

Chapter 5

Georgia's Judicial Branch

Chapter Preview

TERMS

due process, criminal law, civil law, crime, tort, plaintiff, defendant, capital felony, misdemeanor, jurisdiction, jury, appeal, Supreme Court, Court of Appeals, superior court, state court, probate court, magistrate court, juvenile court, municipal court, judicial review, suspect, grand jury, indictment, arraign, plea, verdict

PEOPLE

chief justice





In Chapters 3 and 4, you learned that laws are enacted by the legislature and carried out by the executive branch for the benefit of the people of Georgia. The role of the judicial branch is to interpret the laws of Georgia and to ensure justice in the legal system. It makes sense to study the judicial system. Georgia's legal system provides guidelines on how to avoid trouble and settle disputes peacefully.

In this chapter, you will learn about the structure of Georgia's court system. You will see how the trial courts and the appellate courts handle their responsibilities, and you will learn more about judges and how they are selected.

You will also learn that the judicial system is designed to handle cases that arise from both criminal law and civil law and explore the difference between these two categories. It is important to know what happens as a case makes its way through a trial, as well as what happens before and after the trial is completed. The guarantee of **due process**, which ensures fair treatment under the law, comes from the Fifth and Fourteenth amendments to the U.S. Constitution and must be observed in all stages.

Left: The courtroom of the Supreme Court of Georgia, Georgia's highest court of appeal, is located in the Justice Building in Atlanta.

Section 1

Ensuring Justice

As you read, look for

- the difference between civil and criminal law,
- the difference between a felony and a misdemeanor,
- terms: **criminal law, civil law, crime, tort, plaintiff, defendant, capital felony, misdemeanor.**



Above: If you are injured in an automobile accident caused by somebody else, you can bring a lawsuit against that person in civil court for monetary compensation. The money can be claimed for medical expenses, automobile repairs or replacement, and for “pain and suffering.”

Disputes over legal rights and questions of who is responsible for correcting wrongs are part of everyday life. In a nation that abides by the rule of law, government has a major role in settling disputes. Just as importantly, government is the only body with the power to separate convicted criminal offenders from society to prevent them from doing more harm.

The judicial branch of government—at the federal, state, and local levels—uses court systems to *adjudicate* matters. This means that both sides of a legal argument or question of law are heard, and a decision is made—hopefully solving the disagreement (in a civil case) or serving justice (in a criminal case).

Criminal Law versus Civil Law

The laws of the state are divided into two categories. **Criminal laws** protect society from the wrongdoing of an individual. **Civil laws** deal with the relationships between and among individuals.

A **crime** is a serious offense, regarded as an injury to society. It is punishable by the state. When a crime is committed, the state—in the person of a prosecutor—will start legal action against the person who is accused of the crime in a *criminal* court.

In contrast, a **tort** is an injury or wrong done to a person that can be compensated with the payment of money (called *damages*). For example, someone may have been wronged in some way that does not involve the violation of a criminal law or statute. In that case, the wronged individual is the one who must start the legal action (called a lawsuit) in a *civil court*.

Sometimes, a single act may be both a crime and a tort. Here is an example. Suppose a driver gets distracted, goes much faster than the speed limit in a residential neighborhood, and suddenly plows into your front yard, crashing into your family's front porch, and causing the roof to collapse. This driver would no doubt be arrested and prosecuted for speeding and reckless driving. The driver violated criminal statutes and must face punishment.

Your family, as owners of the property damaged in the incident, has a *right of action*, or a civil case, against the driver. Usually, insurance covers the cost of repairing your front porch. If it does not, your family, as **plaintiffs**, can sue (file a lawsuit against) the driver to recover repair costs in a civil court action. The driver is called the **defendant**.

Felony versus Misdemeanor

Crimes are sorted into categories, ranging from very serious crimes, which carry severe punishment and are tried by a jury, to those that are less serious and call for an appearance before a judge.

A felony is a very serious crime. It is punishable by a prison sentence of more than one year. Examples of felonies under Georgia law include arson, kidnapping, robbery, rape, burglary, selling illegal substances (drugs), and motor vehicle theft. A **capital felony** is a crime that is punishable by death. Murder is a capital felony.

