

Standing Up for Florida's Judiciary

2008 Legislative Session



**The Florida Bar
Francisco R. Angones, President
April 1, 2008**

Standing Up for Justice

When I became The Florida Bar's 59th president, I pledged to focus on the importance of the preservation of human rights. I firmly believe the legal profession must remain at the forefront in the defense of these rights, particularly those providing access to justice. Therefore, during my year as president I am focusing on the importance of an independent, fair, impartial, diverse and inclusive judicial system and adequate funding for the courts as well as civic education, mentoring programs for law students and newly licensed lawyers and the significance of pro bono work. None of these can be accomplished, however, without a properly funded judicial system and preservation of a constitutionally mandated third and coequal branch of government which is clearly not another government agency.

The theme at the Florida Bar Convention last year was "Stand up for Justice" and that is my purpose today. Forty-six years ago, I arrived in the United States from Cuba without my parents. My personal experience makes me appreciate and respect the judicial system we have in our state. In his 1863 Thanksgiving proclamation, President Abraham Lincoln enumerated the many blessings bestowed on the United States and in particular referred to the observance of law and order when he said that, "in the midst of a civil war of unequalled magnitude and severity...order has been maintained, the laws have been respected and obeyed, and harmony has prevailed everywhere except in the theatre of military conflict..."

I believe President Lincoln's statement is one we need to remember now with the decisions the Governor and the Legislature must make in the coming weeks as the state's budget for 2008-09 is set. Our great system of government can break down without a strong independent judiciary. Florida, with its diverse population and anticipated growth, must maintain a judicial branch that can carry out its obligations under the Constitution and laws that govern our state.

During the 2007 Special Session C, the court's budget was cut over 2% or about **\$8.9 million**. In addition, during the first two weeks of the 2008 Legislative Session, the courts were cut an additional **\$17.2 million**. The Legislature even considered additional cuts in the court's 2008-2009 budget of some **\$42.1 million**. These taken on top of the cuts already imposed, would have meant as much as a **30 percent reduction** in the work force that supports the judicial system. A recent Senate proposal based on increased court-user fees would still result in the loss of over 300 judicial branch positions; the House proposes cuts in court system staff of some 500. Neither chamber's proposal yet seems adequate.

The strong belief that the courts of Florida need to be properly funded in order for them to carry out their responsibilities as required by the state constitution is shared by many. The people's rights and freedoms depend upon an independent, fair and impartial judiciary having sufficient resources to address all cases brought before the courts. We give our citizens and business entities the constitutional right to challenge government authority and seek relief before the independent judicial branch of the government. We must be certain that this right is maintained.

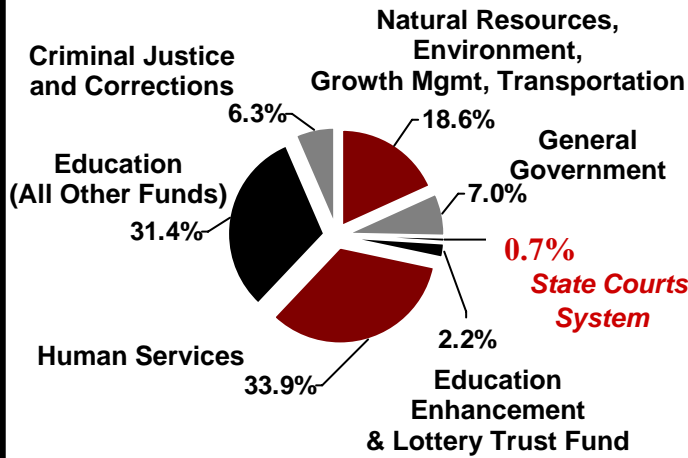
The membership of the Florida Bar must stand up for justice and against actions that could restrict the court's ability to carry out mandated responsibilities by the Constitution and Laws of Florida. Our goal must be to work with the Governor, the Legislature and within our local communities to avoid budget reductions that would be devastating to the third branch of government and that would weaken the system of government our forefathers fought for that makes our nation stand above all others.

Francisco R. Angones

Florida's Budget

Fiscal Year 2007-2008

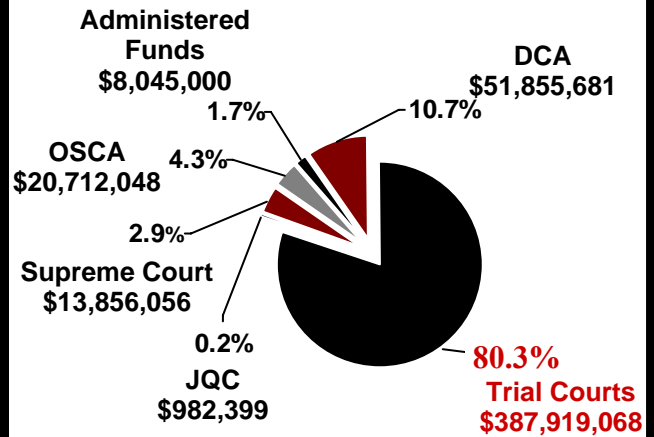
\$70,409,453,809



State Courts System's Budget

Fiscal Year 2007-2008

\$483,370,252



These numbers reflect the actions following Special Session C

Justice in Florida will be accessible, fair, effective, responsive and accountable.

