



The State Court System: A Road Map through Wisconsin's Judicial System

THE THIRD BRANCH

The judicial system, on the state and federal levels, is known as the “Third Branch,” completing the vital system of checks and balances that includes the executive and legislative arms of American democracy. The system’s courts do not create or enforce laws, but interpret the meanings of the laws and apply them in a fair and equitable manner on a case-by-case basis. As a result of this function, the Wisconsin court system is the medium by which citizens of the state most often come into contact with their government.

OVERVIEW OF THE WISCONSIN COURT SYSTEM

The basic powers and framework of Wisconsin’s court system are established in Article VII of the Wisconsin Constitution. The unified court system consists, in descending order of authority, of one supreme court, a court of appeals, circuit courts, and municipal courts. The chief justice of the Wisconsin Supreme Court is the administrative head for the entire judicial system, and appoints the director of state courts to oversee its management. In addition to regulating and managing the state’s courts and judges, the supreme court oversees the practice of law within the state.

The Wisconsin court system is separate from the federal court system. Wisconsin state courts have jurisdiction over cases pertaining to state law, but must follow federal law if it is at issue in any case. Federal courts deal with application of federal law and may take on cases of state law if one party is a Wisconsin resident, but the other party resides in a different state.

Circuit courts. Circuit courts are Wisconsin’s trial courts. They have original jurisdiction in criminal and civil cases. A circuit court judge oversees the conduct of each trial and determines what evidence can be presented. The judge also issues the verdict in a case where there is no jury. In the event of a jury trial, the court oversees the selection of jurors and instructs those jurors on their responsibilities. The court also imposes sentences.

Circuit court judges are elected to six-year terms. Clerks of circuit court are independently elected and provide management and administrative leadership. Court commissioners are appointed to assist the circuit court and have some of the authority of a judge.

Circuits are defined by county lines, with the exception of three

circuits in Wisconsin that combine two counties each. The number of branches in each circuit is equal to the number of judges in that circuit. There are 69 circuits in Wisconsin, with 241 branches and judges.

Municipal courts. In Wisconsin, municipal courts are additional trial courts that have jurisdiction over local ordinance violations. Municipal court decisions may be appealed to a circuit court. Not all municipalities have courts, and some municipalities join to form courts. Municipal judges are elected to two- to four-year terms of service and are not required to have a license to practice law. There are currently 224 municipal courts in operation with 226 municipal judges.

Court of appeals. The Wisconsin Court of Appeals is an intermediate “error-correcting” court. The court of appeals must review all appeals of final circuit court decisions. It may accept appeals of non-final decisions at its own discretion. The court is comprised of 16 judges from four districts with headquarters in Madison, Milwaukee, Waukesha, and Wausau. Judges are elected to six-year terms in district-wide elections. Vacancies are filled by appointments from the governor. Although it is divided into districts, the court of appeals is a

single court whose decisions apply statewide.

Each case brought before the court of appeals is examined at a screening conference. Cases can be decided by a single judge or a panel of three judges, depending on the type of case. A summary disposition decides more than half of all cases brought before the court of appeals. A summary disposition occurs when the panel unanimously agrees on the decision, and agrees that no more than the application of a well-settled law or precedent is needed to resolve the case. Cases can be decided based solely on the submitted briefs (written arguments) if the panel determines that the briefs contain all the needed information. When the panel reaches a decision, it then decides the format in which to present that decision. In a straightforward case, it can simply write an order. In a more complex case, the panel may write an opinion explaining its decision. This written opinion, if published, may be cited and can serve as a guide for others.

If the court of appeals decides that the questions involved in a case cannot be adequately answered by existing law, the court can request certification to the supreme court. Certification can also be requested if appeals courts in different districts differ in their interpretation or application of law.

The supreme court. The Wisconsin Supreme Court is the state's highest court. It has appellate jurisdiction over all state courts, meaning that it may overturn the decision of any of the lower courts. The court is composed of seven justices who are elected to ten-year terms. The chief justice is

the justice with the most seniority on the court. Vacancies on the court are filled by governor's appointment, and each appointee is required to stand for election at a later time.

