges of the court of appeals are required to retire by age seventy-two, but they may do so earlier. A judge retiring before he or she reaches age seventy-two can become an "emergency" judge, and may be recalled to active service for temporary duty on the court from which he or she retired (a retired supreme court justice can also serve in a similar capacity on the court of appeals). The governor issues commissions to emergency justices and judges that are valid until the holder reaches age seventy-two. After that age, a judge may continue to serve temporarily as a "recalled retired" judge. The compensation and jurisdiction are the same for both kinds of temporary service.

Superior Court Division

Organization

The Superior Court Division is comprised of the superior court, which is the trial court for most cases involving a jury. At least two sessions of superior court for the trial of cases involving a jury are held each year in each county of the state; in the busiest counties, several judges conduct sessions each week. The state is currently divided into judicial districts and divisions (G.S. Ch. 7A, Subchapter III).

The district structure for superior courts is complicated. In January of 2006, there were sixty-six districts,[1] and in each of those districts a specified number of judges must reside in and be elected from that district (the number ranges from one to three). Districts are generally established based on geographical considerations, caseload, and population, but the "one person, one vote" rules that govern the establishment of legislative districts do not apply to judicial

1. S.L. 2006-96, effective January 15, 2007, divides District 13 into District 13A (Bladen and Columbus counties) and District 13B (Brunswick county). After this act becomes effective, there will be sixty-seven districts.

Table 36-1. *Superior Court Districts*

Total	67
Districts with same boundaries for administrative and electoral purposes	41
Districts that exist for electoral purposes	26
Sets of districts (groups of electoral districts combined to create administrative unit)	8
Total number of administrative districts	48

Table 36-2. *Numbers of Court Officials, 2007*

Superior Court Judges	109 (95 regular judges and 14 special judges)
District Court Judges	221
Magistrates	Approximately 700

districts.[2] Some of those districts are composed of part of one county, others are composed of a single county, a few are composed of parts of two counties, and a few are composed of several counties. (The 1st Judicial District, in the northeastern part of the state, has seven counties.) Some of the districts serve only as units for election and are grouped with other districts to form a single administrative unit. Those grouped districts are called "sets of districts." For more details on the number of districts in each category see Table 36-1. The largest of those units, District 26A-C (in Mecklenburg County) elects seven judges. Many of the districts have only one resident judge. The forty-eight administrative judicial districts are grouped into eight divisions (see Figure 36-1).

Judges

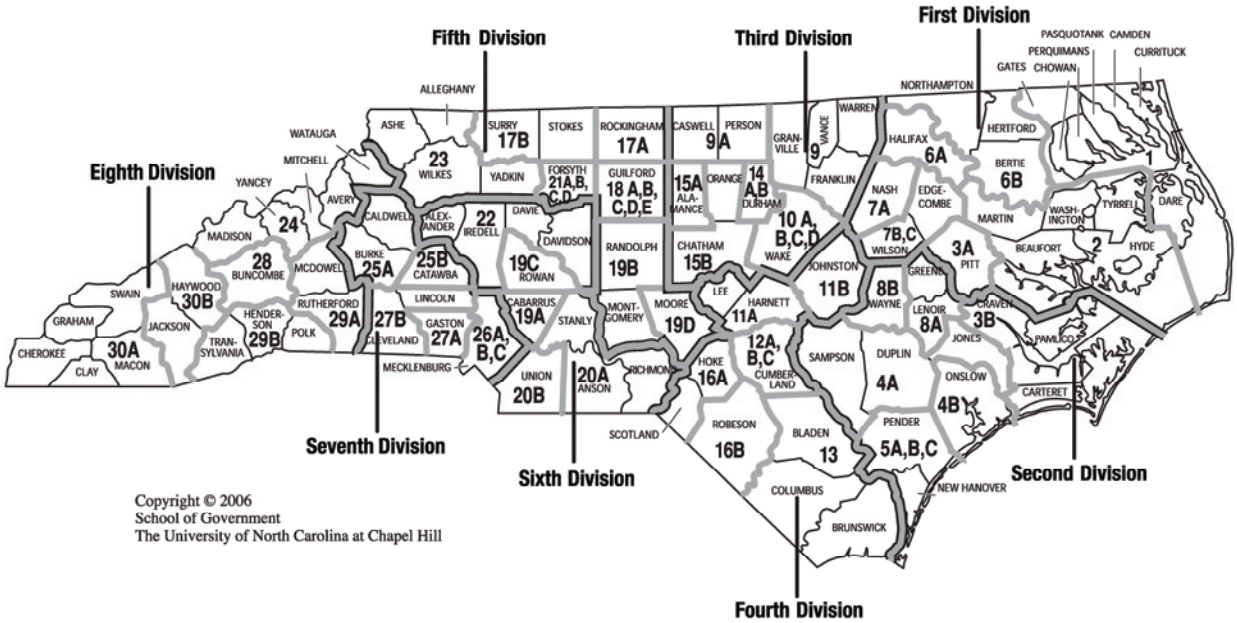
The regular resident superior court judges (in January 2006 there were ninety-five) are nominated in nonpartisan primaries by the voters of the district in which they live (see Table 36-2). They are elected in nonpartisan elections by those same voters for eight-year terms. In addition, there are fourteen special superior court judges appointed by the governor. Three of those special judges are designated by rule of the supreme court as a Special Superior Court for Complex Business Cases, and his or her caseload is composed almost exclusively of such cases assigned to him or her by the chief justice. The terms of special judges are dependent on the act of the legislature establishing the judgeship, and are currently set at five years. Special judges may reside anywhere in the state. The number of judges at a particular time is specified by the General Assembly on the basis of the volume of judicial business. In each judicial district, the regular resident judge with the longest continuous service on the superior court is designated as the senior resident superior court judge. That judge has many administrative powers and duties related to the management of the superior courts in that district.

