

## **The West Virginia Judicial System Highlights for Elementary Age Children**

How many of you have seen a courtroom on TV?  
Courts play a big role in everyone's life, so it is important to understand how they work.

Can you name some things that might involve the court system?

- Getting married or divorced.
- Who children live with.
- Rules for workers and people who hire them.
- Rules for driving a car.
- Rules for buying and selling things.
- Helping people who have been victims of crime and punishing criminals.

How is government like a tree? They both have branches. (Dad joke)

The judiciary is one of three equal branches of state government. The legislative branch makes the law. The executive branch enforces the law. The judicial branch interprets and applies the law in cases brought before the courts. The courts are the branch of government most open to citizens. Anyone can file a court case.

West Virginia became a state in 1863. The present West Virginia Constitution was ratified in 1872, but it has been changed several times. In 1974 citizens voted for the Judicial Reorganization Amendment, which set up the court system largely as it is today. All state courts, except city courts, are now part of one system. The Supreme Court of Appeals administers the system.

The amendment organized the judiciary into three levels: the Supreme Court of Appeals, circuit courts, and magistrate courts. In November 2000, the voters passed a constitutional amendment to allow the Legislature to create separate family courts.

The state court system is like a pyramid. At the bottom tip of the pyramid are 158 magistrates. They don't have to be lawyers and are elected to four-year terms. Magistrates issue arrest warrants and search warrants, hear misdemeanor cases and hold hearings in felony cases. They hear small civil claim cases.

- What is a felony? A felony is a serious crime. People convicted of felonies can be sentenced for prison for more than one year.
- What is a misdemeanor? A misdemeanor is a crime less serious than a felony. People convicted of misdemeanors can be sentenced to a jail for no more than a year.

Circuit courts and family courts are in the middle of the pyramid.

Circuit courts are where most trials are held. If a case involves a crime or a large amount of money, it will be heard in circuit court. Circuit courts also hear appeals from magistrate courts, family courts, city courts, some state agencies. Circuit judges rule in abuse and neglect cases. Circuit judge decisions can be appealed to the Supreme Court of Appeals of West Virginia.

West Virginia's fifty-five counties are divided into thirty-one circuits with seventy-five circuit judges. The circuits range in size from one with seven judges to seven with one judge. Although as few as one or as many as four counties comprise a circuit, each county has a courthouse where the circuit judge presides.

Circuit judges are required to reside in the circuit they serve and must be admitted to practice law in West Virginia for at least five years prior to taking office. The elections are non-partisan and they serve eight-year terms. If a Circuit Judge leaves office prior to the expiration of his or her term, the Governor of the State of West Virginia appoints a replacement to serve until the next election.

Family court judges hear cases involving all aspects of divorce. They also hold final hearings in domestic violence civil proceedings. There are forty-seven family court judges who serve twenty-seven family court circuits. Family Court Judges are required to reside in their circuit and must be admitted to practice law in West Virginia for at least five years before taking office. Like Circuit Court Judges, their elections are non-partisan, their terms are for eight years and the Governor appoints a replacement to serve until the next election if a Family Court Judge leaves office prior to the expiration of his or her term.

The Supreme Court sits at the top of the pyramid. It has five justices, one of whom acts as a chief justice. They wear robes like other judges do but do not conduct trials. The Supreme Court hears appeals from circuit courts and a few appeals directly from family courts. The Supreme Court interprets the Constitution and can decide whether a law is constitutional. It also has original jurisdiction in certain types of cases. That means that in certain types of legal issues a case can be filed directly in the Supreme Court without going through a lower court and then an appeal to the Supreme Court.