“The work of the Florida Supreme Court in establishing a **performance** and **accountability** system for all courts in the state deserves mention. It has, perhaps, made more progress in reducing the goals of fairness, timeliness, and consistency to writing and offers some concrete products for other courts to consider” *Hanson Rogers, Jurisdiction, Caseload, and Timeliness of State Supreme courts National Center for State Courts.*

“Florida’s innovations, groundbreaking achievements, and overall excellence have been touted by the National Center for State Courts, the American Bar Association, and others. Since the 1970s, Florida has led the way in openness of court proceedings and records: access to justice for litigants without attorneys; innovations to reduce time spent on jury duty; efficiency and timeliness in processing a large volume of cases; and drug courts that save money – and lives! Adequate compensation is an essential component of continuing this tradition.” *Reported by Florida Tax Watch*

Of the ten most populous states, Florida yields the greatest number of appellate filings in proportion to its population and operates with fewer resources than its counterparts, yet ranks near the top in clearance rates of cases and opinions issued per justice.

The budget for the circuit courts is over **80%** of the total budget for Florida’s Judicial Branch. Over the last few years, the judicial branch has worked with the executive and legislative branches to provide justice to all Floridians in an equitable manner by establishing core elements for all trial courts in the Florida Statutes.

PROPOSED BUDGET CUTS WOULD IMPEDE COURTS ABILITY TO ENSURE JUSTICE IS SERVED

The judicial branch is facing potentially serious budget cuts. It is not known at this time how significant the cuts will be, but we do know that cuts of the magnitude we have been told to expect will cause a tremendous disruption in the court system.

Cuts already made

*** March 2008 – 4 percent of current budget or \$17.2 million**

In addition to cuts the courts could make, courts were allowed to use their cash reserves to avoid massive employee furloughs before the end of June. But the cut will still force significant loss of court staff beginning in July unless other alternatives are found.

*** September 2007 – 2 percent of current budget or \$8.9 million**

Courts implemented hiring freezes and delays and restricted or eliminated expenditures and expenses that were not essential to our mission of protecting constitutional rights and dispensing justice.

Cuts still to come

*** April 2008 – 10 percent? 4.8 percent? 6 percent?**

The staggering front-line impact of a 10 percent reduction, which is a cut of \$42 million would have been a 30 percent reduction in the work force that supports the judicial system.

A Senate proposal avoids massive layoffs by adjusting some court-user fees to help the courts continue to function. The cut would amount to **4.8 percent or \$20 million**; however, combined with prior year cuts, 11 percent of the workforce would be lost. The House proposal would cripple the courts by imposing an additional **6 percent or \$26 million** cut. This would bring the total reduction to 19 percent of the workforce. Such a reduction would eliminate:

- 35 percent of the staff in the Office of the State Courts Administrator, slashing the staff that helps the Chief Justice run the judicial branch by more than a third.
- more than half the judicial assistants in the District Courts of Appeal, which hear the vast majority of appeals in Florida's court system. Judicial assistants are a judge's only personal assistant.
- over 500 employees in the trial courts, significantly impacting the courts' ability to process cases.

Cases continue to increase

The Supreme Court recently reported to the Legislature that the work of the trial courts continues to grow. Overall, **4 million cases** were filed in the trial courts last year, **up 4 percent**. The latest statistics show the following increases in specific areas (from FY 05-06 to FY 06-07):

- capital murder has increased by 17 percent
- property crimes increased 6 percent
- drug crimes increased 5 percent
- small claim cases have increased by 22 percent
- civil cases up to \$15,000 have increased by 17 percent
- county criminal traffic cases increased 7 percent
- county misdemeanors increased 4 percent
- violations of municipal and county ordinances increased 4 percent
- **mortgage foreclosures soared 97 percent over last 12 months**

Florida's courts must have the capacity to process the cases coming to them, or their ability to deliver justice will be significantly impacted.

Impact of Cuts

If steep cuts are made, emergency provisions would have to be deployed to minimize the disruption.

Cases would be prioritized, with criminal cases and family cases that have mandated time-frames being heard first.

- Court-based mediation would likely be eliminated, resulting in significant delays and higher costs for people who now choose this alternative method for dispute resolution.
- Layoffs of court staff could significantly impair court operations, forcing citizens to wait substantially longer for court action.
- Civil traffic hearing officers are being eliminated, slowing disposition of these cases.
- With criminal and certain family cases getting priority, significant delays will be seen in many civil cases. **Businesses across all sectors would be impacted:**

* Banks, title companies, real estate brokers, and other related industries would see delays in foreclosures, guardianship cases, estate settlements, bank access to property determinations, and real estate transactions.

* Business contract disputes would take longer to resolve.

* Retailers and small businesses seeking to recover payments owed to them would be unable to opt for mediation and, forced to join judges' already crowded dockets, would have to wait longer to collect their money.

* Landlords seeking to evict tenants who don't pay their rent would have to wait longer to regain possession of their property.