All superior court judges, whether resident judges or special judges, serve full time, and may not practice law. Vacancies in resident judgeships are filled by appointment of the governor until the next general election.

North Carolina's constitution requires regular resident superior court judges to rotate, or "ride circuit," from one district to another within their divisions. In a rotation cycle, each regular resident judge holds court for six months in each district for each judgeship authorized for the district. Thus when a judge rotates to a district that has two, three, four, or five resident judges, the rotation period in that district is lengthened accordingly: to twelve, eighteen, twenty-four, or thirty months served in six-month segments, although those six-month segments may not be served in continuous order, and the percentage may not be exact due to special assignments either at home or away from home. Many

2. As of August 2006, a pending case in the Wake County Superior Court challenged the population allocations to the districts in Wake County. It had not been finally decided as of the printing of this article.

Figure 36-1. *Superior Court Administrative Judicial Districts*



regular resident judges thus spend months holding court over 100 miles from their homes. The extent to which North Carolina rotates the judges of its major trial courts is unique among the states, although the distances required were reduced in 2000 when the number of divisions was increased from four to eight.

Special superior court judges are assigned by the Chief Justice of the supreme court to hold court in any county where they may be needed, without regard to district of residence or rotation requirements. Theoretically, a special judge could sit in each of the 100 counties of the state over the years. In practice, special judges are usually appointed so that they come from all parts of the state; and, insofar as possible, they are assigned to counties reasonably close to their residences.

Retirement rules for superior court judges are similar to those for Appellate Division justices and judges. Those who retire before reaching the mandatory retirement age of seventy-two can become "emergency" judges and as such may be assigned by the Chief Justice to temporary service on the superior court bench until age seventy-two. A judge who is older may continue to serve temporarily as a "recalled retired" judge. The compensation and jurisdiction are the same for both kinds of temporary service. A retired judge who engages in private legal practice is not eligible for this temporary service, although many retired judges do serve as mediators or arbitrators and still serve as judges on a temporary basis.

Superior court judges may be removed by impeachment, or by the Supreme Court upon recommendation of the Judicial Standards Commission (see the section "Judicial Standards Commission," later in this article).

Jurisdiction

Civil

Civil jurisdiction is concurrent between the two trial divisions (superior and district) of the General Court of Justice (G.S. Ch. 7A, Art. 20, 22). The "proper" division, however, for cases that involve $10,000 or less in controversy is the District Court Division; for cases over that amount, the Superior Court Division. Normally this $10,000 dividing line is followed, but by consent of the parties and for reasons of speed or convenience, cases may be filed and tried in the "improper" division. No such case is ever "thrown out of court" for lack of jurisdiction, but on request a superior court judge may transfer it to the proper division.

Exceptions to the general rule that the amount in controversy determines the proper forum arise in certain specific subject-matter categories. For example, civil domestic relations matters (divorce and custody/support of children) are properly the business of the district court, while the superior court is the proper forum for constitutional issues, special proceedings, corporate receiverships, and reviews of certain administrative agency rulings. The clerk of superior court (rather than a superior or district court judge) handles probate of wills and appointment of guardians, and in

Table 36-3. *District Court Districts*

Total	43
Districts with same boundaries for administrative and electoral purposes	39
Districts that exist for electoral purposes	4
Sets of districts (groups of electoral districts combined to create administrative unit)	2
Total number of administrative districts	41

doing so performs the functions performed by probate judges in many other states. Civil cases involving amounts not over $5,000 may, under certain conditions, be assigned to a magistrate for trial. (Clerks of court and magistrates are discussed later in this article.)

Criminal

The superior court hears cases involving *felonies* (serious crimes), *misdemeanors* (less serious crimes), and *infractions* (noncriminal law violations such as minor traffic cases). Misdemeanor and infraction cases are normally heard first by the district court, but trials by jury of those matters, and all dispositions of felony cases, occur only in the superior court. Defendants are tried by a jury of twelve. If the charge is a felony, the process is usually begun by an indictment issued by a grand jury, composed of eighteen members. A defendant may waive the indictment process, except in capital (potential death sentence) cases. The trial by jury cannot be waived, unless the defendant chooses to dispense with trial altogether and plead guilty. Trial of misdemeanors and infractions that are appealed from district court is *de novo*—that is, the case is tried anew, without regard to the proceedings in the original trial court. About 30 percent of the superior court's criminal caseload consists of such appeals from the district court.

District Court Division

Organization

The District Court Division is divided into forty-three judicial districts (see Figure 36-2) (G.S. Ch. 7A, Subchapter IV). Most of those districts are used as units for elections and for administration of the courts except in two places (Districts 9 and 9B and 20B and 20C). These two districts are combined into a set of districts for administrative purposes (see Table 36-3 for more information). Like the superior court, the district court sits in the county seats. It may also convene in certain other cities and towns specifically authorized by the General Assembly. Most counties have no additional seats of court, but a few have several; the present total number is forty-one (a table in G.S. 7A-133 lists all the additional seats).