All other crimes are misdemeanors. A **misdemeanor** carries a less severe punishment: one to twelve months in jail and/or a fine set by the court. Examples of misdemeanors are trespassing, shoplifting, cruelty to animals, and assault and battery (fist fights) with minor injuries.

Reviewing the Section

1. Define: tort, misdemeanor.
2. How does the court system adjudicate a crime?
3. Why is it necessary to have both civil and criminal law?



Above: Picking a lock, or using any kind of force, to enter private property without authorization is the crime of breaking and entering. Without criminal intent, this is usually a misdemeanor; with criminal intent, it becomes burglary, a felony.

Section 2

The Structure of Georgia's Court System

Opposite page, above: The Supreme Court of Georgia consists of seven justices: seated, left to right, Presiding Justice George H. Carley, Chief Justice Carol W. Hunstein; standing, left to right, Justice Robert Benham, Justice Hugh P. Thompson, Justice Harold D. Melton, Justice David E. Nahmias, Justice P. Harris Hines.

As you read, look for:

- the different types of jurisdiction,
- how the court system is organized,
- what kinds of cases each court handles,
- how judges are selected,
- how to settle cases peacefully,
- terms: **jurisdiction, jury, appeal, Supreme Court, Court of Appeals, superior court, state court, probate court, magistrate court, juvenile court, municipal court, judicial review.**



Above: Judge Herbert E. Phipps was appointed to the Georgia Court of Appeals by Gov. Roy Barnes in 1999 and elected to a full six-year term the following year. He was elected to a second term in 2006.

When it comes to describing courts, jurisdiction is a helpful concept. What does it mean? When a court has the authority to decide a case, it is said to have **jurisdiction** over it. Jurisdiction sorts out the levels of courts that have the authority to interpret and to apply the law. It does not refer to geographic boundaries.

Original jurisdiction describes the authority of courts to hear a case in the “first instance.” This usually means a trial complete with witnesses, evidence, a judge, and a jury. (A **jury** is a group of citizens

chosen to hear evidence in a legal case and make a decision based on that evidence.) With original jurisdiction, courts determine the facts of the case.

Courts of *limited* jurisdiction handle less serious cases or cases that involve specific issues. They handle both criminal cases and some civil matters.

Appellate jurisdiction takes up where the courts of original or limited jurisdiction leave off. That is, the decision in a criminal case or a civil case



can be appealed. To **appeal** means to take a case to a higher court for rehearing. No trials are held at the appellate level, nor do the plaintiffs or defendants speak before the appellate court. The justices in an appellate court review the decision of the lower court and determine whether that decision should be upheld or overruled.

Appellate Courts

The Georgia **Supreme Court** is the state's highest court. It is an appellate court that reviews decisions made in civil and criminal cases by a trial court or by the Court of Appeals. The Supreme Court is also the *only* court in the state that can rule on certain types of cases. Two examples are cases about whether laws passed by the legislature are constitutional and cases involving challenges to elections held in the state. In addition, all criminal cases that result in a death sentence come before the Georgia Supreme Court. Decisions of the Supreme Court are binding. That is, they have the



Above: Judge John J. Ellington was appointed to the Georgia Court of Appeals by Gov. Roy Barnes at the same time as Judge Phipps. He was also elected to a full term in 2000 and reelected in 2006.

Something Extra!

In 1984, the first woman and the first African American were appointed to the Georgia Court of Appeals.

final authority on matters of law at the state level. The Supreme Court also outlines a code of judicial conduct for the judges of the state and regulates the admission of attorneys to practice law in Georgia.

The head of the Supreme Court is the chief justice. There are seven justices on the Georgia Supreme Court. They are elected to six-year terms in statewide, nonpartisan (not associated with any political party) elections.

The **Court of Appeals** is the second-highest ranking court in the state. It too has appellate jurisdiction. It is the court of first review for many civil and criminal cases heard by the trial courts. This review is intended to correct legal errors made at the trial level.

