

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

Citizen's Guide to the Courts

The Judicial Branch Citizen's Guide to the Maine Courts describes the types of cases heard in court, what the judicial process is and how it works, how a trial proceeds, and the way in which the Maine courts are organized. The Guide is intended to be helpful to citizens generally, and in particular to students, to the media, and to those who may appear in a courtroom, whether as a juror, as a party or as a witness in a trial.

Originally authored by William H. Coogan for the Maine Judicial Council and published by The Maine Bar Foundation 1987

Revised and reformatted for Internet publication in 1997, in 2002, and again in 2004

Additional Acknowledgements at the end of the guide

Get started online or view the [printer-friendly version \(PDF\)](#)

Introduction

Part I: What the Courts Do

The Citizen's Role in the Judicial Process

Types of Law

Types of Cases

The Litigation Process

Part II: Court Organization

County Courts

Trial Courts

The Supreme Judicial Court

The Administrative Office of the Courts

Other Judicial Branch programs

Part III: Visiting the Courts

Additional publications are available on this site, at the various clerks' offices, or at the Administrative Office of the Courts and include the following:

- [A Guide to the Small Claims Proceedings of the Maine District Court](#). This booklet describes the types of cases the small claims court hears, how to file a claim, and the procedure the court follows.
- The Traverse Juror Handbook. This handbook describes the jury system as it is used in Superior Court, the rights and duties of jurors, and the jury selection process. See www.courts.state.me.us/jurors/
- [A Guide for Appeals to the Maine Supreme Judicial Court](#). This guide is designed for those who are not familiar with procedures for appealing cases to the Law Court. See
- [Judicial Branch Annual Report](#). This report, published annually, describes the activities of the Judicial Department and provides caseload statistical information.

See Court Publications available online (www.courts.state.me.us/rules_forms_fees/rules/index)

Introduction

This Guide has been revised for Internet publication by the Administrative Office of the Courts to promote greater understanding of how the courts operate. It describes the types of cases heard in court, what the judicial process is and how it works, how a trial proceeds, and the way the Maine courts are organized. We hope that the Guide will be helpful to citizens generally, and in particular to students, to the media, and to those of you who may appear in the courtroom, whether as a juror, as a party or as a witness in a trial.

This Guide is not intended to provide legal advice or to be a comprehensive description of criminal or civil procedure. The Guide, however, does present a general outline of what goes on in a trial. Your lawyer, the judge, or the court clerk's office may be able to help when more specific information is required, although Judicial Branch Employees are prohibited by law from giving legal advice.

Words in this Internet version that are underlined and shown in blue or other contrasting color are hyperlinks. Clicking on them will take you to other sections of this guide, or other web legal resources relating to the topic.

Part I: What The Courts Do

In This Section

The Citizen's Role in the Judicial Process

Types of Law

Types of Cases

Litigation Process

Courts are institutions designed to resolve civil and criminal complaints and disputes. They also provide official approval of certain matters, such as the distribution of property after death, adoptions, and name changes, that are not in dispute.

Maine's state courts play an important role in your life. For example, they are available and may be used to protect your rights and to enforce your responsibilities:

- if you are being threatened by someone,
- if you buy or sell property,
- if you get divorced,
- if you have problems at work,
- if you have a dispute with someone who provides you with a service, or
- if you are involved in an automobile accident or a fistfight.

The courts are even used after your death to determine what happens to your assets and debts. If you sue or are sued, if you are accused of committing a crime, if you are a witness to an event, if you are a victim of a crime, or if you are called to jury duty, you may be required to appear in a Maine court.

When your dispute is with a resident of another state or is governed by federal law, you may find yourself in a federal court located in Portland or Bangor. Some of the laws we live under are passed by the Maine State Legislature and others are passed by the United States Congress so disputes may be resolved by either the Maine state courts or the federal courts, depending on the law involved or the residence of the parties. This Guide describes the procedure and organization of the Maine state courts, although many of the basic ideas discussed apply to the federal courts as well.

Maine's state principal courts are the District Court, where lesser criminal offenses, civil actions, and family law matters may be tried; the Superior Court, where almost all civil and criminal matters may be tried; and the Supreme Judicial Court, which hears appeals from all trial courts. Maine also has Probate Courts for questions involving estates and similar matters. The court system is discussed in detail in Part III of this Guide.

The Citizen's Role in the Judicial Process

Citizens come to court in several different roles.

