

The NH Court System—excerpts taken from  
<http://www.courts.state.nh.us/press/030608Guide.pdf>

### **NH court system:**

The modern trial and appellate court system in New Hampshire took shape in 1901, when the legislature divided the jurisdiction of the Supreme Court—which had presided over all trials and appeals—and created two separate courts. The Supreme Court retained jurisdiction over appeals; the new Superior Court became the forum for trials. The Probate Court, established in the State Constitution in 1784, had jurisdiction over matters involving wills, trusts and estates.

In 1963, the state legislature established the community centered-District Court system, which handles non-jury matters including misdemeanor offenses, juvenile and domestic cases that do not require jury trials. In 2004, legislation was signed into law to consolidate jurisdiction for all family-related matters, which had been handled in the Superior, District and Probate Courts, into a single statewide Judicial Branch Family Division.

The Administrative Office of the Courts in Concord provides centralized services to all court locations around the state, including computer technology, revenue collection and system-wide budgeting. Funds for the court system, for daily operations and construction of court facilities, are appropriated by the legislature as part of the state's biennial budget process.

### **Administrative Office of the Courts**      A Message from the Director

The mission of the Administrative Office of the Courts is to provide excellent support service to judges, clerks, and support staff of New Hampshire's 66 courts.

The AOC areas of responsibility include those tasks that lend themselves to centralization or which require specialized knowledge. Our support allows judges and court staff to focus their energies on delivering direct service to New Hampshire litigants, jurors, witnesses, and attorneys.

Presently, we are involved in the modernization of the Supreme Court and trial court automated case management systems. The goals of this project are to 1) support the management needs of Judicial Branch users and policy makers; 2) support the information needs of other government policy makers; and 3) provide the foundation for the electronic exchange of information with other government agencies. We look forward to using these powerful modern tools to enhance service to users of New Hampshire courts and to improve the administration of justice.

In the area of fiscal management, the AOC prepares the Judicial Branch budget, pays authorized obligations and accounts for revenue. AOC staff also administer the Judicial Branch unified personnel system. Our security manager oversees the training and deployment of security personnel in all courts, in cooperation with the county sheriffs in superior courts. Finally, we work closely with the Bureau of Court Facilities to provide the public with appropriate and functional court facilities.

The AOC staff is committed to provide excellent support to New Hampshire courts so the judges and their staff can meet their goal of providing access to timely justice by impartial judges.

We welcome your suggestions of ways to improve the administration of New Hampshire courts. You may contact us at: [aoc@courts.state.nh.us](mailto:aoc@courts.state.nh.us).

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### **SUPREME COURT**

- Located in Concord. Decisions are made either by the full, five-member court or, depending on the issue presented, by a three-judge panel.
- Issues opinions that interpret the New Hampshire Constitution and laws and corrects legal errors in lower court proceedings.

**SUPERIOR COURT** (There are 11 Superior Courts throughout the State of New Hampshire. Each county is represented by one Superior Court, with the exception of Hillsborough County, which has two courts, a northern and southern location. Details at <http://www.courts.state.nh.us/courtlocations/index.htm>)

- Only court where jury trials are held. Located in all 10 counties; 2 locations in Hillsborough County.
- In criminal jury trials, a unanimous verdict must be reached by a panel of 12 jurors.
- In civil cases, the party that brings the lawsuit can decide to have a judge, not a jury, decide the case.

**DISTRICT COURT** (There are 32 district courts in NH. Details at <http://www.courts.state.nh.us/courtlocations/index.htm>)

- Community courts where judges hear evidence and decide cases; 35 locations.
- Holds non-jury trials on misdemeanor and violation charges; in felony cases sets bail and holds preliminary hearings.
- In felony cases, judges set terms of bail and pretrial custody within 48 hours of arrest. The case is then sent to the

Superior Court where the prosecutor presents evidence to a grand jury, which decides whether to “indict” the defendant on formal charges.

The District Courts, located in 32 cities and towns across the state, are truly New Hampshire’s “community courts.”