* Worker compensation cases would be delayed, increasing the bottom line cost to employers in terms of time spent, benefits paid and attorney fees.

Due Process

Essential to the rule of law is the concept that people are constitutionally entitled to judicial due process when their liberty or other fundamental rights are at stake.

- when they face jail time,
- when they face losing custody of their children,
- when they face institutional commitment without their consent

A person facing these possibilities is entitled to essential elements of the court system before the authority of the state may be brought to bear. Such services include:

- court reporting services,
- language interpretation

If the courts are forced to cut their budgets for these due process services, criminal and family cases cannot move through the system. The courts will be unable to comply with speedy trial requirements or process family matters on a timely basis. As a result:

- local jail overcrowding will increase
- trials cannot occur; forcing release of those accused of crimes
- children will remain in foster care longer

The legislature can fund the machinery of the judicial system, but without the “fuel” of due process services, the wheels of the judicial machine will not turn.

Efficient, Accountable and Innovative

Florida’s court system operates efficiently. Our state has fewer trial judges, on a per capita basis, than many other large states. In fact, some states have twice as many judges per 100,000 population:

- Georgia – 10.7 judges per 100,000 population
- Texas – 10
- New Jersey – 8.9
- Pennsylvania – 8.2
- National average – 7.3
- **Florida – 4.5**

Florida's court system manages its workload in a cost-effective and productive way by utilizing many professionals:

- *judicial assistants
- *staff attorneys
- *court administrators
- *magistrates
- *hearing officers
- *case managers
- *mediators

In a variety of ways, these court professionals allow judges to focus on the cases that come before them and help ensure that the people who turn to the courts are served in a fair and timely way. They also allow for **accountability** of the branch and foster **innovation**, both of which **improve the delivery of justice**.

The Florida Constitution requires a systematic and uniform assessment of the need for new judges. Florida first adopted a case-weighting methodology in 1999, becoming one of the very few states to try to use sophisticated evaluation techniques when analyzing judicial workload. The analysis is continually reviewed and improved.

In the last five years, just 32 percent of the new judgeships needed in Florida to handle the workload have been funded. This year, the branch needs 61 more judges to properly handle the demands placed on the courts by our citizens.

Uniformity: Justice for All Floridians

Just four years ago, the Legislature budgeted \$112 million to fulfill **the will of voters and implement the constitutional requirement of budgetary unification** of Florida's courts system. This eliminated the fiscal fragmentation that had existed for so many years, with poorer counties being short-changed in the quality and availability of court services.

Two branches of our government – the court system and state lawmakers – worked long and hard and **together** to establish the baseline of court functions necessary to meet the needs of our citizens.

Some 1,200 positions were shifted from county funding to state funding to better ensure equal justice from one end of Florida to another. Now, the branch is facing cutting almost as many positions, a reduction in workforce that could push the whole system back 30 years.

Courts Touch Everyone

Although Florida's court system is funded by less than 1 percent of the budget for state government, it touches millions of lives. Each of the more than 4 million cases filed in Florida's trial courts last year represents at least one Floridian with a serious need for justice:

- victims of crime ... people accused of crimes
- couples in the throes of divorce ... families grappling with custody
- abused and neglected children ... vulnerable elders
- drivers who break traffic laws and those they hurt and endanger
- business owners ... homeowners ... landlords and tenants
- neighbors and consumers with small claims.

Prioritizing ... Preserving Core Functions

"We'll determine what the most important things are to fund first – from my perspective, it's education and public safety."

--- Gov. Charlie Crist
March 11, 2008

"We call on the leadership of Florida to protect our state's citizens, especially the young and the old who are most vulnerable, by preserving core functions, the rule of law, public safety and public health. Yet nothing, no program or government function, should remain immune from efficiency and productivity improvements, which will save money and better deliver the services to those who need and use them the most."

--- Florida TaxWatch President Dominic Calabro
March 11, 2008

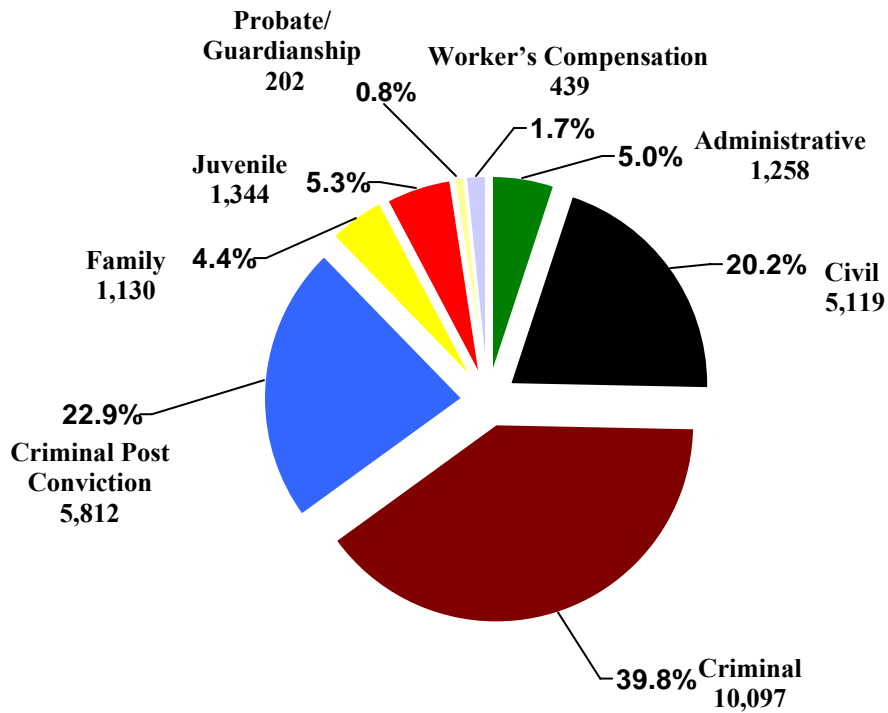
The court system is an integral part of the justice system and is essential for public safety. State budgetary difficulties must not impede the court from upholding its constitutional obligations to Florida's citizens, businesses, and communities.