The Court of Appeals has twelve judges who are assigned to one of four panels made up of three judges each. The three-judge panel reviews the transcript (the written record) of the trial and the briefs (written arguments)

submitted by the attorneys for the parties. The judges hear oral arguments in a small number of cases. Judges are elected to six-year terms in statewide, nonpartisan elections.

Courts of Original Jurisdiction

In Georgia, the centerpiece of original jurisdiction is the trial court known as the **superior court**. The superior courts hear both civil and criminal cases. Superior court judges preside over all felony trials. This court has exclusive jurisdiction over cases of divorce and land titles (ownership disputes). It may also correct errors made by some limited jurisdiction courts.

There are 49 superior court circuits (regions), with 207 judges. Some of these circuits consist of more than one county. Each judicial circuit has a chief superior court judge and a number of other judges as authorized by the General Assembly.

Superior court judges are elected to four-year terms in circuitwide, nonpartisan elections. A candidate for superior court judge must be a lawyer who has practiced law for at least seven years.

Figure 9 Georgia's Court System

APPELLATE JURISDICTION

Supreme Court
7 Justices

Court of Appeals
12 Judges – 4 Divisions

ORIGINAL JURISDICTION

Superior Court
49 Circuits

LIMITED JURISDICTION

State Court

70 Courts

Juvenile Court

159 Courts

Probate Court

159 Courts

Magistrate Court

159 Courts

Courts of Limited Jurisdiction

State courts exercise limited jurisdiction within one county. State court judges hear misdemeanors, including most traffic violations. They issue search and arrest warrants, hold preliminary hearings in criminal cases, and try civil matters not reserved exclusively for the superior courts.

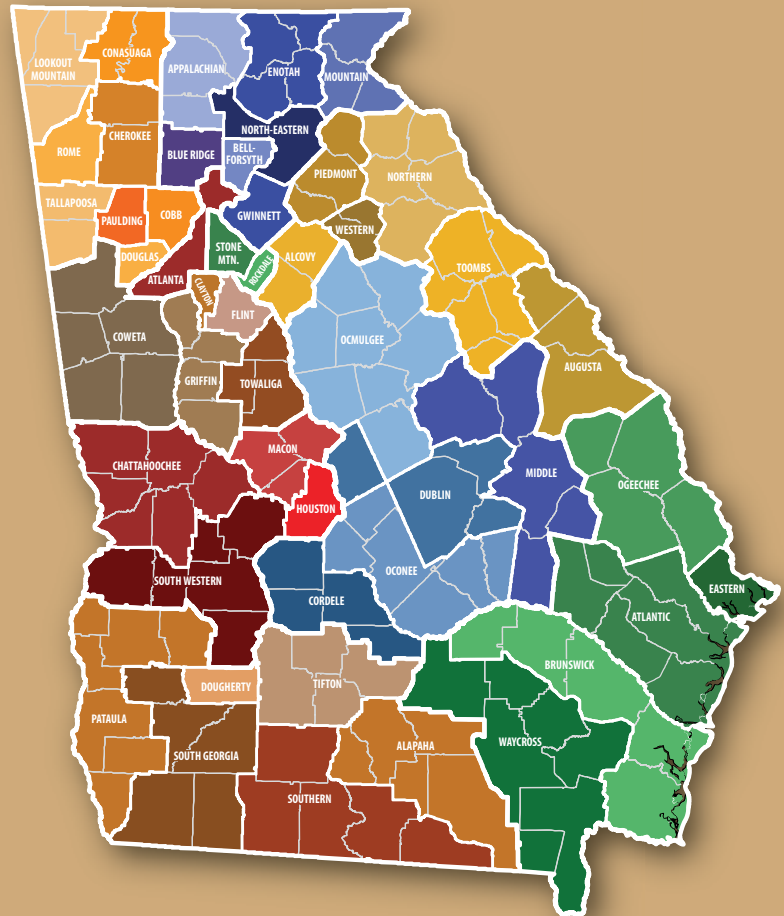
As of 2009, there were 70 state courts with over 100 judges. State court judges are elected to four-year terms in countywide, nonpartisan elections. Candidates must be at least 25 years old, have practiced law for at least 7 years, and have lived in the state for at least 3 years.

