

# Arizona Judiciary

## ARIZONA'S APPELLATE COURTS



### Arizona Supreme Court

5 justices, 6-yr. terms

Handles appeals from lower courts; special actions against state officials; suits between counties.

### Arizona Court of Appeals

22 judges, 6-yr. terms  
[Div. 1 (Phx) = 16 judges;  
Div. 2 (Tuc) = 6 judges]

Handles appeals from superior courts, the tax court, the Industrial Commission, and unemployment compensation cases.

## MAJOR TRIAL COURTS

### Superior Court

168 judges, 4-yr. terms  
[Maricopa= 93 judges]

Handles serious criminal and civil cases (e.g., all felonies, private claims over \$5,000, divorces, probate) and appeals from JP and municipal courts.

## LIMITED JURISDICTION COURTS

### Justice courts (JP)

85 judges, 4-yr. terms

[Maricopa=23 precincts.]

Mostly handles traffic cases, minor criminal cases (misdemeanors and petty offenses), private claims under \$10,000; small claims division (cases under \$2500); and conducts preliminary hearings in felony cases.

### Municipal (city) courts

129 judges, 4-yr. terms

Mostly handles traffic cases, minor criminal cases (misdemeanors and petty offenses occurring within city limits) and violations of city ordinances.

**Judicial Power: What Judges Do**—The familiar role of judges as trial referees is only part of the story. Most people don't realize that judges also make law and shape public policy. Appellate court judges do this when they interpret existing laws and constitutional provisions. Their interpretations become as binding as the original text. Arizona courts have shaped public policy in many important ways. In 1994 they declared the state's method of funding public school improvements to be unconstitutional and ordered a more equitable system. In 1998 they struck down the citizen's (first) Official English initiative, declaring that it violated free speech rights. When judges strike down laws on constitutional grounds they exercise a power known as judicial review.

**The Arizona Court System: an overview**—Arizona's state courts fall into two main categories: general jurisdiction and limited jurisdiction courts. The former handle more serious cases covering a wider range. Limited jurisdiction courts mostly deal with traffic cases. Another way to classify courts is to distinguish between trial and appellate courts. Cases start out in trial courts. Typically, a single judge presides, witnesses give testimony, and physical evidence is presented. Either a jury or the judge decides the outcome. Appellate courts receive the case after trial is over. Their job is to determine whether the lower court proceedings were fair and proper. They do not hold trials or consider new evidence. Instead, a panel of judges listens to short arguments presented by the lawyers for each side. The court also reviews written briefs filed by the parties. After privately conferring, the appellate judges vote, with majority rule determining the outcome. The appellate court issues a formal written opinion setting forth the judges' reasoning. These opinions are published and become part of the common law (judge-made law) of the state.

**Arizona's Appellate Courts**—Arizona has two appellate courts: the Arizona Supreme Court and the Arizona Court of Appeals. Most litigants have an automatic right to an appeal in the Court of Appeals. (When a criminal defendant is acquitted double jeopardy bars an appeal by the government.) Only death penalty cases have an automatic right to an appeal before the Supreme Court. The state's highest court has discretionary jurisdiction and accepts only a small number of appeals each year. Appellate court justices serve for six-year terms and are chosen and retained by Merit Selection (see below).

**Superior Court**—The superior court is the state's major trial court. Each county has a superior court with multiple judges assigned to it. This court handles the most serious criminal and civil cases. All felonies are tried in superior court along with civil cases where more than \$5,000 is at stake. Superior court also handles important family cases like dissolution of marriage and adoption, as well as probate (wills), and disputes over real property. Superior Court judges have four-year terms. Those in Pima and Maricopa County are chosen through Merit Selection. Superior Court judges in other counties are elected in non-partisan, contested elections.