The court system budget is only 0.7 percent of the budget for state government, a small amount to be paid to honor fundamental expectations of government:

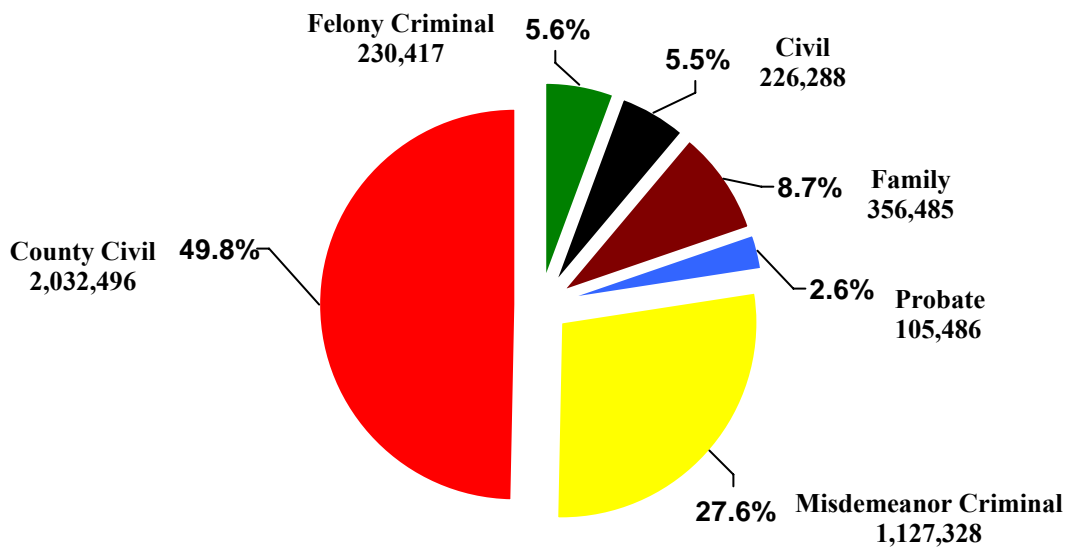
- * to protect Floridians' rights and liberties
- * to ensure that the law is upheld and correctly interpreted
- * to provide for the peaceful resolution of dispute.

2006-2007 CASE FILINGS

DCA



Circuit/County



Court Structure

Appellate Courts

Supreme Court

- *Seven justices, six-year terms
- *Sits in Tallahassee
- *Five justices constitute a quorum

District Courts of Appeal

- *62 judges, six-year terms
- *Five districts:
 - 1st District Tallahassee: 15 judges
 - 2nd District Lakeland: 14 judges
 - 3rd District Miami: 11 judges
 - 4th District West Palm Beach: 12 judges
 - 5th District Daytona Beach: 10 judges

*Cases generally reviewed by three-judge panels

Positions— In fiscal year 1995-96 the legislature authorized 892 staff positions. In fiscal year 2004-05, the year of Revision 7, the legislature authorized 2,206.5 staff positions. In the current fiscal year, after Special Session C reductions, 2,402.5 staff positions were authorized by the legislature. These numbers **do not** include Judges (990) and Judicial Assistants (999). (*NOTE: A number of these positions would be eliminated with the proposed budget reductions*)

Courtrooms- Almost 900 courtrooms are utilized in the state of Florida.

Court Interpreters- Court Interpreters provide services in over 50 different languages around the state.