Probate courts are courts of limited jurisdiction. When someone dies, the heirs submit the deceased person's will for probate. *Probate* is the process of establishing the validity (legality) of the will. Dealing with wills and the estates (property and possessions) of deceased persons is the role of the **probate court** of each county.

Probate courts also issue marriage licenses and licenses to carry firearms. Probate judges have the authority to appoint a legal guardian and order the involuntary hospitalization of an incapacitated adult (someone with dementia, for example). In rural counties where there is no state court, probate judges may hear traffic violations, certain misdemeanors, and violations of the state game and fish laws.

Each county has a probate judge. Probate court judges are elected to four-year terms in countywide, nonpartisan elections. Candidates for probate court judge must be at least 25 years old, a high school graduate, a U.S. citizen, and a county resident for at least 2 years. In counties with a population over 96,000, a candidate for probate judge must have practiced law for 7 years and be at least 30 years of age.

Magistrate courts are limited jurisdiction county courts that issue warrants, hear minor criminal offenses, and hear civil cases involving amounts of \$15,000 or less. Magistrate court is the place for resolving civil disputes, violations of county ordinances, landlord/tenant cases, and bad checks. In criminal matters, magistrates hold preliminary hearings and issue search



Map 6 Superior Court Circuits

Map Skill: In which judicial circuit do you live?



Above: Judge John C. Carbo III presides over the state court of Clayton County. State courts are courts of limited jurisdiction.

Something Extra!

Women were not allowed to practice law in Georgia courts until 1915.

warrants as well as arrest warrants. In some cases, magistrates are authorized to set bail for defendants.

No jury trials are held in magistrate court. Civil cases are often argued by the parties themselves, rather than by attorneys.

There is a magistrate court in every county. A chief magistrate is either elected or appointed, as determined by local legislation. Other magistrates may be appointed by the chief magistrate. Candidates for magistrate judge must reside in the county for at least one year, be 25 years of age, and have a high school diploma or its equivalent.

In Georgia, a distinction is made between adult and youthful offenders in the criminal justice system. **Juvenile courts** were established to concentrate attention on the treatment of juveniles. Limited jurisdiction juvenile courts handle all cases involving deprived and neglected children under age 18, delinquent and unruly offenses committed by children under age 17, and traffic violations committed by juveniles. These courts also hear cases involving minors' petitions to marry or enlist in the military and procedures for the return of a runaway child who has been taken into custody in another state.

Juvenile courts have *concurrent* (jointly held) jurisdiction with superior courts in child custody and child support matters that arise from divorce cases. Juvenile judges also preside over proceedings to end parental rights. Juveniles who commit serious violent felonies, however, are usually sent to superior court.

There is a juvenile court in each county. Juvenile court judges are appointed by the superior court judges of the judicial circuit to four-year terms

of office. Candidates must be 30 years of age, have practiced law for 5 years, and have lived in Georgia for 3 years.

Municipal Courts

In addition to the courts that serve people within the county or circuit, Georgia's cities and towns have established **municipal courts** to handle traffic offenses and violations of local regulations, to issue warrants, and in some instances, to hear misdemeanor cases such as shoplifting and possession of marijuana.

Municipal court judges are often appointed by the mayor, but some are elected. There are approximately 370 municipal courts operating in Georgia.

Federal Courts

In addition to Georgia's court system, the judicial branch of the U.S. government administers federal courts in Georgia. These courts are the U.S. district courts. There are three U.S. district courts in Georgia. They are the U.S. Northern District Court (main office, Atlanta), U.S. Middle District Court (main office, Macon), and the U.S. Southern District Court (main office, Savannah). These are among 94 district courts throughout the country that are organized into circuits. Georgia, along with Alabama and Florida, is in the Eleventh Circuit.

These district courts are the general trial courts for the federal court system. These courts conduct trials in civil cases that fall under the U.S. Constitution and federal laws, criminal cases brought by federal prosecutors on behalf of the United States, civil actions in which the United States is a party, and other cases and controversies. In many cases, the jurisdiction of the federal district courts is concurrent with that of the state courts. In other words, a plaintiff can choose to bring the case in either a federal district court or a state court.