1. As a Party to a Case:

A **party** is a person who is suing or being sued. In a civil action, where one person sues another, the one bringing the suit is called the **plaintiff**. The person being sued is referred to as the **defendant**. In a criminal case, the State, which starts the proceedings is called the **prosecution**. The person who is accused is called the defendant. Each party in a case may be represented by a lawyer whose job it is to prepare and present that party's case. An individual may choose not to be represented by a lawyer in either a civil or criminal case (this is sometimes referred to as acting pro se). In that instance, the individual should be prepared to present evidence (witnesses and exhibits) that will present facts showing why he or she should prevail. Defendants in criminal cases need not present evidence or witnesses. They may challenge the State's evidence by questioning State witnesses.

2. As a Witness:

A witness is a person who has some knowledge about the issue in dispute. The duty of a witness is to appear in court and testify truthfully. Witnesses are summoned to court by a document called a **subpoena**, a court order directing the person to appear on a specified date. A witness' willful failure to comply with a subpoena may be punished as contempt of court, which could result in his or her arrest.

3. As a Juror:

In the Superior Court, many kinds of cases are decided by a jury, whose members are residents chosen at random. The job of a juror is to listen attentively to the case as it is presented, and then to decide the outcome fairly and impartially. The presiding judge (formally addressed as a Justice in the Superior Court) will instruct the jury on matters of law, but determination of the factual matters in dispute, including whether the State has proven a criminal charge is solely up to the jury.

More information about serving as a juror in Maine is available online at www.state.me.us/jurors/.

4. As a Visitor:

Except for certain cases involving families, children, or jury discussions, the proceedings of the courts are open to the public unless the judge orders them closed in an unusual case to prevent harm to a party or witness, or unless they are closed by statute. Thus, any citizen may attend most proceedings in any of Maine's courts. For further information, see "Visiting the Courts" in Part IV of this Guide.

Types Of Law

The resolution of disputes in the courts is governed by constitutional, statutory, common law and court rules.

1. Constitutional Law:

Constitutional law is found in the constitutions of the State of Maine and the United States. The United States Constitution is the supreme law of the land, and its provisions must be followed at every level of government in America. The U.S. Constitution sets up the structure of the federal government and guarantees the citizens of each state a representative form of government. The Maine Constitution sets up the structure of our state government, with its bicameral (two-Chambered) legislature, its governor, and its judiciary.

The federal and Maine constitutions are important sources of rights as well. They guarantee freedom of religion, speech, press, and assembly. Each constitution prohibits unreasonable searches and seizures, involuntary self-incrimination, and cruel and unusual punishments.

Each constitution guarantees **due process of law**, as well as **equal protection of the laws**. Daniel Webster described due process as the result of a judicial system that "hears before it condemns, proceeds upon inquiry, and renders judgment only after a trial." In modern times the rights to due process and equal protection have become extremely important. They protect citizens against the passage of laws that are arbitrary, unreasonable, unreasonably discriminatory, or beyond the reach of government. The due process clause also ensures that citizens receive timely notice when they are subject to most judicial proceedings and guarantees them a fair opportunity to be heard in cases that affect their personal or property interests.

2. Statutory Law:

Statutory law is passed by a legislative body. Congress passes federal statutes; the Maine Legislature passes state statutes, which are published online and in bound form as the Maine Revised Statutes Annotated (M.R.S.A.). Statutory law covers many subjects and must be consistent with the Constitution.

3. Common Law:

Common law is developed by courts to cover situations where statutory law does not apply or exist. The common law, which also must be consistent with the Constitution, consists of principles and rules developed, sometimes over centuries, in prior court decisions called precedents. Courts generally follow the precedents established in earlier cases involving similar facts.

3. Court Rules:

The Maine Supreme Judicial Court publishes rules governing the filing, processing, trial and appeal of all civil and criminal matters that come before the courts. These rules governing civil, criminal, and probate procedure, family matters, small claims, evidence, and appeals are available on the Judicial Branch website ([see court rules](#)) and in book form at county law libraries.

Maine's town and city offices and most public libraries have sets of the Maine statutes. An uncertified version of the [Maine Revised Statutes](#) is maintained on the Internet by the Maine Legislature. In addition, the Judicial Branch maintains a [law library](#) for the use of judges, attorneys and the general public in each county courthouse. These libraries contain basic Maine legal materials, including statutes, court rules, and the opinions of the Maine Supreme Judicial Court, as well as certain federal legal materials. The [Law and Legislative Reference Library](#) in Augusta and the [Donald L. Garbrecht Law Library of the University of Maine School of Law](#) and the [Nathan B. And Henry Cleaves Law Library](#), both in Portland, may also be used by the public.