Trial Courts

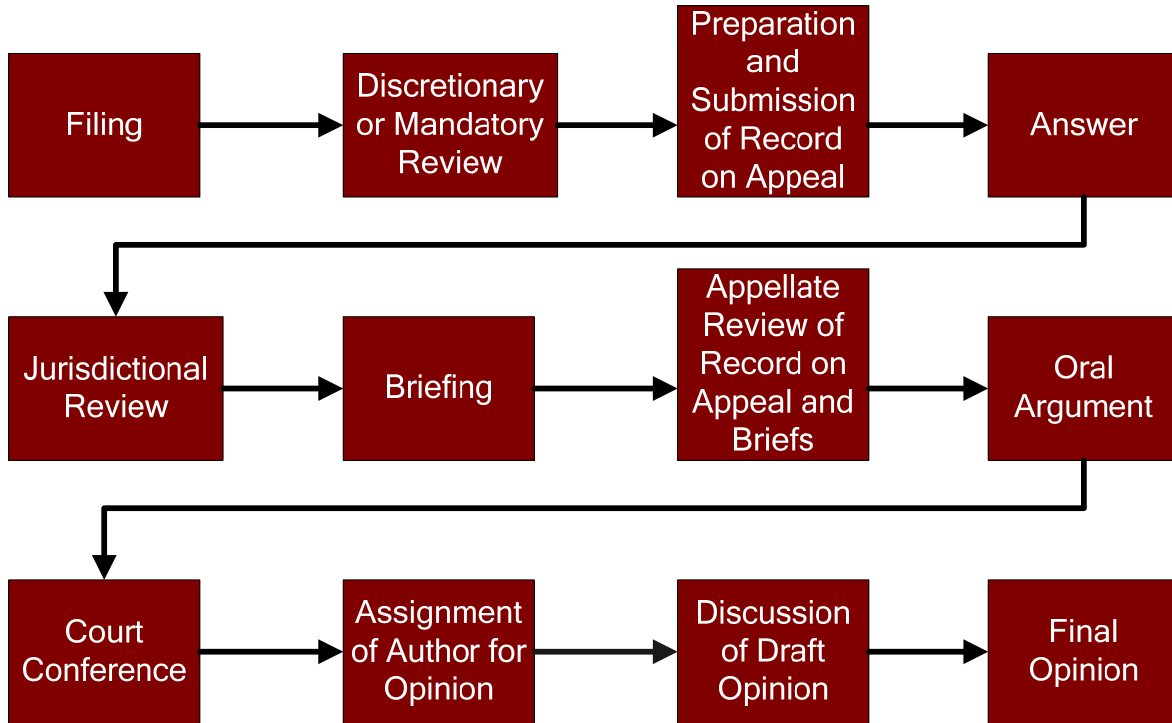
Circuit Courts

- *599 judges, six-year terms
- *20 judicial circuits
 - *Number of judges in each circuit based on caseload
 - *Judges preside individually, not on panels

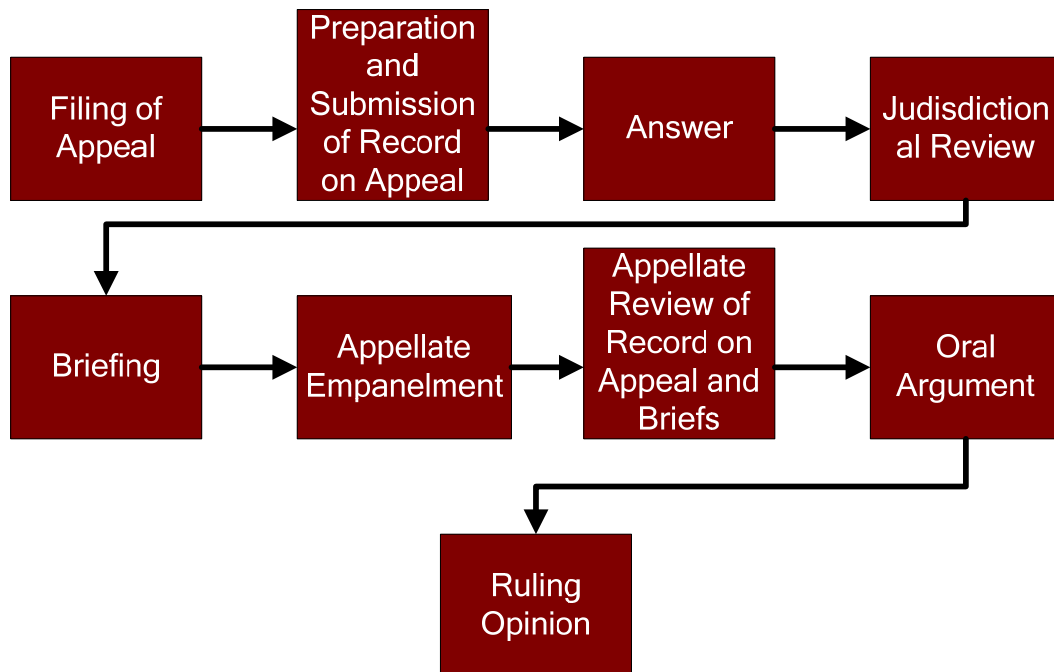
County Courts

- *322 judges, six-year terms
- *At least one judge in each of the 67 counties
- *Judges preside individually, not on panels