District court judges serve an entire district. Unlike judges in the superior court, they do not hold court out of their district of residence, unless specially assigned by the Chief Justice of the supreme court for a particular session of court.

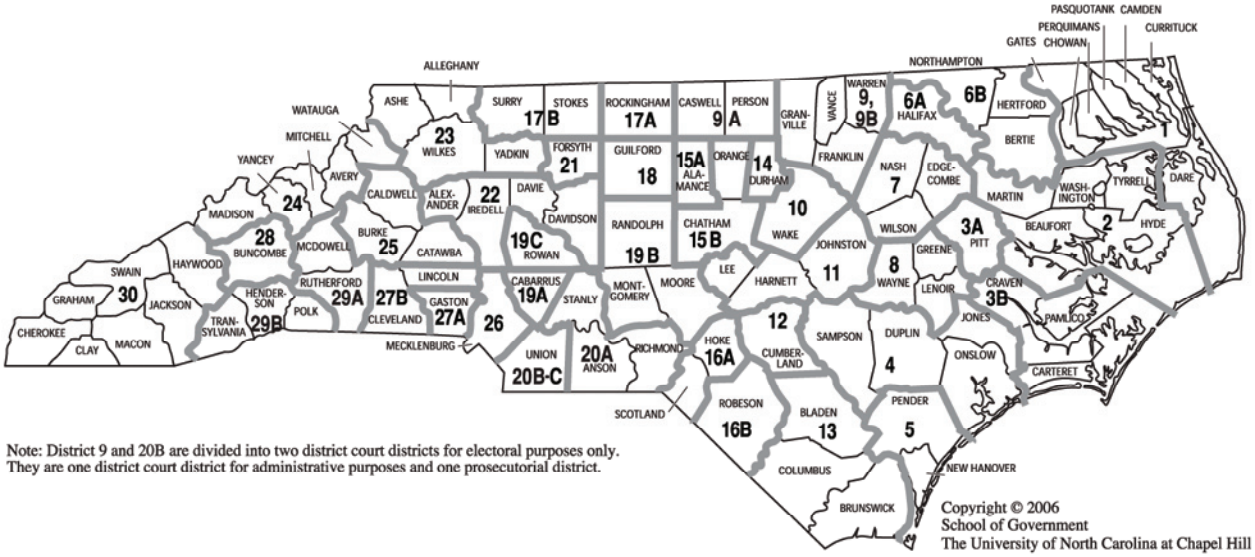
Judges

District court judges, in the number authorized by the General Assembly (204 in January 2006, but effective January 2007, the number is raised to 221), are elected in nonpartisan, district elections for four-year terms. They must be lawyers, serve full time, and may not practice law. The state constitution requires that judges be residents of the district. While that requirement has generally been interpreted to allow residents of any county in a district to seek election for any judgeship, in two districts (11 and 13) the legislature has required candidates for each judgeship to come from specified counties—in District 13, for example, for one judgeship only candidates from Bladen County may run for the judgeship, but voters from all three counties in that district may vote for the judgeship.

Each district has from two to seventeen judges, depending on population and geography. Specialization by subject matter (for example, juvenile or domestic relations cases) is encouraged by law, but can be achieved to a significant degree only in those districts with several judges; in less populous counties, district court judges must be generalists.

The Chief Justice of the supreme court appoints one judge in each district as chief district judge. Their responsibilities include assigning themselves and the other judges in their districts to sessions of court, prescribing the times and places at which magistrates will discharge their duties, and assigning civil ("small claims") cases to magistrates

Figure 36-2. *North Carolina District Court Districts (effective June 30, 2006)*



for trial. Chief district judges are required to meet at least once a year to discuss mutual problems, make recommendations concerning improvement of the administration of justice, and promulgate a schedule of minor traffic, alcohol, boating, littering, fish, game, and parks offenses for which clerks of court and magistrates may accept guilty pleas.

Vacancies in the office of district court judge are filled by the governor for the remaining unexpired term from nominations submitted by the district bar (if submitted within four weeks after the vacancy occurs). Retirement and removal of district judges are governed by the same principles that pertain to superior court judges.

Magistrates

Magistrates for each county are appointed for two-year terms by the senior regular resident superior court judge, based on nominations of the clerk of superior court (G.S. Ch. 7A, Art. 16). Magistrates are officers of the district court and they are subject to supervision by the chief district court judge in nondiscretionary judicial matters and by the clerk in clerical matters. Magistrates serve only in their county of residence, subject to special assignments. They are full-time or part-time officials, as determined by the chief district judge and the Administrative Office of the Courts (the state agency responsible for court administration), and their salaries, which are paid by the state, vary with their educational levels and length of service. Very few are lawyers. All magistrates appointed after July 1, 1994, must either be college graduates or must have an associate degree and four years of experience in a related field. New magistrates must also complete a two-week training course during their first two-year term.

The minimum numbers of magistrates allowed for a county are fixed by law (see Table 36-2). If the minimum quota is inadequate and if funds are available, additional ones may be authorized by the Administrative Office of the Courts on recommendation of the chief district judge. A vacancy in the office of magistrate is filled for the remaining unexpired term in the same manner as the original appointment was made. After a formal complaint establishing grounds to remove a magistrate (basically the same grounds applicable to judges), a superior court judge may remove the magistrate after a hearing. The magistrate has the right to appeal to the court of appeals.