Types Of Cases

All legal matters brought before the courts are classified as either criminal or civil.

1. Criminal Cases:

Criminal cases are brought by the State against persons accused of committing a crime. The State brings the charge because a crime is considered an offense against society. Normally, the local District Attorney's office represents the State and prosecutes the case against a defendant. If the defendant is found guilty, the penalty may be imprisonment, a fine, probation or other supervised release, or a combination of these. If a fine is assessed, it is paid to the State, not to the victim of the crime. In some cases, however, the judge may also order the defendant to make restitution to the victim for any losses caused by the crime. Regardless of whether restitution is or is not ordered, the victim may recover compensation for the losses by bringing a civil action against the offender.

Criminal offenses are divided by the [Maine Criminal Code](#) into classes according to the seriousness of the offense and the penalty. Classes A, B and C are the more serious offenses; Classes D and E, the least. Murder, the most serious crime, has separate sentencing provisions. The principal offenses in each class are summarized in Table I.

Table 1 -- Criminal Offenses

Class	Examples of Offenses	Penalty
Murder	Murder	25 years imprisonment to life with no possibility of release.
A	Manslaughter, kidnapping, rape, arson	Not to exceed 30 years imprisonment and/or \$50,000 fine.
B	Aggravated assault, drug trafficking, burglary of a residence	Not to exceed 10 years imprisonment and/or \$20,000 fine.
C	Perjury, burglary, theft of \$1,000- \$5,000	Not to exceed 5 years imprisonment and/or \$5,000 fine.
D	Assault, operating under the influence, theft of property, the value of which is between \$1,000 - \$2,000	Not to exceed 1 year imprisonment and/or \$2,000 fine.
E	Disorderly conduct, operating after suspension, theft of property, the value of which is less than \$1,000	Not to exceed 6 months imprisonment and/or \$1,000 fine.

Note: For any of these offenses except murder the judge may also impose a period of probation (with a variety of special conditions), order restitution, order the defendant to perform community service, or a combination of these.

The purpose of a **criminal trial** is to determine whether the defendant is guilty or not guilty of the charge. Since the penalty for a crime may be very serious, including the deprivation of liberty, the State is held to a high standard of proof. The law presumes that the defendant is innocent, and the State must prove his or her guilt beyond a **reasonable doubt**. Because the defendant does not have to prove innocence, the finding is not guilty, rather than innocent, if the State fails to meet its **burden of proof**.

Except for most motor vehicle criminal violations, and some hunting and fishing offenses, persons under the age of 18 who are charged with criminal conduct are considered to be juveniles. Procedure in a juvenile case is different from that in an adult case. An intake worker advises the District Attorney whether to prosecute. The trial is heard in District Court by a judge alone. Trials of Class D and E offenses are closed to the public. A juvenile murder trial and trials of Class A, B and C offenses are open to the public. A juvenile who is charged with murder, or a Class A, B or C offense may be tried as an adult, when certain legal conditions are met.

2. Civil Actions:

Civil actions are normally cases between private persons or corporations to resolve disputes involving the break-up of a family or domestic relationship or the breach of a legal duty owed by one party to another and to fix damages for loss caused by the breach, or to fashion a remedy to prevent future loss.

The most common civil actions deal with:

- divorce and family matters,
- breaches of contract,
- negligently caused personal injury and property damage,
- debt collection,
- landlord-tenant disputes, and
- protection from abuse.

The State (or any other governmental body) may be a party to a civil action, if its interests have been injured, or if the case is one in which the Legislature has provided that the body may be sued by a citizen for causing injury.

If you are bringing a civil action, you must prove your case against the party you are suing by a preponderance of the evidence-- a lesser standard of proof than that which the State must meet in a criminal case. In some civil cases, you must prove your case by clear and convincing evidence which is a more stringent standard than a preponderance standard.

You must have good grounds to bring a suit. If you file a suit frivolously or to harass a person, the court may assess a monetary penalty against you or your attorney.

The Legislature has created a special class of civil actions that includes offenses not regarded as serious enough to be dealt with as crimes. These less serious offenses are called **civil violations**. They include minor traffic infractions, possession of a small amount of marijuana, and violations of town and city laws (called ordinances), such as leash laws. You may be fined, but not imprisoned, for a civil violation.