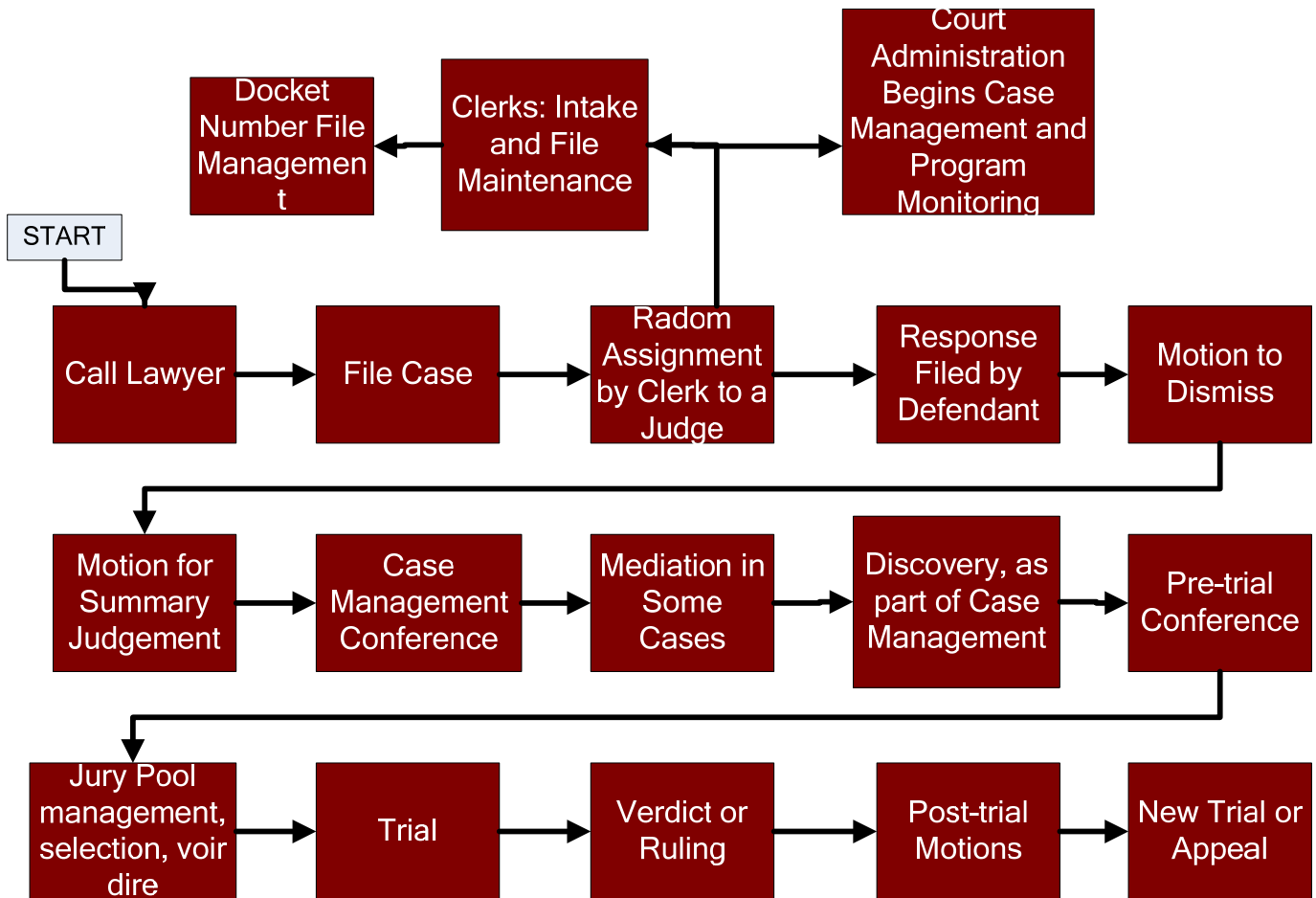
Supreme Court Process



Appellate Court Process



Trial Court Process

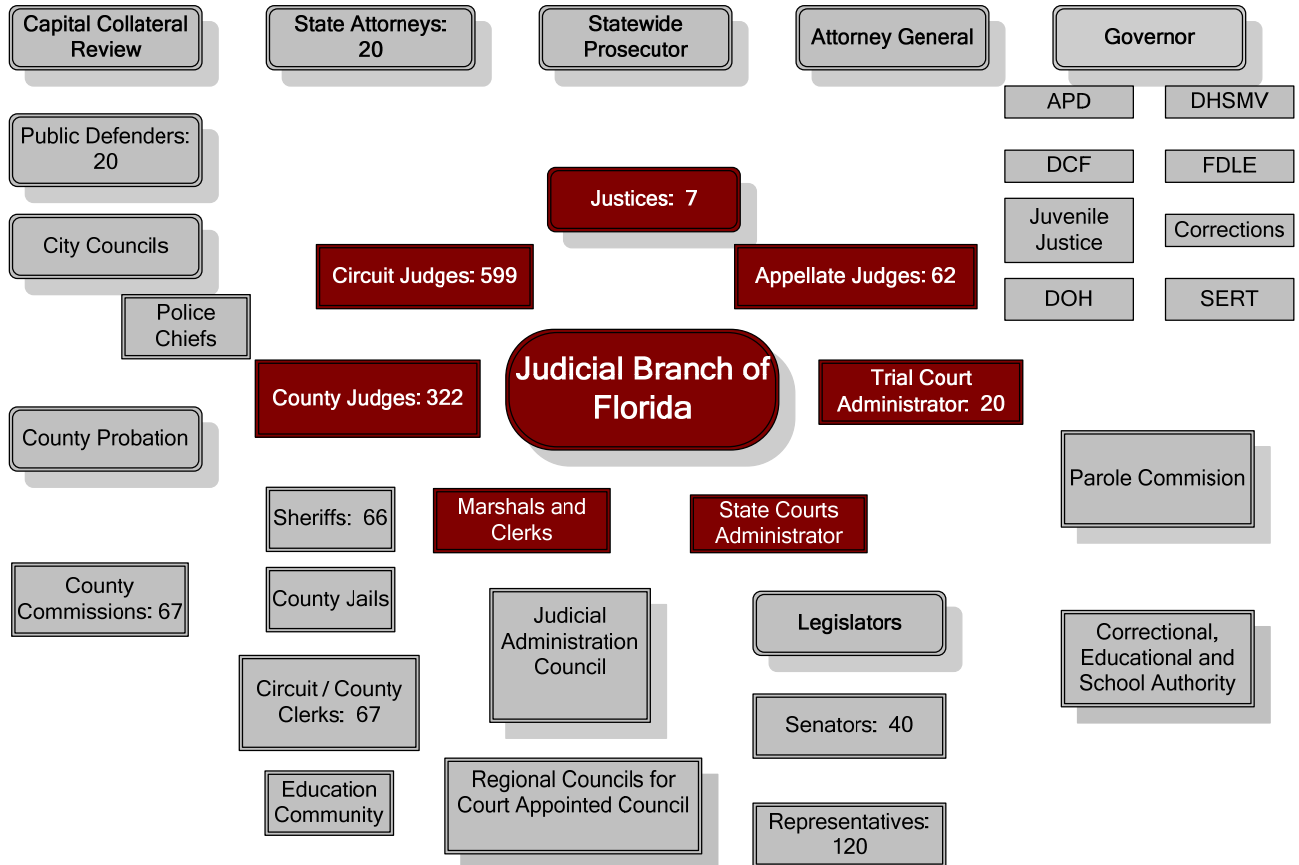


Every Floridian is likely to be touched by the judicial branch of government. Whether as a plaintiff or a defendant in a business or property dispute, a personal injury case, a child in a custody dispute, a victim of violent crime, an heir in a probate proceeding, or a witness, juror or attorney, most Floridians interact with a court in some direct way during their lifetime. *Florida TaxWatch*

Legislative Mandates Florida's courts are struggling to fully meet all state and federal requirements at a time of diminished resources. Many child custody