Jurisdiction

Civil

As noted in the discussion of the superior court's civil jurisdiction, most jurisdiction of this type is held concurrently by the superior and district courts (G.S. Ch. 7A, Art. 20, 22). Domestic relations cases are an exception, however. They are heard in the district court regardless of the amount of money involved. When large monthly child-support awards are entered or large amounts of marital assets are distributed on divorce, a district court's orders can involve millions of dollars.

Juvenile

The district court also has jurisdiction over juvenile matters. These cases concern children under the age of eighteen (sixteen for delinquent children) who are delinquent, undisciplined, dependent, neglected, or abused. Delinquents are children who have committed acts that, if committed by adults, would be crimes or infractions. Undisciplined children are primarily those who are beyond parental control, or truant from school, or both (both these categories are defined in G.S. 7B-1501). The dependent, neglected, and abused groups are self-explanatory (these categories are defined in G.S. 7B-200).

There are really two kinds of juvenile cases: those in which children have committed an offense, an act of truancy, or something similar (delinquent and undisciplined cases); and those in which children have been, or are threatened with being, harmed, and the court is seeking to protect them (abuse, neglect, and dependency cases). Separate procedures are used for each of the two kinds of cases, with the first kind using procedures similar to the procedures used in criminal court, and the second using procedures designed to promote the protection of the child.

All proceedings in juvenile court are begun by petition (documents similar to the warrants or indictments used in adult criminal cases, and to the complaints used in other civil cases). The hearing conducted by the judge on the petition is less formal than in other kinds of cases. Before a hearing to determine either the child's status or what disposition should be made of the case, a court counselor (juvenile probation officer) or social services official may investigate both the matter alleged in the petition and the child's background, and make findings for the judge's consideration. The judge's authority in delinquency cases ranges from placing children on probation to confining them in state institutions. In abuse, neglect, and dependency cases, the judge has wide latitude in deciding how to protect children. No juvenile cases are heard by a jury.

Involuntary Commitment

The district court has jurisdiction over the involuntary commitment of mentally ill persons, inebriated individuals, and alcoholics to mental health and alcoholic treatment facilities.

Criminal

The criminal jurisdiction of the district court is limited in felony cases. Since they must be tried or otherwise disposed of in the superior court, the district court only has the authority to conduct preliminary hearings to determine whether there is probable cause (that is, a good reason exists for believing that the defendant is probably guilty) to bind the defendant over to the superior court for trial. If all parties (and the judges) consent, a district court judge may accept a guilty plea to the two lowest levels of felonies (Classes H and I) and enter a judgment in the case. In misdemeanor and infraction cases, the district court has exclusive original jurisdiction that, with respect to very minor offenses, it shares with the magistrate.

Magistrate

The magistrate's jurisdiction is both civil and criminal. This official's authority in criminal matters is limited to the following:

- trying worthless-check cases or accepting guilty pleas, when the amount of the check is $2,000 or less
- accepting guilty pleas to other minor misdemeanors for which the maximum punishment is thirty days' confinement or a $50 fine
- in cases involving minor traffic, alcohol, boating, and fish and game offenses, accepting guilty pleas and imposing a fine fixed by a uniform statewide schedule promulgated by the Conference of Chief District Judges

In addition, magistrates have the important duties of issuing arrest and search warrants and setting conditions for release on bail.

The magistrate is also authorized to try small civil claims that involve up to $5,000 in money value, including summary ejectment (landlord's action to oust a tenant) cases, on assignment of the chief district judge. The plaintiff must request that the claim be assigned to a magistrate and at least one defendant must reside in the county in which the action is filed. (If the chief district judge does not assign a small claim to a magistrate within five days after the plaintiff so requests, the claim is tried in district court as a regular civil case.)

The typical small claim is for recovery of personal property, for money for goods sold or services rendered, or for summary ejectment, and the parties are not usually represented by attorneys. Often the claim is uncontested. Simplified trial procedures are followed. The magistrate's judgment has the same effect as a judge's, and it is recorded by the clerk of superior court.

Table 36-4. *Actions of Supreme Court to Discipline Judges, through 1971–2006*

Appellate judges censured or removed	0
Superior court judges removed	2
Superior court judges censured	7
District court judges censured	24
District court judges removed	9

The magistrate is also authorized to perform various quasi-judicial or administrative functions. Of these, performance of the marriage ceremony is the most common; magistrates are the only judicial officials in the state who can officiate at weddings. Other authorized functions include administering oaths, verifying pleadings, and taking acknowledgments (notarizing) of instruments.

Judicial Standards Commission

The historical methods of removing judges—impeachment and joint resolution by the legislature—have not been used in North Carolina in this century (G.S. Ch. 7A, Art. 30). These procedures are still authorized by Article IV of the state constitution, but that article has also been amended to require the General Assembly to provide another procedure. In 1973 the legislature created a Judicial Standards Commission, composed of judges, lawyers, and nonlawyers. If a judge is charged with willful misconduct in office, failure to perform the duties of the office, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, the commission is authorized to conduct a public hearing to investigate that charge. If the commission decides that the evidence warrants such action, it may recommend to the supreme court that the judge be removed and that court, if it agrees with the recommendation may remove the judge from office. The commission may also recommend removal for physical or mental incapacity, and in any case can recommend lesser sanctions, such as public censure or suspension (which require action by the Supreme Court), or can on its own issue a private letter of reprimand or a public reprimand.