A law enforcement officer who believes that you have committed a civil violation will issue you a ticket or citation instructing you to appear in District Court on a certain date. At the trial, the District Attorney or City Attorney must prove that it is more likely than not that you acted as charged. If you do not appear in court, or pay your fine, on the day specified, the offense becomes more serious. In the case of a traffic violation, you may lose your driver's license.

The Litigation Process

Legal Representation

If you become involved in legal proceedings as a plaintiff bringing suit against another party, as a defendant being sued, or as a defendant in a criminal case you may choose to represent yourself in court (pro se representation), or you may retain the services of an attorney to represent you.

Finding Legal Assistance

If you do not know a lawyer who can assist you, you may want to consult friends, relatives, or business associates, the Yellow Pages of your telephone directory, the county bar association, or the Maine State Bar Association Lawyer Referral Service (www.mainebar.org/lawyer_need.asp). If your income falls within certain guidelines and your case is a civil one, you may be eligible for free or low cost legal assistance from any office of Pine Tree Legal Assistance, Inc., (www.ptla.org/index.html), from the Volunteer Lawyers Project of the Maine Bar Foundation (www.vlp.org/), or the Cumberland Legal Aid Clinic at the University of Maine School of Law in Portland (www.mainelaw.maine.edu/clac/). If you are 60 or over, you may be eligible for legal assistance from any office of Legal Services for the Elderly, Inc. (www.mainelse.org/). If your case is a criminal one where conviction could result in imprisonment, you have a constitutional right to be represented by an attorney. If the court finds that you cannot afford a private attorney, the court must appoint an attorney to defend you at the State's expense.

If you are the victim of a crime, you do not need to retain an attorney. The District Attorney will bring criminal charges against the accused on behalf of the State. However, if you wish to bring a civil suit against the individual who committed the crime to seek protection from abuse or to recover any damages you may have suffered, you may wish to seek legal advice or representation by a private attorney. See also Representing Yourself (www.courts.state.me.us/courtservices/repself.html)

Pretrial Procedure - Civil Cases

To bring a civil action as a plaintiff in either the Superior Court or the District Court, you or your lawyer must prepare a written statement, called a **complaint**, describing the nature of your claim. You must arrange to have the party you are suing (the defendant) served with a **summons** (formal notification that a suit has been commenced), as well as a copy of the complaint. The defendant must file a written response to the complaint within a period of time specified in the summons, normally 20 days. The response is called the **answer**.

Once the complaint and answer have been filed, each party may obtain information about the other's case through a process called **discovery** that is available in most civil cases. During the period prior to trial, you or your lawyer should be attempting to reach settlement of the case with the opposing party. Discovery allows each party to approach settlement discussions with a more realistic view of the chances of winning. A **settlement** saves both the parties and the public the substantial costs of a full trial.

Mediation - Civil Cases:

The court system provides procedures under which both parties may attempt to settle certain types of civil cases with the help of a third person. These procedures are called **alternative dispute resolution and mediation** and may be less time consuming, less expensive, and less acrimonious than a trial. Alternative dispute resolution and mediation take place in an informal setting with the parties (and sometimes their lawyers) working with a court appointed mediator or neutral toward an agreement. If a mutually satisfactory agreement can be reached, it is signed and submitted to the judge for approval. If the parties cannot agree, the case is scheduled for trial. In most civil cases and in alternative dispute resolution or contested divorce cases, mediation is required. Mediators and neutrals are selected from a pool of trained persons who have been placed on a roster by the Court Alternative Dispute Resolution Service (CADRES).

Pretrial Procedure - Criminal Cases:

Most criminal cases begin with the service of a citation or **summons**, or the arrest of an individual by a law enforcement officer and the filing of a **criminal complaint**. The Constitution provides that the arrest can be made only if the officer has probable cause to arrest or has a warrant issued by a magistrate who has found probable cause.

Probable cause is a reasonable belief, based on reliable information, that a crime has been committed and that the individual being apprehended committed the crime. An individual can be arrested for certain minor offenses only if the offense is committed in the officer's presence.

Once an individual has been arrested, he or she is brought to a police station or county jail and **booked**. At that time, the law enforcement agency takes the person's photograph and fingerprints and checks for the existence of any other outstanding arrest warrants.

After booking, the individual must be admitted to bail or be taken before a judge within 48 hours. At that time, the person will be informed of the charge or charges filed and the right to legal assistance. Additionally, the court will set bail (unless the person is arrested for murder).