Federal judges in each of these courts are appointed by the president, subject to confirmation by the U.S. Senate. Unlike state court judges, federal judges are eligible to serve for life.

Below and bottom: The Elbert P. Tuttle U.S. Court of Appeals Building in Atlanta is the courthouse of the Eleventh Circuit. Elbert P. Tuttle was a member of the court during the civil rights era, when many important rulings were handed down.





Above: The courtrooms for the Georgia Supreme Court and Georgia Court of Appeals are housed in the Judicial Building in downtown Atlanta.

Settling Disputes Peacefully

Our legal system is designed to settle disputes between parties and wrongs against society in a peaceful manner. However, the system depends upon public participation. Laws must be respected and observed. If there is disagreement about the fairness of a law, or how it should be applied, there is a proper way to seek a change. The state legislature or city council can be asked to repeal or amend a law or an ordinance. The constitutionality of a law can be appealed to the Georgia Supreme Court, under the doctrine of **judicial review**. Simply ignoring the law or intentionally violating it is *not* an option.

Filing a lawsuit in a civil matter is one way to settle a dispute peacefully. There are other ways, including mediation, arbitration, compromise, negotiation, collaboration, and nonviolent civil disobedience.

Mediation is a way to resolve disputes in which a neutral third person meets with the two (or more) opposing sides and helps them reach an agreement. With *arbitration*, the opposing parties designate a neutral third party (called an arbitrator) and agree in advance to accept the arbitrator's solution to the disagreement.

Arbitration is often used in disagreements between labor unions

and management. In a *compromise*, each of the opposing parties gives up something in order to settle the dispute. The Missouri Compromise and the Compromise of 1850 are two well-known historical compromises. *Negotiation* is the process of discussing an issue with the intention of resolving it. Negotiation is often used to settle on the selling price of real estate. *Collaboration* occurs when the opposing parties work together to identify common ground or objectives. Collaboration often takes place in the writing of books or songs. Finally, *nonviolence* is a method of seeking change that specifically rejects violence. Reverend Martin Luther King, Jr. was a proponent of the use of nonviolent civil disobedience in the civil rights movement.

As a student, you have both rights and duties. Your duty as a citizen is to obey the law and learn how to settle disputes peacefully with those around you. Disagreements do not have to reach the point of verbal insults or physical assault. Take responsibility for your actions. Be willing to listen to the other side and to negotiate a solution to the problem before it becomes necessary to have law enforcement step in.

Reviewing the Section

1. Define: jurisdiction, jury, appeal.
2. What are Georgia's two appellate courts?
3. Why do you think judges are elected in nonpartisan elections?

Georgia Portraits

Leah Ward Sears

When Leah Sears became chief justice of the Georgia Supreme Court in 2005, she was the first African American woman to serve as chief justice of any state supreme court in the United States. Before she became a judge, Sears was an attorney with an Atlanta law firm. She began her judicial career as a judge for the traffic court of the City of Atlanta. In 1988, she became a superior court judge for the Atlanta judicial circuit, the first black woman to become a trial judge at this level.

Four years later, Governor Zell Miller appointed her to an unexpired term on the Supreme Court. At the age of thirty-six, she was the youngest justice and the first woman to serve on the high court. She served in this interim position until an election in July 1992. She won that election, becoming the first woman to win a contested statewide judicial election in Georgia. Appellate court judges rarely have contested races (meaning other candidates challenge them).

Sears is the daughter of a U.S. army colonel whose career took the family to stations throughout the world. She was born in Heidelberg, Germany. When she was sixteen years old, the family settled in Savannah, where Sears graduated from high school. She then attended Cornell University in Ithaca, New York, earning a B.S. degree in 1976. Four years later, she completed her law degree from Emory University in Atlanta. She also holds the master of



Above: Leah Ward Sears became the first African American woman chief justice on a supreme court in the United States.

laws degree from the University of Virginia School of Law.