Known as the "court of last resort," the supreme court will only hear cases that will develop or clarify Wisconsin law. A case can come to the court in a number of ways; however, the court has the discretion to decide which appeals it will hear. It may also hear "original actions" (cases that have not already been heard by a lower court). For a case to come before the court, three or more justices must agree to hear an appeal, and four or more justices must agree to hear an original action. Out of the approximately 1,000 cases it reviews annually, the supreme court hears about 100 cases each session.

The procedure of the supreme court is different from that of a trial court. Once the court agrees to hear a case, it establishes a briefing schedule to receive briefs from each party in the case. These briefs contain arguments for the reason a law should be interpreted in the party's favor. The briefs also cite statutes and court decisions that support the arguments. The case is then scheduled for oral argument, and a "reporting justice" from the court is assigned. The reporting justice will brief the other members on the details and important issues of the case. Oral arguments are actually timed presentations from each party's attorney, limited to 30 minutes each. During the oral arguments, each attorney sets forth and elaborates on the arguments presented in the briefs. The attorneys also answer questions posed by the

justices. The oral argument does not include the presentation of evidence or witnesses.

After the oral argument, the reporting justice will give his or her analysis and recommendation during a decision conference of the justices. Each justice then casts a preliminary vote on the case. Any decision made at this time can be reconsidered by the justices until the decision is filed. The case is assigned to another justice for preparation of the court's written opinion on the case. That justice is drawn from those who voted with the majority decision. After the justices agree on the written opinion, it is "mandated," or filed and published. Justices may also write dissenting or concurring opinions.

SUMMARY

The Wisconsin court system attempts to resolve the legal controversies involving the interpretation and application of law. A unified court system is designed to give participants more than one chance to see that the laws are interpreted and applied correctly and in a peaceful manner. The existence of the court system is necessary to a government founded on the idea of the "separation of powers," whereby no one branch of government or person holds too much power.

Governing Wisconsin: "State Court System"

Study Questions

1	What are the various courts that make up the Wisconsin judicial system?	
2	If a vacancy occurs in a judgeship, how is it filled?	
3	Draw a chart showing the hierarchy of Wisconsin courts and their relative focus evidence (testimony and documents) or on legal questions.	
4	What is the function of an appellate court?	
5	How does the Wisconsin Supreme Court decide which cases it will hear and which ones it will not hear on appeal?	
6	Why doesn't the governor or the legislature act as a supreme court? Why do we need a third branch of government?	

Governing Wisconsin: “State Court System”

Study Questions in the Cognitive Domain

1	What are the various courts that make up the Wisconsin judicial system?	The Supreme Court, the Court of Appeals, circuit courts, and municipal courts.	Cognition
2	If a vacancy occurs in a judgeship, how is it filled?	The governor appoints someone to serve as judge for the unexpired term; the person appointed must later stand for reelection when the term ends.	Comprehension
3	Draw a chart showing the hierarchy of Wisconsin courts and their relative focus evidence (testimony and documents) or on legal questions.	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 10px;">Supreme Court</div> <div>Focus on interpretation and correct application of law.</div> </div> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 10px;">Court of Appeals</div> <div></div> </div> <hr style="width: 100%;"/> <div style="display: flex; align-items: center; margin-bottom: 5px;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 10px;">Circuit Court</div> <div>Focus on reliability and relevance of evidence.</div> </div> <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 10px;">Municipal Court</div> <div></div> </div> </div>	Application
4	What is the function of an appellate court?	An appellate court corrects errors made by the lower court.	Analysis
5	How does the Wisconsin Supreme Court decide which cases it will hear and which ones it will not hear on appeal?	The Wisconsin Supreme Court chooses to hear cases that clarify Wisconsin law and, to a lesser extent, correct errors made by the lower courts. Not every case that is appealed involves legal points that need clarification or significant errors.	Synthesis
6	Why doesn't the governor or the legislature act as a supreme court? Why do we need a third branch of government?	Having a third branch that is independent of the legislature and the governor insures that the people's civil liberties will be better protected.	Evaluation