This procedure for disciplining, removing, and retiring judges is fairly recent, but a similar one is now used by all states.

Through December 2005 the North Carolina Supreme Court has censured thirty-one trial court judges for professional misconduct and has removed eleven trial judges from office. Several other judges have vacated their offices while under investigation (for more details, see Table 36-4).

The grounds for removing a magistrate are the same as for a judge, but the removal proceeding is conducted by a superior court judge rather than by the supreme court.

Court-Related Personnel

District Attorneys

In criminal matters, the district attorney represents the state in the superior and district courts (G.S. Ch. 7A, Art. 9). This official is elected in partisan, district elections for a four-year term. In each prosecutorial district, full-time assistant district attorneys, paid by the state, serve at the district attorney's pleasure. The state also provides part-time assistant district attorneys and compensates them at a daily rate in those districts where, because of case load or geography, they are needed. With two exceptions, the prosecutorial district lines are identical to the district court lines.

A district attorney may be removed from office for misconduct after a hearing before a superior court judge.

Clerks of Superior Court

The clerk of superior court is elected in partisan, county elections for a four-year term (G.S. Ch. 7A, Art. 12). Unlike trial and appellate judges, clerks need not be lawyers, and relatively few are. Paid by the state on the basis of the county's population and his or her years of service, the clerk is responsible for all clerical and record-keeping functions of the superior and district courts for both civil and criminal cases. Thus in each county there is only one clerk's office for the two trial courts.

The clerk is also *ex officio* judge of probate and is thus the first to hear matters relating to the probate of wills and the administration of decedents' estates. In addition, the clerk has jurisdiction over the estates of minors and incompetents, and is authorized to hear a variety of special proceedings, such as adoptions, condemnation of private lands for public use, and sales of land for partition or to create cash assets. Depending on the volume of business, the clerk employs a number of assistants and deputies, who are paid by the state in accordance with a schedule fixed by the General Assembly [see G.S. 7A-102(c)].

The clerk's books and accounts are subject to annual audit by the state auditor, and the clerk is bonded by a blanket state bond. The senior regular resident superior court judge who serves the clerk's county may, after a hearing, remove a clerk for misconduct or mental or physical incompetence.

Court Reporters

Court reporters are appointed for the superior court by the senior regular resident superior court judge in each judicial district. Compensation is set by the appointing judge, within limits fixed by the Administrative Office of the Courts. Reporters are required to record verbatim such courtroom proceedings as testimony of witnesses and orders, judgments, and jury instructions by the judge. Transcripts of courtroom proceedings are required when an appeal is taken, and reporters receive a per-page fee in addition to their salaries for preparing transcripts for appellants. The reporter's original notes are state property and are preserved by the clerk of superior court.

If a reporter is not available, the state will furnish electronic recording equipment on request of the senior regular resident superior court judge. The clerk of superior court is responsible for operating such equipment and for preserving the record produced, and the Administrative Office of the Courts is responsible for transcribing the record if that becomes necessary. In several counties, video recordings of proceedings are used instead of court reporters.

All recording of civil and juvenile proceedings in district court is by audio recording equipment. There is no verbatim record kept of district court criminal proceedings, since they may be appealed for a trial *de novo* (anew) in superior court where such a record is kept. In 1995, the General Assembly eliminated all court reporter positions assigned to the district courts.

Juvenile Court Counselors

A statewide system of court counselors provides probation and after-care services to juveniles in the jurisdiction of the district court. Each judicial district is assigned one or more counselors. In addition to acting as probation officers, they conduct prehearing studies of children alleged to be delinquent or undisciplined. This program, called intake counseling, attempts to direct the handling of juveniles from the courts to appropriate community-based agencies in those situations in which it is possible to do so. Counselors also help the court handle cases in which children require detention before or after a hearing.

Office space for court counselors is provided by the county. Court counselors are not court system employees; they are employed by the Department of Juvenile Justice and Delinquency Prevention.

Probation and Parole Officers

North Carolina also has a statewide system of adult probation and parole officers (G.S. Ch. 15, Art. 20). These officers, who supervise adults placed on probation or released on parole, are employees of the state Department of Correction. Their salaries and operating costs are paid by the state, but office space for local offices must be furnished by the county.

Guardians Ad Litem

In child abuse, neglect, and dependency cases, the parents are entitled to the services of an attorney and the department of social services represents the state's interest. In 1983, the General Assembly recognized the need for the children affected to have the benefit of an advocate who represents only their interests. In establishing a statewide program to meet that need, the legislature utilized the results of some privately funded pilot programs that provided that service with volunteer guardians *ad litem*, who were themselves supported by an attorney and a volunteer coordinator (G.S. Ch. 7B, Art. 12). That program is now in place statewide and provides representation to children who are abused, dependent, or neglected. In doing so, it recognizes that while social services departments are seeking the best interests of children in their representation to the courts, the issues involved are so important and difficult that judges would benefit from having another perspective that is independent of the agency that has to implement the court's decision.

In some districts (usually smaller rural ones), the program does not use volunteers, but instead contracts with lawyers who are interested in juvenile law to provide these services. In the majority of districts, the program is run by coordinators, who recruit volunteers to work with the children; and, in cases in which lawyers are needed in court, hire them.

The county is responsible for providing office space for the coordinator and any other employees of the guardian *ad litem* program.