cases now contain allegations of domestic violence and substance or child abuse. Many of these cases are self represented litigants and courts struggle to proceed in a fair and effective manner. Criminal, civil and traffic laws are more complex, require more judicial time and increasing as the state experiences population and economic difficulties.

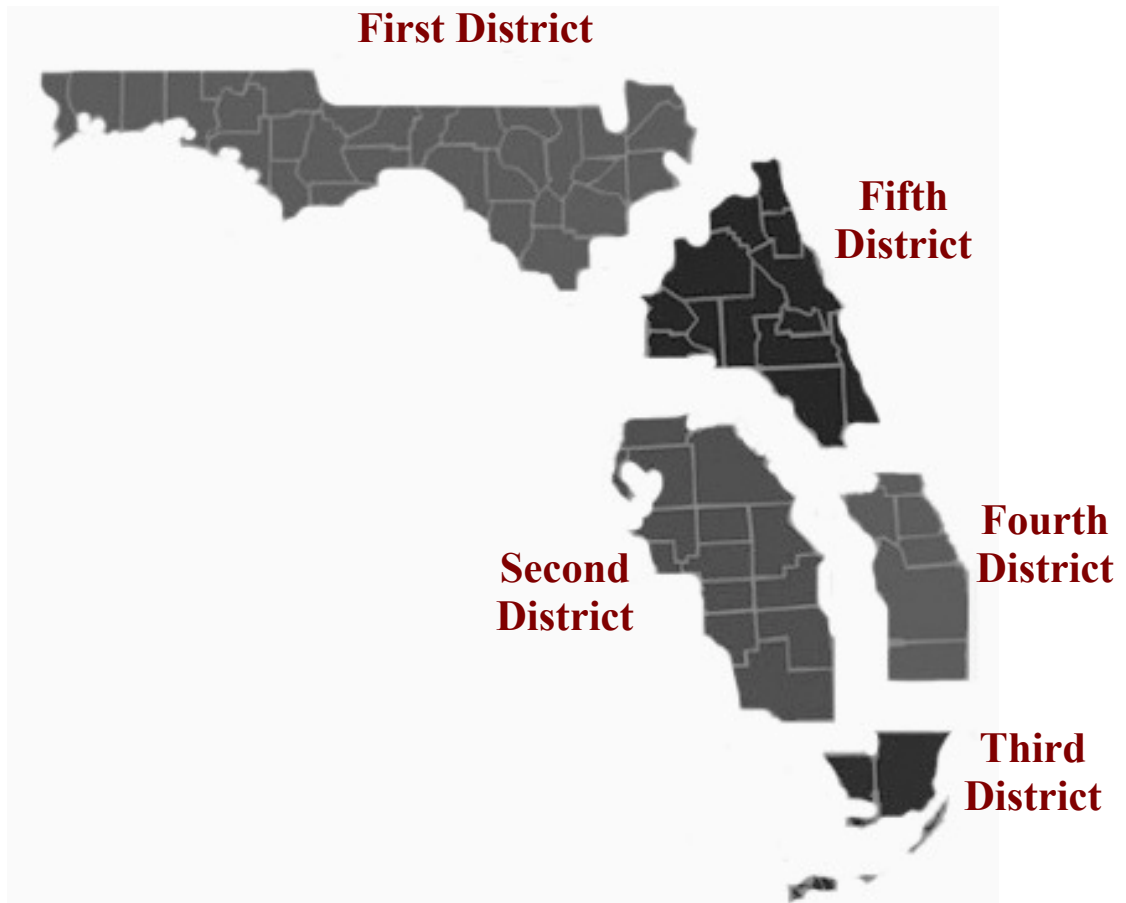
Complex procedures Statutory requirements affecting juvenile dependency cases require multiple post-disposition hearings and intensive judicial oversight, as well as increased responsibilities for counsel representing parents and children. Dependency cases are also governed by strict federal and state time-frames.