Bail is a sum of money or property deposited by a person to assure that person's appearance at trial. It is not a fine, but it will be forfeited if the person does not appear at court. Bail may be set by a Bail Commissioner who may charge a non-refundable fee as part of the bail setting process.

When a person is arrested for murder or a Class A, B, or C offense, any trial must be in the Superior Court. A preliminary **hearing** may be held to determine whether there is sufficient evidence to warrant going ahead with the case. If the judge believes that there is sufficient evidence, or if the defendant waives the hearing, the case is presented to a **grand jury**, a group of citizens whose task is to review the prosecution's evidence and decide whether it is sufficient to justify a trial. In many cases, evidence of wrongdoing is presented directly to the grand jury without a preliminary hearing. If the evidence appears sufficient, the grand jury will return an **indictment**, a formal charge of a crime. If the defendant in a Class A, B, or C offense waives the

grand jury, or if the court in a Class D or E offense gives permission, proceedings are begun directly by the prosecuting attorney, who files an "**information**" setting forth the charge.

Following indictment or information in the Superior Court an arraignment is held. At this point the individual **pleads** guilty, not guilty, not criminally responsible by reason of insanity, or nolo contendere (a latin phrase meaning "I will not contest the charges").

- If a person pleads guilty or nolo contendere, the judge imposes sentence, either immediately or after a pre-sentence investigation.
- If the plea is not guilty, the case is scheduled for trial. There is a process of discovery similar to that in civil cases, through which the defendant has access to any information the prosecuting attorney has.

Class D and E offenses may be brought under a simplified procedure by complaint in the District Court. The defendant pleads to the complaint at the first appearance before the court. Trial then follows on a separate date before the judge alone unless the defendant requests a jury trial in Superior Court by filing a "Jury Trial Request Form" within 21 days of the arraignment in District Court. .

Criminal cases are frequently settled without trial because many defendants negotiate with the prosecuting attorney in a process known as **plea bargaining**. A plea bargain is an agreement between the prosecutor and the defendant that in return for a guilty or nolo plea to a certain charge or charges, the prosecutor will drop other charges or recommend a specific sentence to a judge. If the judge wishes to impose a greater sentence than recommended, the defendant may withdraw the guilty plea and go to trial.

Trial by Jury:

In all criminal cases and in those civil cases where monetary compensation is sought, the parties have a constitutional right to a jury trial. (In certain cases, such as divorces and actions for injunctions, there is no jury right). A **trial jury** (also called a "traverse jury") is a group of citizens who determine whether the defendant is guilty in a criminal case, and decide who wins and the amount of any damages in a civil action. Serving on a jury is hard work, but it is an important service of citizenship that preserves our fundamental rights to liberty and property.

Jury trials are held in the Superior Court. A defendant in a civil action in the District Court may remove the case to the Superior Court in order to have a jury. Even in the Superior Court, a civil action brought originally there will be tried by a judge unless one party demands a jury. A \$300 fee is required in civil cases to be tried by a jury.

Criminal cases filed in the District Court are tried in the District Court unless the defendant demands a jury trial within 21 days after the arraignment date. If the defendant demands a jury, the case is transferred to the Superior Court for trial.

Jurors are selected in a two step procedure.

1. First, citizens' names are drawn at random from a list of people who hold Maine drivers' licenses, or who have been issued an identification card by the Secretary of State, or who voluntarily register with the Superior Court. When an individual is chosen, he or she reports for jury duty and becomes a member of a panel. A justice of the Superior Court will speak to jurors about the nature of the service they are about to give.

2. The second step in the selection process is called the **voir dire examination**. The purpose of voir dire is to determine whether there are any reasons why a particular juror might have difficulty making a fair decision in the case. The judge asks questions of the whole panel and then may speak to each juror individually. (In special circumstances, the attorneys may be permitted to question the jurors).

Each side in a case may challenge any juror for cause, and is allowed to exercise a limited number of peremptory challenges for which no cause need be shown to excuse a juror. A successfully challenged juror is excused from that trial. After the twelve jurors required in a criminal case (or the eight or nine jurors used in a civil case) are selected, they are administered the juror's oath and are impaneled.

The Trial Process:

The trial process is much the same in civil and criminal cases. Each party may present evidence and oral argument on the meaning of the evidence and the law. Then the trier of fact (the jury or, if there is no jury, the judge) must reach a decision based solely on the evidence presented in the courtroom.