Community Service Coordinators

In some criminal cases, judges require convicted defendants to perform community service work for public or nonprofit agencies. The state Department of Crime Control and Public Safety is responsible for administering this program; it assigns a community service coordinator and a supporting staff to each judicial district (G.S. 20-179.4; 143B-475.1). These persons are state employees, but their office space must be provided by the county.

Supporting Staff for Court Officials

Judges and other court officials have support staffs. Trial court administrators or coordinators assist judges with administrative responsibilities in their work, particularly in matters related to the management of civil cases or the jury system. Family court or drug court personnel, or arbitration or custody mediation staff work in locations where those programs are established; they provide various kinds of professional, clerical, and case management support for the operation of those court programs. Most of those employees are paid by the state, but in some instances the source of the funds is from local government.

Bailiffs and Security Personnel

Security for courthouses is the county's responsibility. Providing adequate security involves facilities planning and maintenance, security screening procedures, and the staff necessary to implement them. The sheriff for the county usually provides the security staff. Some counties, however, contract with security firms to provide security for the courthouse. Those security officers may be "company police" (private officers licensed by the state to provide law enforcement services in specified locations), or they may be employees without those powers.

Security inside a particular courtroom is provided by a bailiff, who is employed by the county sheriff for that purpose. Bailiffs may be deputy sheriffs or custodial officers with full arrest powers and the power to possess and use firearms in the course of their duties, or the sheriff may assign the bailiff function to employees who are not sworn deputies or custodial officers and consequently do not have the power to possess firearms in the courthouse or to arrest anyone.

Representation of Indigents/Public Defenders

Defendants who are accused of crimes for which confinement is likely and who are financially unable to employ counsel to represent them are entitled to such services at state expense (G.S. Ch. 7A, Subchapter IX). In fourteen judicial districts most of those who are indigent are represented by the public defender's office, a staff of full-time, state-paid attorneys whose sole function is to represent indigents. For a list of the counties served by those defenders, see Table 36-5.

Indigents who are not handled by the public defender's office in these counties are assigned to private attorneys, whose fees are paid by the state on a per-case or per-day basis; they are used when the public defender has a conflict of interest or an overload of cases. In districts not served by a public defender, legal representation of indigents is provided solely by state-paid private attorneys.

Each public defender is appointed by the senior resident superior court judge in the judicial district on the written nomination of the district bar. Public defenders serve four-year terms and select their own attorney-assistants. The county must provide office space for the public defender staff.

Additionally, there is an appellate defender's office. Its function is to provide representation for indigents whose cases are appealed, when it is appointed to do so by the trial judge. It is a relatively small office and handles comparatively few cases, but they are usually among the most difficult. The appellate defender is appointed by the Chief Justice.

Defendants are often ordered to repay the state for their lawyers' fees, in one of three ways—as a condition of probation, in lieu of any future state tax refunds, or as a civil money judgment. Even though most defendants never become financially able to pay the entire amount of their fees, each year the state does recover about 10 percent of its costs.

Table 36-5. *Districts and Counties Served by Public Defenders*

Public Defender District	Counties Served
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, and Perquimans
3A	Pitt
3B	Carteret
10	Wake
12	Cumberland
14	Durham
15B	Chatham and Orange
16A	Scotland and Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe

In 2000, the General Assembly authorized the creation of an Indigent Defense Services Commission to provide financial management and promulgate standards related to various aspects of the indigent defense system. In 2005–6, the budget to provide indigent defense services (public defenders and assigned counsel) was around $95 million.

Selection of Jurors

The law provides for selection of prospective jurors in each county by a jury commission (G.S. Ch. 9). The commission has three members, with one each appointed by the senior resident superior court judge, the clerk of superior court, and the board of county commissioners. The commission's salary and operating costs are paid by the county. Each commission draws from the Division of Motor Vehicles' driver's license rolls and the voter-registration list for that county in compiling jury lists. The Division of Motor Vehicles combines the lists and submits the list to the appropriate court officials every two years. Selection is by a random process, with no opportunity for favoritism or discrimination because of race, sex, or any other constitutionally prohibited reason. No one is exempt from jury duty; all qualified citizens, if summoned, are expected to serve. (Inability to hear or understand English, physical or mental incompetence, or conviction of a felony are common grounds for disqualification.) There is no maximum age for jury service, nor is there an age at which a person is automatically excused. Prospective jurors who are seventy-two years old or older may request to be excused without appearing personally, and in practice, they are often excused, but the excuse is not automatic and a person over seventy-two who satisfies the statute's criteria may be required or allowed to serve. Excuses can be granted only by a trial judge, or, if the responsibility is delegated by the chief district court judge, by a trial court administrator (a nonjudicial official in certain counties whose function is to expedite the work of the courts in that county)—and then only for reasons of compelling personal hardship or because service would be contrary to the public health, safety, or welfare.

Now all counties use computers in putting together the master jury list and in keeping records of those who have already served. When more than one jury session of court is sitting at a time, jurors may be "pooled" (jurors for more than one court session are selected from the same panel); this is done in the interest of saving both money and jurors' time.

Prospective jurors who are not selected for grand jury service usually serve only one week. In some counties (typically the more urban counties), instead of week-long service, jurors serve for only one trial or one day, whichever is longer. A certain number of jurors (generally nine each six months) are selected to serve on the grand jury. These jurors (whose main duty is to decide whether to charge persons accused of felonies by indicting them) usually serve for a year (six months in some large counties), but are usually "on duty" for no more than the first day of a session of superior court for the trial of criminal cases. Where criminal sessions occur weekly, the grand jury is not needed each week but is convened every few weeks.

