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## The District of Columbia Courts: A Brief Introduction

The Superior Court of the District of Columbia (DC) and the DC Court of Appeals (the DC Courts) exercise jurisdiction over local matters in Washington, DC. Although these courts are authorized under federal law, they exist separately from other federal courts in DC, instead filling the traditional role of state courts in many ways. This In Focus describes the DC Courts' creation, jurisdiction, structure, procedures, and workload. It also discusses how the DC Courts differ from state courts and identifies selected issues that may be of interest during the 118<sup>th</sup> Congress.

### Creation

In 1970, Congress exercised its authority under Article I, Section 8 of the U.S. Constitution to establish a new system of courts through the District of Columbia Court Reform and Criminal Procedure Act (PL 91-358), which revised multiple titles of the DC Code (for more information on Article I courts, see CRS Report R43746, *Congressional Power to Create Federal Courts: A Legal Overview*). In 1973, Congress enacted the District of Columbia Self-Government and Governmental Reorganization Act (P.L. 93-198), also known as the Home Rule Act, which, in part, codified the DC Courts' organization in the District of Columbia Charter, a law akin to a state constitution that sets forth the structure of the local DC government. Together, these laws established the modern DC Courts as an independent judicial authority in DC, replacing Civil War-era municipal courts overseen by the broader federal court system.

### Jurisdiction

The DC Courts' jurisdiction is similar to that of state courts. The Superior Court is a trial court of general jurisdiction that hears civil and other noncriminal matters brought in DC, with a few exceptions provided by law. The Superior Court also has jurisdiction over all criminal cases arising under criminal laws applicable exclusively to DC (in contrast to generally applicable federal criminal laws). The Court of Appeals has appellate jurisdiction over decisions of the Superior Court. The Court of Appeals is the local court of last resort, and there is no intermediate appellate court. Both the Superior Court and Court of Appeals may, if permitted by law, review administrative actions of DC agencies. The Court of Appeals also oversees the DC Bar, which governs attorney licensure.

The DC Courts' relationship to Article III federal courts is likewise similar to other state-federal judicial relationships. Although the Superior Court has jurisdiction over any civil action brought in DC, such cases may be transferred to the U.S. District Court for the District of Columbia according to the general rules governing removal (a process by which

a case in state court is transferred to federal court if a basis for federal jurisdiction exists). At the same time, claims under local DC law, although ultimately stemming from Congress's Article I powers, do not give rise to jurisdiction in federal district court on the basis of a federal question (a type of jurisdiction that allows federal courts to hear cases based on federal law). Thus, federal courts do not have authority to decide claims under local DC law absent another jurisdictional basis. Finally, a party may petition the U.S. Supreme Court to review a decision of the Court of Appeals by writ of certiorari, similar to the Court's review of decisions by the highest courts in each state.

### Structure

The Superior Court consists of a chief judge and 61 associate judges. These judges are assisted by 24 magistrate judges appointed by the court. Additionally, retired judges may serve as senior judges, performing judicial duties on a part-time basis. The Superior Court is organized into eleven separate divisions, including five established by statute: (1) the Civil Division; (2) the Criminal Division; (3) the Family Court; (4) the Probate Division; and (5) the Tax Division. Another division that also hears cases, the Domestic Violence Division, was created by administrative order. Additional administrative divisions assist these divisions, and each division may be further divided into smaller branches under court rules.

The Court of Appeals consists of a chief judge and eight associate judges. Retired judges may also serve in a senior judge capacity, hearing cases on a part-time basis.

### Court Rules and Procedures

The Superior Court is a court of general jurisdiction that hears cases on a wide range of subject matter areas. As a result, it does not follow a single set of procedures. Rather, the applicable rules vary based on the type of case. For example, the Superior Court has separate rules for criminal matters, general civil cases, domestic relations cases, and landlord-tenant disputes, among others. Proceedings in Superior Court are generally adversarial, with each party representing themselves or being represented by an attorney, although some limited exceptions exist.

By contrast, the Court of Appeals has a single set of rules for all appeals. Appeals are randomly assigned to three-judge panels, unless the court orders hearing (or rehearing) of a case before all active judges together, referred to as the court sitting en banc.

Both courts use electronic filing systems, although a small number of matters such as certain probate filings must be filed physically with the appropriate clerk of court. Both

courts also generally have live video feeds of public court proceedings available online through the court websites.

## Recent Caseload Statistics

According to the DC Courts' *2022 Annual Report—Statistical Summary*, various judicial workload measures have changed significantly since 2019 (likely due, in large part, to the COVID-19 pandemic).