Start of Proceedings

At the beginning of the trial all interested parties should be in the courtroom before the proceedings start. When the judge enters the courtroom, everyone stands and remains standing until the judge is seated.

Opening Statement

Beginning with the plaintiff, or the District Attorney in a criminal case, each side normally makes an opening statement outlining the facts he or she expects to establish during the trial. This statement is not evidence. A criminal defendant may elect not to make an opening statement.

Witnesses

The plaintiff or District Attorney then calls witnesses and asks questions. These questions are known as **direct examination**. The defendant may ask questions of each witness called by the other side. These questions are called **cross-examination**. The plaintiff may also offer in evidence documents or objects, called **exhibits**.

After the plaintiff or the State has presented witnesses and exhibits, the defense has an opportunity to present its own witnesses and exhibits. A similar sequence of direct and cross-examination takes place. A criminal defendant may elect not to testify. In addition, criminal defendants may choose not to present any witnesses.

Closing Arguments

After each party has presented its case, each side makes its closing arguments summarizing the testimony and the law governing the case. These statements are not evidence.

Judge's Instructions to the Jury

In a jury trial, the judge instructs the jury on the law that governs the case, defines the issues the jury must decide, and charges the jurors to reach a fair verdict, applying the law to the facts as they find them from the evidence presented.

Jury Deliberations

The jury then adjourns to the jury room to deliberate and reach a verdict. The verdict must be that of at least two-thirds of the jurors in a civil trial. The jury verdict in a criminal case must be unanimous. If there is no jury, the judge considers the evidence and arguments and states his or her findings and conclusions.

The Verdict

The verdict of the jury (or the finding of the judge in a non-jury trial) decides not only which party will prevail, but also the amount of any damages to be awarded and any other orders or relief to be awarded. In a criminal case a jury's verdict, or the judge's finding, establishes the defendant's guilt, but it is up to the judge to impose a sentence on a guilty defendant.

Admission and exclusion of evidence:

The **rules of evidence**, codified in Maine since 1976 govern the admission or exclusion of particular statements of witnesses or exhibits to be considered by the judge or jury. The rules of evidence address many questions, including who has the right to be a witness, the limits on the subject matter of a witness's testimony, and the methods by which exhibits can be determined to be authentic. The basic issue is whether the evidence is reliable and relevant to the case at hand. The purpose of the rules is to assist the judge or jury in ascertaining truth and reaching a just determination of a dispute by excluding evidence that may mislead, confuse, or prejudice the trial, or waste time.

If you are a participant in a trial, you will notice that the lawyers will from time to time object to a question being asked by the other side or to the admission of a particular exhibit. Such **objections** are used to bring into play the rules of evidence, having the judge decide whether the objection is valid or not.

If the objection is valid, the judge will say, "Sustained." If the objection is not well taken, the response will be, "Overruled." If there is a jury hearing the case, the judge may ask the lawyers to step to the side of the bench and present their arguments on the objection out of the hearing of

the jury. This is done to prevent the jury from hearing evidence that may not turn out to be admissible.

The most common objections at trial are:

- that a particular question is leading (that the question suggests its own answer),
- that the testimony of the witness is hearsay (words that the witness heard someone say outside the courtroom),
- or that a particular piece of the testimony or an exhibit is irrelevant (has little or nothing to do with the legal issues of the case).

Appeals:

In most civil and criminal cases each party has the right to appeal the decision to a different court. The issues heard on appeal, however, are limited to questions of law considered in the trial court. A trial judge's decision about what the law is or whether to admit testimony is generally reviewable, but a jury's (or judge's) decision to believe or disbelieve properly admitted evidence is reviewable only for abuse of discretion or insufficiency of evidence.

Part II: Court Organization

In This Section

County Courts

Trial Courts

Supreme Judicial Court

Administrative Office of the Courts

Other Judicial Branch Agencies

Maine's state government consists of three branches. The **Legislature** makes the laws. The **Executive Branch**, which includes the governor and the various administrative agencies, carries out the laws. The **Judicial Branch** decides disputes and interprets the laws.

The Judicial Branch consists of the Supreme Judicial Court, the trial courts and the Administrative Office of the Courts. Judges are nominated by the Governor to serve seven year terms and confirmed by the legislature. (Probate judges are an exception. They are elected to four year terms by the voters of each county).