Justice Sears retired in 2009, having served four years as chief justice and a total of seventeen years on Georgia's highest appellate court. Former Chief Justice Sears now practices law in Atlanta.

Section 3

Steps in the Criminal Justice System

As you read, look for

- the three major steps in the criminal justice process,
- what happens before trial, at trial, and after trial,
- terms: **suspect, grand jury, indictment, arraign, plea, verdict.**

Below: People who are accused of a crime are presumed to be innocent until they are proven guilty in a court of law. It is up to the state to prove that they are guilty beyond a reasonable doubt, using physical evidence and the testimony of witnesses. The rights of the accused are based on the presumption of innocence.

Suppose that your school is broken into over a weekend when no one is in the building. Offices are trashed and equipment (computers, digital projectors, and cameras) is stolen from the library. When the break-in is discovered, police and security personnel come immediately. Crime scene investigators examine the area carefully, collecting and recording evidence. From the evidence (fingerprints and shoeprints) and from the reports of witnesses (joggers on the athletic field behind the school), police officers arrest three **suspects** (people who are thought to have committed the crime). What happens next?

Pretrial Proceedings

When the suspects are arrested, law enforcement authorities take the suspects into *custody*. Once the suspects are in custody, law enforcement authorities make an official record of the arrest and place the suspects in a holding cell. This is called *booking*.

The suspects make a first appearance before a magistrate judge. The judge makes sure that due process (the rules established by courts to protect a person's rights) is followed for each suspect. Each suspect has the right to an attorney. The charges against each suspect (burglary, vandalism) are explained, and the

judge decides whether or not to allow a suspect out on bail (money paid to ensure a suspect's appearance in court at a later date).

Next is the *preliminary hearing*. In this hearing, the magistrate judge determines if there was, in fact, a crime committed, and if there is probable cause (sufficient reason) to believe that each suspect committed the crime.

In most cases, the case is sent to a grand jury. The **grand jury** is a group of citizens chosen from among eligible voters in a county or judicial circuit. Their job is to examine the case record and evidence that may link the accused to the crime committed. The grand jury decides whether there is sufficient evidence to charge the suspect with a crime. If it does, the grand jury issues an **indictment** (a formal accusation of a serious crime).

Someone who has been indicted by the grand jury is then **arraigned**, called before a superior court judge who reads the charges and allows the suspect to enter a **plea** of guilty or not guilty. If the plea is guilty, the next step is *sentencing*. If the accused person agrees to plead guilty to a less serious charge, and the prosecutor agrees, there will be no trial. This process of negotiating is called *plea bargaining*. If a suspect agrees to plea bargaining, he or she will begin to serve a sentence for taking part in the crime.

The Trial

If a suspect pleads not guilty, he or she becomes the defendant (the person who answers the charges) in a criminal trial. The trial process begins with *jury selection*. Twelve jurors and at least one alternate are selected to hear the case. In determining who will serve on the jury, the judge, the prosecutor, or the lawyer for the defendant may ask questions of the potential juror. This process is called *voir dire*.

Once the jury is selected, the prosecutor and the attorney for the defendant speak directly to the jury and state what they expect to prove. These are called the *opening statements*. Next is the *presentation of evidence*. The prosecutor (the attorney for the state) goes first. Most of the evidence is presented by witnesses who testify under oath. This means that they tell the court what they observed. In our burglary case, crime scene investigators would describe what they found. Joggers from the athletic field would tell the court what they saw at the approximate time of the burglary. The judge then calls upon the defense attorney to *cross-examine* (question) the witnesses. The defense attorney may call witnesses to argue, for example, that the burglary did not take place at the time identified by the police or that the defendant could not be positively linked to the crime. Once all of the witnesses have testified and been cross-examined, the defense attorney and the prosecutor make *closing statements* (or final arguments) to the jury.



Figure 10 Pretrial Procedures

1. Arrest
2. Booking
3. Initial appearance before magistrate judge
4. Preliminary hearing
5. Grand jury indictment
6. Arraignment before superior court judge
7. Possible plea bargaining

Next, the judge will instruct the jurors and point out the question they must decide. Instructions will include information about the state law that applies to the case in hand—in our case, a definition of burglary and destruction of property. The jurors then *deliberate* (discuss among themselves) the case and reach a **verdict** (decision).