For example, in 2019 (the last full calendar year prior to the public health emergency), the Superior Court received 83,088 new filings, disposed of 86,529 cases, and ended the calendar year with 34,230 matters pending before the court. The number of new case filings dropped to 30,900 in 2021, a 63% decline from 2019. The number of new filings increased in 2022 to 43,698 but remained at approximately half (53%) of the number of new filings in 2019. The number of dispositions followed a similar trend, rebounding from 39,321 in 2021 to 45,493 in 2022 (compared to 86,529 dispositions in 2019).

The COVID-19 pandemic also had an impact on the workload of the Court of Appeals. Most recently, for the 2022 calendar year, the Court of Appeals received 1,034 new matters (compared to 1,304 in 2019 and 949 in 2021). Additionally, the Court of Appeals disposed of 1,121 cases in 2022 (compared to 1,316 in 2019 and 1,130 in 2021).

## Differences from State Courts

Although, as explained above, the DC Courts generally fill the role of state courts, they are different in several respects. Three key differences include (1) the judicial appointment process; (2) the manner of criminal prosecutions; and (3) the treatment of federal judicial precedent.

### Appointment of Judges

Judges who serve on the DC Courts (other than magistrate judges) are appointed by the President with the advice and consent of the Senate. Judicial candidates initially apply through the DC Judicial Nomination Commission, which evaluates applicants and submits three recommendations per vacancy to the President (who then selects one of the recommended candidates to nominate). The Senate Committee on Homeland Security and Governmental Affairs exercises jurisdiction over the nomination.

If confirmed by the Senate, a judge serves a fifteen-year term, which is subject to renewal if certain criteria are met under DC law (primarily a favorable report from the commission established to determine tenure). There is also a mandatory retirement age of 74, at which time a judge may retire or apply to serve as a senior judge.

### Criminal Prosecutions

Criminal prosecutions in the DC Courts involve a hybrid local-federal process. Criminal matters in DC Superior Court are typically investigated by the local DC Metropolitan Police Department and prosecuted by the federal U.S. Attorney's Office for the District of Columbia. The local Office of the Attorney General for the District of Columbia serves as the prosecuting authority for a limited

number of matters, including crimes committed by juveniles and criminal violations of municipal regulations.

The DC Department of Corrections holds criminal defendants who are detained pre-trial. Convicted defendants sentenced to incarceration for more than a year are transferred to the custody of the Federal Bureau of Prisons.

### Treatment of Federal Judicial Precedent

Because the DC Courts grew out of an older system in which they were subject to review by the U.S. Court of Appeals for the DC Circuit (DC Circuit), the DC Courts treat DC Circuit decisions differently than state courts typically treat federal court decisions. DC Circuit decisions rendered before February 1, 1971, on issues of local law remain binding precedent in the DC Courts unless overruled by the DC Court of Appeals sitting en banc.

### Considerations for Congress

The House Committee on Oversight and Accountability and the Senate Committee on Homeland Security and Governmental Affairs exercise jurisdiction, generally, over the DC Courts. Appropriations for the DC Courts are typically considered by the respective Subcommittees on Financial Services and General Government of the House and Senate Appropriations Committees.

### Judicial Vacancies

The chief judges of both the Superior Court and Court of Appeals have identified the impact of judgeship vacancies on judicial workload as an area of concern. As of November 1, 2023, there were 12 vacancies on the Superior Court, representing nearly one-fifth of the court. At present, nominations are pending for 7 of the 12 vacancies (with each nomination currently placed on the Senate *Executive Calendar*). The Court of Appeals has one vacant judgeship for which a nomination has not been made.

### Ambiguous Treatment Under Federal Law

Although the DC Courts share many similarities with state courts, federal law does not uniformly define "state court" to include the DC Courts. As a result, courts are sometimes required to determine whether an undefined reference to "state courts" includes the DC Courts. This ambiguity can lead to inconsistent results. For example, the Ninth Circuit's recent decision in *Eldridge v. Howard* created a circuit split as to whether the DC Superior Court was a "state court" for purposes of federal habeas corpus law, 28 U.S.C. § 2253(c)(1), affecting whether certain jurisdictional requirements must be met before a court grants relief. If Congress wishes to address this issue, it could amend § 2253 to clarify whether it applies to DC Superior Court. Congress could similarly consider defining "state court" in future legislation to specifically include or exclude the DC Courts.

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