Cases within the jurisdiction of the district court involve families, juveniles, small claims, landlord tenant matters, minor crimes and violations and civil cases in which the disputed amount does not exceed \$25,000.

*The legislature, in establishing the district court locations, believed that these kinds of matters should be handled at the local level so that court staff, police departments, social service workers and members of the community can work closely with each other to help the parties involved reach a fair and effective resolution of their case.*

### **PROBATE COURT**

- Oversees settlement of estates of deceased persons; decides cases in which the validity of a will is challenged.
- Decides if a guardian should be appointed to make decisions about an individual’s health and financial well-being.
- Determines whether an adult should be involuntarily committed to a state hospital because the court has determined, after hearing testimony, that the person is a danger to themselves or others.
- Probate Court locations in each county.

**FAMILY DIVISION** (Family Division courts are currently located in eight counties: Grafton, Rockingham, Sullivan, Coos, Carroll, Belknap, Merrimack, and Strafford. All Family Division locations are open from 8 a.m. to 4 p.m. Monday through Friday.

Family Division Administrators, PO Box 389, Concord, New Hampshire 03302

Administrators: \* Gina B. Apicelli, Brigitte Siff Holmes, Nancy J. Miller Phone: (603) 271-6418)

- Legislation signed in 2004 expanded the Family Division statewide, creating a single, community-based system for resolution of family matters which had been heard in the Superior, District
- Mediation is emphasized and sometimes required, especially when minor children are involved; decisions in cases are made by judges.
- Decisions made by marital masters approved by a judge.

### **The Family Division**

The statewide expansion of the Family Division was signed into law in June 2004. It was the most significant change in the New Hampshire court system since the early 1980s, when the state courts were unified by the legislature into a cohesive state-funded system. Family Division cases

include divorce, parenting disputes, child support, all juvenile matters and domestic violence. By consolidating all family-related matters into a single “Judicial Branch Family Division,” judges and court administrators believe these difficult cases will move through the system more efficiently and in a less adversarial way. Read more about the legislature’s role in establishing the Family Division on page 10.

Case managers are seen as one of the most effective components of the Family Division. With a large percentage of litigants representing themselves, case managers are able to guide them through the court process. Mediation and other conflict resolution services are used to help families reach mutual agreements on their own in a less adversarial setting than a courtroom. *For more information about the Family Division, go to the Judicial Branch website at [www.courts.state.nh.us](http://www.courts.state.nh.us).*

### **How a criminal case moves through the court system**

- *Arrest:* A man is arrested by police at the scene of a housebreaking and is charged with burglary, which is a felony and can result in up to seven years in jail if he is convicted. The man, who is the “defendant,” is held in jail overnight until a court can hold a hearing on whether or not he should be released on bail until the charges against him are resolved.
- *Arraignment:* The defendant appears before a District Court judge in the city or town nearest where he was arrested. Bail is set and a probable cause hearing is held and the judge determines there is sufficient evidence to send the case to Superior Court where a grand jury decides to bring a formal charge called an indictment. Because the defendant faces time in jail and cannot afford a lawyer, the judge appoints one to represent him.
- *Jury Trial:* The defendant has a trial in Superior Court before a jury of 12 fellow citizens who, after hearing testimony from various witnesses on both sides of the

- case, find the defendant guilty of one count of burglary. The judge sets a sentencing date and instructs the defendant to meet with the Probation Department which interviews him and provides background information to the judge before sentence is imposed.
- *Sentencing:* The judge sentences the defendant to serve six months in jail followed by one year probation.
- *Appeal:* The defendant claims legal mistakes were made during his trial. The prosecutor and the defense lawyer file written arguments called “briefs” with the Supreme Court.
- *The Supreme Court:* After reading the briefs, the justices listen to oral arguments from each side. The appeals court does not hear any testimony but the justices ask the lawyers questions about the case during oral argument. The justices issue a written opinion (usually in less than 180 days from oral argument) in which they uphold the jury verdict which means the defendant will have to serve his prison sentence.