The superior court uses a twelve-person jury in both civil and criminal cases. The district court uses the same-sized jury in civil cases only; criminal cases are tried by the judge without a jury.

Table 36-6. *Basic Criminal Court Costs, January 2006*

Criminal	Amount
District Court (including criminal cases before magistrates) [G.S. § 7A-304]	
• General Court of Justice*	85.501
• Facilities fee	12
• Law Enforcement Officers Benefit Fund (LEOB)	7.50
• Total	105
Superior Court [G.S. § 7A-304]	
• General Court of Justice*	92.50
• Facilities fee	30
• LEOB	7.50
• Total	130

*Plus $5.00 service fee for each arrest or service of criminal process, including citations and subpoenas, applicable to all levels of court

Administrative Office of the Courts

The Administrative Office of the Courts, with its central office in Raleigh, handles the administrative details of the court system (G.S. Ch. 7A, Art. 29). Its director is appointed by the Chief Justice of the supreme court. The director is a nonjudicial officer, responsible for a variety of administrative functions of the Judicial Department. The major duties include preparing and administering the Judicial Department's budget; fixing the number of employees in the respective clerks of court's offices; supervising a statewide Guardian ad Litem system; prescribing uniform forms, records, and business methods for the clerks' offices; keeping statistics; and representing the courts in the legislature and in other forums.

The Judicial Department budget for fiscal year 2005–06 was approximately $345,000,000 (that figure does not include the funds for indigent defense services). The state receives somewhere around 40 percent of that amount in fees and costs that are collected and remitted to the state. When the fines paid to the local public school fund and fees paid to local governments are added to that figure, around 75 percent of the court's budget is offset by funds paid to some governmental unit.

Costs, Fees, and Fines

The system the state uses for billing court costs and fees is based on a lump-sum averaging of costs (per type of case and court) (G.S. Ch. 7A, Art. 28). In civil actions, special proceedings, and administration of estates, there are only two cost items: a General Court of Justice fee, which accrues to the state for financing the courts generally; and a facilities fee, discussed previously. The amount of the fee in each case may vary with the nature of the action or proceeding and with the court in which it is tried. In criminal actions, there are four items in the uniform bill of costs. In addition to the General Court of Justice fee and the facilities fee, a law enforcement officers' fee is chargeable for each arrest or personal service of criminal process; it is payable to the county or city whose officer performed the service. (Fees for arrests made by state officials accrue to the county where the arrest was made.) The fourth item is a Law Enforcement Officers' Benefit and Retirement Fund fee. For the most recent fee levels see Tables 36-6 and 36-7.

Besides these four basic costs items, in any particular case additional expenses—such as fees of witnesses, charges for those who fail to appear, court-appointed guardians, referees, interpreters, or commissioners—may be incurred. These charges are assessed against the party that is liable for them along with the basic costs.

Witness fees are fixed at $5 per day, plus mileage if the witness comes from outside the county; juror fees—paid by the state—are generally set at $12 per day, with no mileage allowance. A charge for the miscellaneous services rendered by magistrates and clerks is also authorized, and the charges assessed by the sheriff for serving civil process (legal documents in civil cases) and for related costs are lumped into five all-inclusive, uniform categories. No charges of any kind other than those specified in the law may be imposed for the use of court-related facilities and services. All

Table 36-7. *Basic Civil Court Costs, January 2006*

Civil	Amount
Magistrates [G.S. § 7A-305] (except domestic violence cases)	
• General Court of Justice	53
• Facilities fee	12
• Total	65
District Court [G.S. § 7A-305] (except certain domestic cases)	
• General Court of Justice	64
• Facilities fee	16
• Total	80
Superior Court [G.S. § 7A-305]	
• General Court of Justice*	79
• Facilities fee	16
• Total	95

*Plus $15.00 service fee for each item of civil process served by the sheriff—applicable to all levels of court

costs charged by clerks, magistrates, and sheriffs accrue to the governmental unit concerned; none accrue to individuals. The only fees assessed by court employees that accrue to the person assessing the fee are transcript fees collected by court reporters. Table 36-8 lists the amounts collected for the most recent year in which the statistics are available.

The amount of total fees collected for the states and local governments amounts to just over half of the cost of operating the courts (this does not include indigent defense, probation, or other related costs not paid directly by the Judicial Department, nor is the amount of fines collected used in making the calculation), and reflects the policy decision (often debated by the legislature) that courts, like most other governmental functions, should not be supported solely by user fees.

Fines, penalties, and forfeitures are to be distinguished from costs and fees. A *fine* is the monetary penalty imposed by the sentencing judge as part or all of the punishment when a defendant is convicted of a crime. Penalties include the monetary penalty ordered for commission of an infraction (the most common infractions are minor traffic violations). A *forfeiture* occurs when a defendant, at liberty under bond, fails to meet the conditions it specifies (usually a court appearance), and the bond is forfeited. Forfeitures also may be vehicles, seized and sold when driven by persons convicted of alcohol, impaired driving, or drug offenses. Fines, infraction penalties, and forfeitures, by state constitutional mandate (Article IX, Section 7), accrue to the public schools in the county involved, and may not be used for any other purpose. In fiscal year 2003–4, fines, penalties, and forfeitures collected by the courts throughout the state totaled $83,727,671.