The **Supreme Judicial Court**, has general administrative and supervisory authority over the Judicial Branch. Its head, the **Chief Justice**, designates a Superior Court Chief Justice and District Court Chief Judge to oversee the day-to-day administrative operations of those courts, and also appoints the State Court Administrator, who runs the Administrative Office of the Courts. In addition, the Chief Justice takes an active hand in designing and administering procedures aimed at the speedy and just resolution of cases in the trial courts.

There are three classes of courts in Maine:

1. County Courts
2. Trial Courts
3. The Supreme Judicial Court

County Courts

Probate Courts, established in the Maine Constitution in 1820, are courts with jurisdiction over specialized subject matter, such as estates and trusts, adoptions and name changes, guardianship, and protective proceedings. These courts also sit without a jury. There are 16 Probate Courts and judges, one for each county. These judges, who are part-time, are elected. Probate Court decisions may be appealed to the Supreme Judicial Court on matters of law. The Probate Court is not under the state court system but under county jurisdiction.

Trial Courts

District Court

The District Court system was created by the Legislature in 1961. The District Court has 33 judges who hold court in 13 districts at many locations throughout Maine. This court hears civil, criminal and family matters and always sits without a jury. Civil suits claiming monetary damages, domestic relations cases (divorces, separations, custody, and property disputes), and involuntary commitments are examples of civil cases. There is also established within the District Court a Family Division that has jurisdiction over family matters in the District Court. There are 8 Family Law Magistrates who work in the Family Division.

A plaintiff who has a right to trial by jury in a civil action waives the right by bringing the action in District Court; a defendant with a right to a civil jury may remove the action to a Superior Court for jury trial.

The court also tries cases involving civil violations and Class D and E criminal offenses when the defendant waives the right to a jury trial. In addition, the court hears all juvenile matters and traffic infraction cases.

Most decisions of the District Court may be appealed directly to the Supreme Judicial Court, for small claims and forcible entry and detainer cases.

In Maine, the small claims court is a special session of the District Court held in each district on certain days determined by the Chief Judge of the District Court. In small claims court, the procedure is simplified, hearings are informal, and parties generally appear without attorneys. Small claims proceedings are appropriate only when the amount in controversy, not including interest and costs, is not more than \$6,000. Appeals from small claims judgments may be taken

to the Superior Court. A defendant who appeals, and who has a right to a jury trial, may have a trial de novo (a complete retrial) before a Superior Court jury.

See also [Adult Drug Court](#) and [Juvenile Drug Court](#) (www.courts.state.me.us/mainecourts/index.html).

The Superior Court

The Superior Court consists of 16 justices who hold court at regular intervals in each of Maine's 16 counties. Except for family matters, juvenile cases, and civil violations, the Superior Court may hear almost any kind of civil or criminal case that may be brought to trial. Since the Superior Court is the only court that uses juries, it hears all murder and Class A, B, and C criminal cases, as well as those Class D and E cases in which the defendant asks for a jury trial.

In civil actions both the Superior Court and the District Court have jurisdiction in cases seeking money damages. This means that, in such cases, the plaintiff can choose between District and Superior Court. If the plaintiff wishes to exercise a right to jury trial or prefers the location or some other feature of the Superior Court, the case may be brought in that court. There are also some actions where the plaintiff seeks something other than a simple money judgment, for example, an injunction. Many of these actions may only be brought in Superior Court.

The Superior Court also hears appeals from state and local administrative agencies.

Appeals from the Superior Court may be taken to the Supreme Judicial Court.

Supreme Judicial Court

The Supreme Judicial Court, established in 1820 when Maine separated from Massachusetts, is the State's highest court and the court of final appeal. It has seven justices, presided over by the **Chief Justice**, the head of the Judicial Branch.

The Court's major job is to decide appeals on questions of law that arise in civil actions and criminal trials. Questions of law are presented to the Court when a case is appealed from a trial court. Parties or their lawyers present written briefs and oral arguments outlining their respective positions. The justices reflect on the questions presented and issue a written opinion deciding the issues in accordance with the Court's view of the law and reversing or affirming the lower court's decision or a brief memorandum of decision briefly describing the outcome in a particular case. Memoranda of decision are not published. Opinions are published and become binding on all the Maine courts when they adjudicate similar disputes. Published opinions are available on this web site (www.courts.state.me.us/opinions/index.html) or may be found in bound form in the Maine Reporter. In its appellate capacity (as interpreter of the laws), the Court is called the Law Court.