Florida's Justice System Serves the People



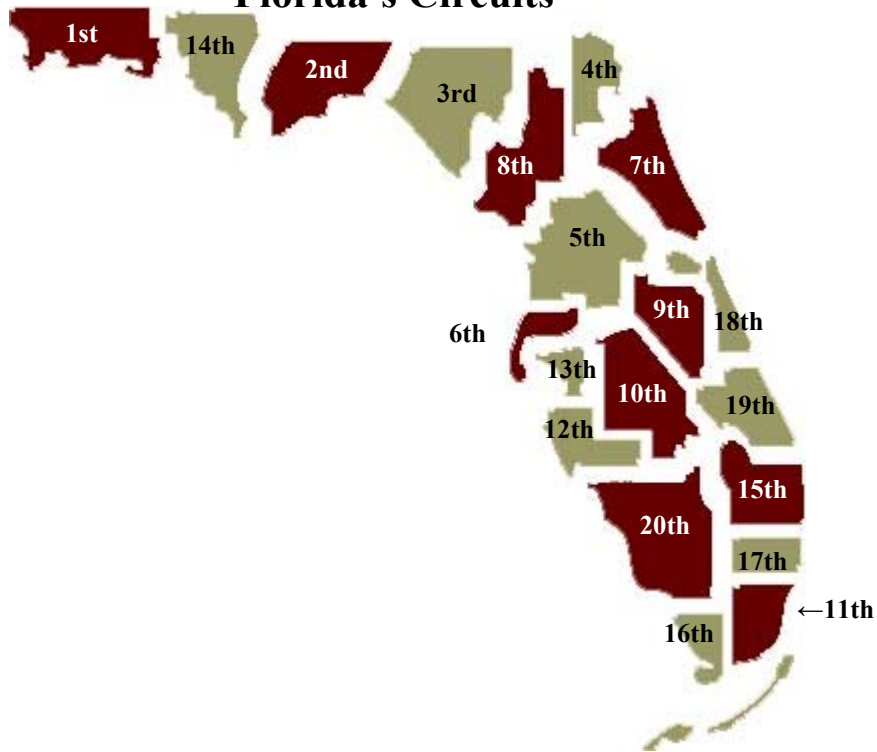
Florida's Justice system is made up of a wide range of independent, state, and local constitutional authorities, executive agencies and contract service providers who depend on Florida's court system.

Florida's Districts



Districts	Counties within each DCA
1st	Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton and Washington
2nd	Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk and Sarasota
3rd	Dade and Monroe
4th	Broward, Indian River, Martin, Okeechobee, Palm Beach and St. Lucie
5th	Brevard, Citrus, Flagler, Hernando, Lake, Marion, Orange, Osceola, Putnam, Seminole, St. Johns, Sumter and Volusia

Florida's Circuits



Circuit	Counties within
1 st	Escambia, Okaloosa, Santa Rosa and Walton
2 nd	Franklin, Gadsden, Jefferson, Leon, Liberty, and Wakulla
3 rd	Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee and Taylor
4 th	Clay, Duval and Nassau
5 th	Citrus, Hernando, Lake, Marion and Sumter
6 th	Pasco and Pinellas
7 th	Flagler, Putnam, St. Johns and Volusia
8 th	Alachua, Baker, Bradford, Gilchrist, Levy, and Union
9 th	Orange and Osceola
10 th	Hardee, Highlands, and Polk
11 th	Dade
12 th	DeSoto, Manatee, and Sarasota
13 th	Hillsborough
14 th	Bay, Calhoun, Gulf, Holmes, Jackson and Washington
15 th	Palm Beach
16 th	Monroe
17 th	Broward
18 th	Brevard and Seminole
19 th	Indian River, Martin, Okeechobee and St. Lucie
20 th	Charlotte, Collier, Glades, Hendry and Lee

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