Allocation of Financial Responsibility for the Court System

All operating expenses of the Judicial Department are borne by the state (G.S. Ch. 7A, Subchapter VI). These include salaries and travel expenses of all judges, district attorneys, clerks and their assistants, magistrates, court reporters, public defenders, and guardians *ad litem*. Also included are the books, supplies, records, and equipment in all these officials' offices, and the fees of all jurors and witnesses for whom the government is responsible. This is a direct result of court reform efforts in the 1950s and 1960s. Before court reform, salaries and other operating expenses for most trial court officials (clerks, lower court judges, justices of the peace, and so forth) were the responsibility of local governments. Correspondingly, most fees collected went to local governments or directly to court officials as their compensation. The current arrangement reflects the fundamental policy decisions made during this court reform effort that all court officials should have the same duties and be paid the same salaries. As a result, citizens should receive roughly the same services from the courts wherever they live. That rigid commitment to uniformity, reflected in an original policy of requiring all operational funding to come from the state, has, since the late 1990s, begun to erode a bit. Acting on the request of local court and local government officials, the legislature authorized local governments

Table 36-8. *Selected Fees and Fines Collected by Courts and Paid to Local Governments*

Facilities fees paid to counties	$20,081,179
Facilities fees paid to cities	$607, 155
Jail fees paid to counties	$4,179,882
Jail fees paid to cities	$10,797
Officers arrest fees paid to counties	$4,888,916
Officers arrest fees paid to cities	$2,662,666
Impaired driving civil revocation fees paid to counties	$1,128,096
Fines and forfeiture paid to local school funds	$83,737,671

to supplement the operations of the courts serving their counties or cities, and in some instances they have chosen to do so by funding temporary positions in the district attorney's, public defender's, or clerk's offices. But that is still the exception.

In the court reform effort of the 1960s, the primary responsibilities counties (and a few cities) retained for court operations was to provide "adequate" physical facilities for the courts. That duty has not changed since court reform. The most obvious of such facilities are courtrooms, but this duty also extends to the need for office and storage facilities, parking, and related spaces for judges, the clerk of superior court and the clerk's staff, district attorneys, and magistrates. In addition, most of the ancillary personnel listed in this article are entitled to county office space, either by specific statute or because they are part of the court system. The obligation to provide facilities includes the responsibility for furniture (but not equipment) and the cleaning and maintenance of the courthouse.

Questions often arise about whether particular expenses should be covered by the county or by the state. Often the issue is whether a particular item is an operating expense or part of a facility. What is the cable to connect the state's mainframe computer to the courthouse? (probably equipment). What about cable inside the courthouse? (generally thought to be part of the courthouse infrastructure, and thus facilities). Is a sound system for use in courtrooms an operating expense or part of the facility? (an infrastructure item, and thus part of the facility). What about court security equipment like metal detectors? (security is the sheriff's responsibility, and if the equipment is permanent, is part of the infrastructure). Sometimes the line is clear—furniture, drapes, and fixtures are part of the facility, and computers and specialized court equipment are operating expenses. But often the distinction is not clear, and is usually resolved through negotiation.

Sometimes the issue is a different one—is the facility or the furnishing of the facility "adequate"? In such cases, the initial determination is made by the county when it allocates and maintains the space allocated to the courts, pursuant to its general authority to control the use of its property. When court officials or users question the adequacy, they almost always do so informally, and usually the issue can be settled there. But if court officials or users of the courts believe that the county's decision about allocation of facilities does not result in "adequate" facilities, the North Carolina Supreme Court has indicated that it is possible for the county to be sued to force it to provide adequate facilities. If that litigation results in a decision that a complained-of facility is inadequate, the court may order the county to provide an adequate facility. The county generally has the discretion to decide how to remedy the inadequacy. If it fails to take action, or if its action is found to be inadequate, the court could then hold the appropriate officials in contempt of court, although as of December 2005, no case had ever reached that stage. Negotiated settlements are almost always reached before that stage of litigation results.

If the facility is a municipal district court, the same process described previously for counties would be applicable, but the courts have additional options for dealing with the issue. The statutes authorize the director of the Administrative Office of the Courts to forbid the use of a municipal facility if he or she determines it to be inadequate (G.S. 7A-302). Additionally, a chief district court judge may simply direct that no cases be scheduled in a municipal facility if he or she finds it to be inadequate.

A "facilities fee" is collected in each court case as part of the court costs paid by the litigants. This fee is distributed to the counties (and a proportionate share goes to municipalities for the cases heard in municipally owned district court facilities) and must be spent exclusively for providing, maintaining, and constructing court facilities for court officials and court-related personnel, as well as for some related functions. Court-related personnel are generally thought to be the other employees administratively housed in the Judicial Department, such as, family court or drug court personnel, trial court administrators, custody mediation personnel, and so on. Those other related functions, as listed in G.S. 7A-304, include jail and juvenile detention facilities, free parking for jurors, and a law library, including

books. Sometimes court officials or others ask for an accounting of the use of the facilities fee, and under the public records law, they are entitled to that information. When the state assumed the costs of operating the trial courts in the 1960s, this fee was preserved as a local government source of revenue to help offset the continuing costs retained by the county for court operations. It is rarely sufficient to cover the entire cost of operating a court facility, and would never support the cost of construction of facilities.

Additional Resources

Annual Reports of the Administrative Office of the Courts, available at http://www.nccourts.org/Citizens/Publications/AnnualReports.asp.

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