The Court has several other jobs. An appellate division of the Court hears appeals from criminal sentences when the penalty is one year or more of incarceration. The justices may issue advisory opinions to the Governor or Legislature on legal issues of high public importance. The Court is

also responsible for overseeing admission to the Bar and the conduct and discipline of lawyers and judges. Finally, the Court is the procedural rulemaking authority for all of the state's courts.

Administrative Office of the Courts

The Administrative Office of the Courts administers all of Maine's courts except for the Probate Courts, which are administered at the county level. The head of the office, the State Court Administrator, manages the business affairs of the courts. The Court Administrator reports to the Chief Justice and is responsible for collecting statistical information, investigating complaints, overseeing financial affairs, maintaining the physical facilities of the court, computer operations, running educational and training programs for court personnel, preparing an annual report on the operation of the Judicial Branch, and a broad range of other duties.

Other Judicial Branch Programs

A number of other agencies have been created by statute or court order to advise or assist the Supreme Judicial Court in carrying out its supervisory and administrative responsibilities over the court system and the Bar. These include:

- Board of Bar Examiners, charged with supervising admission to the bar
- Board of Overseers of the Bar, charged with supervising attorney conduct and discipline
- Committee on Judicial Responsibility and Disability, charged with supervising the conduct and discipline of judges
- Court Appointed Special Advocate Program (CASA), which utilizes trained volunteers to act as guardians-ad-litem in child protective cases
- Court Alternative Dispute Resolution Service (CADRES)
- numerous operating and advisory committees dealing with matters ranging from judicial education to the rules of court

Part III: Visiting the Courts

You are welcome to visit any of Maine's courts (see directory on line at www.courts.state.me.us/courtservices/directory.html).

Schedules of cases to be heard and the times that the court will be in session are available from the clerk's office at each court.

The Maine District Court is divided into 13 districts and sits at many locations throughout the state, and the Superior Court sits in each of Maine's sixteen county seats. Although the clerks' offices usually open at 8:00 a.m., the proceedings in the courts generally take place from 8:30 a.m. to 4:00 p.m. Visitors are always welcome, but large groups should notify the clerk of the court prior to arrival. The clerk, bailiff, or court officer is usually available to explain the type of proceeding being heard.

In some courts, the clerk can arrange tours of the building. Occasionally, a judge may be available to speak to groups. Visitors are also welcome to observe oral arguments before the Supreme Judicial Court, which holds regular sessions in Portland and also sits in Bangor and other locations from time to time.

For More Information

Use the Find a Court feature on the court website to locate addresses and other contact information for individual courts (www.courts.state.me.us/mainecourts/findacourt.html).

Acknowledgements

The original version of this Guide was the work of Associate Professor William H. Coogan of the Department of Political Science, University of Southern Maine. Professor Coogan gratefully acknowledged the prior draft of Marcy A. Kamin-Crane as well as the efforts of Susan M. Madsen and Gloria Penney, interns with the Administrative Office of the Courts in the summers of 1983 and 1984, and their supervisor, Debra E. Olken, who was the Policy and Analysis Officer and Human Resources Director at the AOC.

Editorial supervision of the original project was the responsibility of a committee of the Maine Judicial Council consisting of Murrough H. O'Brien, Esquire, Secretary of the Council; the late Hon. David G. Roberts, Associate Justice of the Supreme Judicial Court; and L. Kinvin Wroth, then Dean of the University of Maine School of Law.

Nancy R. Chandler, Executive Director of The Maine Bar Foundation at the time, and Virginia Wilder Cross of Working Words, helped transform the Guide from manuscript to its initial printed form.

Updating, conversion and revision to a form appropriate for posting on the World Wide Web was accomplished in 1997 by the Electronic Distribution of Information Team under the auspices of the Administrative Office of the Courts. Team Members were Hon. Susan W. Calkins, Chair; Timothy Brooks; Judy Bennett; Pat Champagne; James Chute; Scott Clark; James Erwin, the late Ulrike Gaynor; Hon. John David Kennedy, and John C. Sheldon, former District Court judge. Lynda Haskell also provided valuable editorial contributions. The Internet version was revised in May 2002 by Hon. Robert E. Mullen, Deputy Chief Judge of the District Court, and the Administrative Office of the Courts, and again in 2004 by the Hon. Donald G. Alexander, Associate Justice of the Supreme Court, Christie L. Clifford, Judicial Secretary, Laura M. O'Hanlon, Administrative Law Clerk, and the Administrative Office of the Courts.