**Limited Jurisdiction Courts**—There are two limited jurisdiction courts: Justice (or "JP") courts and municipal (city) courts. Together they handle the greatest volume of cases. City courts mostly deal with traffic cases, misdemeanors, and violations of city ordinances and codes. Most judges in these courts are appointed by city governments. Justice courts are organized by precincts within counties. Justice courts have similar criminal jurisdiction as city courts, but also handle private lawsuits where the amount in controversy is under \$10,000. If less than \$2500 is at stake the case can go to the small claims division of Justice court, where no lawyers are allowed. Litigating in small claims division is speedier and less costly. Justice courts also handle the preliminary hearings that proceed felony trials in superior

court. Justices of the Peace are elected in contested elections and serve four-year terms. A persistent controversy surrounds the qualifications for JPs: Unlike like other courts, the judges do not have to be lawyers. Essentially, they need only be registered voters over the age of eighteen.

**Merit Selection**—All Arizona general jurisdiction judges were originally elected in contested elections. In 1974 the system was revamped as a result of mounting criticism of judicial elections. Some reformers believed that ordinary citizens were not competent to choose the most qualified judges. Others were disturbed by the mounting costs of judicial campaigns. This meant that judges either had to be wealthy or successful fundraisers. Fund-raising raised additional concerns because major contributors were typically big businesses and other special interests frequently involved in litigation. This put judicial integrity in issue, along with mudslinging campaigns that reduced respect for the entire judiciary. Accordingly, Arizona adopted Merit Selection (which in other parts of the country is known as the “Missouri Plan”). Merit Selection works as follows: Whenever there is judicial vacancy candidates apply to a judicial appointments commission. The commission screens applicants and sends at least three names to the governor. The state constitution prohibits all nominees from being from the same party and requires the commission to consider diversity as well as merit. The governor then appoints the judge from this short list. If the judge wants to remain on the bench, he/she must survive a retention election at the end of every term. In a retention election the judge’s name appears on the ballot and the voters are simply asked to vote “yes” or “no” as to whether the judge should be retained. If a majority vote no, a vacancy is created and the process begins anew with another appointment by the governor. Supporters of merit selection contend that it has increased the overall quality of judges, allowed younger, less affluent persons to serve, and has promoted judicial independence. Critics contend that Merit Selection has simply transferred the open politics of the electoral process to the manipulations of a narrower, less visible group of insiders who lobby the appointments commission. Retention elections—which require voters in Maricopa County to be knowledgeable about the performance of more than forty judges—are also problematic. Merit Selection currently applies to all appellate judges and to superior court judges in Maricopa and Pima counties.

**Jury Power in Arizona**—The drafters of Arizona’s constitution did not trust government officials, including judges. Accordingly, they put several provisions in the constitution to ensure that jurors would always have the final say in tort cases (private injury lawsuits). For example, the Constitution prohibits the Legislature from passing any law that limits the amount of money that can be recovered in injury cases. It also recites that the jurors must decide whether defenses such as assumption of risk or contributory negligence should bar a person from recovering money. (In other states they are grounds for dismissal of the case.) These provisions have become controversial in modern times as some have argued for tort reform and restrictions on high jury verdicts. The voters have been asked to repeal these provisions on multiple occasions. To date, they have refused, reposing their trust in the common sense of the jury.

**COURT FILINGS BY COURT (2005)**

AZ Supreme Court	1,164
AZ Court of Appeals	3,871
Tax Court	1,019
Superior Court	205,516
JP Courts	856,153
Municipal courts	1,469,243
<b>TOTAL</b>	<b>2,536,966</b>

**JURY TRIALS IN ARIZONA**

The Arizona Constitution guarantees the right to trial by jury, but the number of jurors required and the degree of agreement needed to reach a verdict varies:

	#	Agreement needed
Superior Court (felonies punishable by death or 30+ yrs)	12	unanimous
Superior Court (other felonies)	8	unanimous
Superior Court (civil cases)	8	6
JP & municipal courts (criminal)	6	unanimous
JP (civil)	6	5