### **Juvenile Justice:**

Cases involving minors are handled in New Hampshire’s Family Division and District Courts. Three types of cases involve minors:

***Delinquency:*** A juvenile delinquent is a person under age 17 who has done something that would be a crime if committed by an adult.

***Children in Need of Services (CHINS):*** Children under age 18 who repeatedly refuse to attend school, run away from home, or are found uncontrollable.

***Neglected and abused children:*** Children under age 18 who have not been provided with proper care, supervision, or financial support, or who have been sexually, physically or psychologically abused.

### **What Happens When a Juvenile Faces Delinquency Charges**

A juvenile taken into custody by police has the right to remain silent and to be represented by a lawyer; the court must appoint an attorney if the juvenile cannot afford one. Detained juveniles are never housed with adult offenders. A juvenile is entitled to a hearing before a judge within 24 hours of arrest; there is no right to trial by jury in juvenile court.

The Attorney General's office can ask the court to certify a juvenile as an adult if a serious crime is involved in which case the charges would be heard in the Superior Court. The vast majority of cases involving juvenile offenders, however, are heard in the Family Division or the District Court.

With few exceptions, court proceedings involving a juvenile are closed to the public and the records are confidential.

### **CASA (Court Appointed Special Advocates for Children)**

CASA is a private, non-profit organization that defends the best interests of abused and neglected children in New Hampshire's child welfare and juvenile court systems. CASA volunteers talk with children, family members, social workers, and others to make informed recommendations to the courts about the child's situation.

**The New Hampshire Public Defender Program**, which is funded by the state legislature, provides court-appointed legal representation to individuals charged with homicides, felonies, misdemeanors, and juvenile delinquency.

**The Attorney General** represents the state in all civil and criminal cases in the Supreme Court and prosecutes all homicides. Generally, the County Attorney and local police prosecutors handle most other criminal cases. The Attorney General also has authority in other regulatory areas, such as environmental and consumer protection.

### **The Judicial Council**

The 24-member Judicial Council, established in 1945, is an independent state agency whose members include the Administrative Judges of the state court system, the Attorney General, clerks, lawyers, legislators and citizens. Eight members are appointed by the Governor and Executive Council. Five members are appointed by the Chief Justice of the Supreme Court. The Judicial Council is an ongoing forum for consideration and discussion of issues involving the administration of justice. The council has an executive director and staff whose duties include processing payments for court-appointed lawyers and guardians for indigent clients. The council also contracts with Court Appointed Special Advocates (CASA) to provide guardians ad litem for children in cases involving abuse and neglect, divorce and termination of parental rights.

### **The NH Bar Association**

The New Hampshire Bar Association (NHBA) is a non-profit association of all lawyers licensed in New Hampshire, including all judges in the state. The Bar Association speaks as the unified voice of the legal profession to facilitate support and improvement of the legal system. It also serves the public directly through public information programs, materials and a lawyer referral service.

The Bar's Pro Bono Referral Program makes referrals each year for low-income individuals who need legal assistance in non-criminal matters. The Bar also runs a nationally recognized Domestic Violence Emergency Project (DOVE) which provides victims of domestic violence with emergency legal services.

Volunteer lawyers participate in law related education projects sponsored by the NHBA that include the annual "Lawyer and Judge in Every School" program, and "We the People," a national program for high school students that focuses on the U.S. Constitution and the Bill of Rights.

### **New Hampshire Legal Services**

The Legal Advice and Referral Service (LARC) at 1-800-639-5290, or [www.larcnh.org](http://www.larcnh.org), makes free legal information and legal services easily accessible for eligible, low-income people across the state. Other services available include New Hampshire Legal Assistance, the Disabilities Rights Center and the Civil Practice Clinic at Pierce Law School in Concord. Contact LARC for details.

Volunteer lawyers answer legal questions from the public on NHBA's Lawline (800-868-1212, the second Wednesday of each month, from 6:00-8:00 p.m.).

### **Judicial Branch Speakers Bureau**

New Hampshire's judges and court administrators welcome an opportunity to meet with your civic organization, club, professional organization or school. Find details on the Judicial Branch website at [www.courts.state.nh.us](http://www.courts.state.nh.us).