If the verdict is guilty, the judge proceeds with *sentencing* (the length of time to be served in prison) and sets the amount of any fines or restitution (payment for damages). If the verdict is not guilty, the defendant is free to go.

The Appeal

There are several actions that can take place after a trial. If the defendant was found guilty by the jury, his or her lawyer may file a motion for a new trial. This motion is usually not granted except in unusual circumstances. The defense attorney can then file a notice of appeal to the appellate court and give reasons why the case should be reviewed. As you learned earlier, the appellate court does not conduct a trial; it examines the trial record for errors. If the appellate court overturns (reverses the previous decision), the case goes back to superior court. If the court upholds the guilty verdict, the sentence (prison term and restitution) is carried out.

Figure 11 Trial Procedures

1. Jury selection
2. Opening statements
3. Presentation of evidence and cross-examination of witnesses
4. Closing statements
5. Jury deliberation and verdict
6. Sentencing

Reviewing the Section

1. Define: indictment, arraign, plea, verdict.
2. What are the three major steps in the criminal justice system?
3. Why is the process of voir dire so important?

Of Special Interest

Jury Duty

When you become eighteen, you may register to vote. At that time, you will also be eligible to be called for jury duty. By serving on a jury, you have a role to play in the justice system. As you learned, a jury is responsible for carefully sorting out and determining the facts in a given case and reaching a verdict based upon those facts. Being a juror is a serious responsibility.

A juror may serve on a civil case or a criminal case. A panel (group) of people are called to the courthouse to serve as jurors. The judge or the lawyers for the parties (plaintiff and defendant) may ask questions of the panel. For example, a potential juror may be asked if he or she is related to the defendant or if the juror has already formed an opinion about the defendant's guilt or innocence. If so, that juror will be excused and another substituted. Through this process, a panel of a certain number of qualified persons is chosen—24, 30, or 42 depending on the type of case.

Selecting a 12-person jury from the panel members is known as "striking the jury." Attorneys for the plaintiff and the defendant take turns "striking" names from the panel until they reach the correct number. The remaining jurors make up the jury that will decide the case.

When the trial begins, evidence is presented, witnesses are questioned, and arguments are made by the lawyers. During

the trial and the recesses (rest breaks), jurors may not talk about the case with one another or with any other persons, including relatives and friends. Jurors cannot do any research or investigation on their own. They also must not accept any favor from anyone connected with the trial. This is important because a juror cannot allow anything or anyone to jeopardize his or her responsibility to be impartial and open-minded.

After final arguments, the judge charges (instructs) the jurors about the questions they are to decide and the law that applies to the case. The jury then retires (goes) to a separate room to deliberate. Their first task is to

select a foreman or forewoman who acts as the chairperson. The jurors then discuss the case, decide the facts based on

the evidence presented, and then apply the law as charged by the judge. Jurors take a formal vote in which each juror states his or her opinion as to what the verdict should be. The law requires that the final decision—the verdict—be unanimous.

The jury sends word to the judge that it has reached a verdict, and the judge reconvenes the court in order to hear the outcome. If a defendant is found guilty in a felony or a misdemeanor case, the judge sets the sentence, usually in a separate hearing.



Chapter Review

Chapter Summary

Section 1 Ensuring Justice

- The role of the judicial branch is to interpret the laws of Georgia and to ensure justice in the legal system. Due process ensures fair treatment under the law and must be observed in all stages.
- Criminal laws protect society from the wrongdoing of an individual. Civil laws deal with the relationships between and among individuals.
- A crime is a serious offense against society and punishable by the state. A tort is an injury or wrong done to a person that can be compensated with the payment of money.
- A felony is a very serious crime punishable by a prison sentence of more than one year. Felonies include arson, kidnapping, robbery, rape, burglary, selling illegal substances (drugs), and motor vehicle theft. A capital felony is a crime punishable by death. Murder is a capital felony.
- All other crimes are misdemeanors and carry a less severe punishment: one to twelve months in jail and/or the payment of a fine set by the court.

Section 2 The Structure of Georgia's Court System

- Courts in Georgia have either original jurisdiction (able to hear a case in the "first instance"), limited jurisdiction (handle less severe cases or those with specific issues), or appellate jurisdiction (able to review the decisions of lower trial courts).
- The Supreme Court is the state's highest court. It reviews decisions made by a trial court judge or by the Court of Appeals.

- The Court of Appeals is an appellate court for many civil and criminal cases.
- The superior court has original jurisdiction and is the major trial court in the state.
- Courts with limited jurisdiction generally hear less serious cases. These courts include: (a) state courts, which hear misdemeanor cases and some civil cases; (b) probate courts, which handle the estates of deceased persons and issue marriage licenses and licenses to carry firearms; (c) magistrate courts, which issue minor warrants, and hear minor criminal offenses, and civil claims involving amounts of \$15,000 or less; and (d) juvenile courts, which handle all cases involving deprived and neglected children, delinquent and unruly offenses committed by children, and traffic violations committed by juveniles.
- Municipal courts are established by cities and towns to handle such cases as traffic offenses and violations of local regulations.
- Most of Georgia's judges and justices are elected to a specific term. Some lower court associate positions are appointed (magistrates).
- District courts are the trial courts of the federal judicial system. Georgia has three federal district courts.
- There are other ways to settle disagreements peacefully, including mediation, arbitration, compromise, negotiation, collaboration, and nonviolent civil disobedience.

Section 3 Steps in the Criminal Justice Process

- There are three main steps in the criminal justice process: pretrial proceedings, the trial, and the appeal process.

- During pretrial proceedings, a suspect is arrested, taken into custody, and booked. The suspect appears before a magistrate judge who ensures that due process is followed for all suspects.
- In the preliminary hearing, the magistrate judge determines if a crime was committed, and if there is probable cause that the suspect committed the crime. In felony cases, the case is sent to a grand jury for indictment.
- If indicted, the suspect is arraigned before a superior court judge, who reads the charges and allows the suspect to enter a plea.
- The trial process begins with jury selection. During the trial, opening arguments are made, evidence is presented, witnesses are questioned and cross-examined, and final arguments are made. The judge instructs the jurors, and the jurors deliberate until they reach a verdict.
- If the defendant is found guilty, his or her lawyer may file a motion for a new trial or appeal the verdict to the appellate court. The appellate court examines the trial record for errors; if the court reverses the decision, the case goes back to superior court.



Understanding the Facts

1. Define *criminal court* and *civil court*. List a few of the different types of cases each court might hear.
2. Define *appellate jurisdiction*. What types of Georgia courts have this jurisdiction?
3. List the kinds of court cases where the Georgia Supreme Court has exclusive jurisdiction. Why do you think these types of cases were specifically chosen for this level of attention?
4. Explain the jury selection process in your own words.



Developing Critical Thinking

The U.S. Constitution gives defendants the right to a speedy trial and to be judged by a group of their peers (a jury). Review the Bill of Rights and look for references to courts. Evaluate how the Georgia court system complies with the U.S. Constitution.



Writing Across the Curriculum

1. Write a paper that compares the selection process for Georgia Supreme Court justices and the governor. Highlight similarities and differences of these two important offices.
2. In many criminal cases, a jury of 12 “peers” for the defendant determine guilt or innocence. Imagine that you are tasked to modify this jury system. Think of what you might change and write a persuasive essay to support your idea.



Extending Reading Skills

Draw a Venn diagram on a separate sheet of paper. Label one circle “Criminal Law” and the other circle “Civil Law.” Read pages 110-111 and record ways in which these two types of law are different in the two circles. Where the circles intersect, record how the two types of law are alike.



Exploring Technology

Research the current Georgia Supreme Court justices. Compare their education and backgrounds. How long have they served as justices?



Practicing Your Skills

Read your local newspaper and identify the different kinds of court cases that are mentioned. Evaluate the case as it is described, based on evidence, witnesses, and the decision of the judge or jury. Think about what court the case would go to if the verdict is appealed.