

A Montana Supreme Court Overview for Students

The Montana Supreme Court is made up of seven Judges; six Associate Justices and one Chief Justice. The Chief Justice is Mike McGrath who was elected Chief Justice in 2008. Associate Justices are Patricia Cotter (2000), Jim Rice (2001), Beth Baker (2010), Mike Wheat (2010), Laurie McKinnon (2012), and Jim Shea (2014). Each Justice is elected, serves a term of eight years, and must be licensed to practice law in Montana.

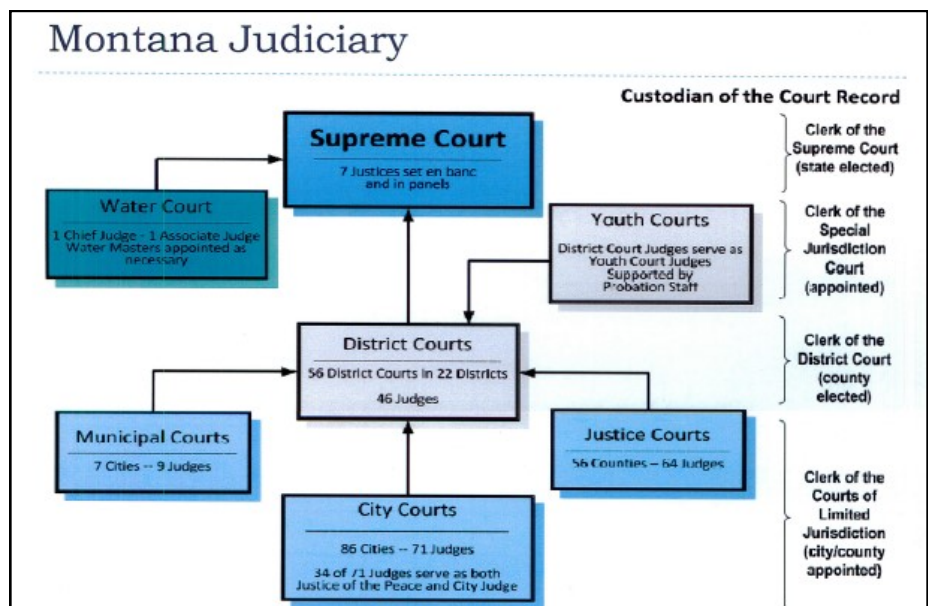
The Montana Supreme Court is an appellate court which means it reviews cases from Montana's district courts when the losing party decides to appeal the district court ruling because that individual thinks the lower court decision was wrong, unconstitutional, or unfair. The supreme court only reviews procedural parts of appeals. It does not do fact finding which means there are no witnesses and no juries. Only two attorneys, one for each side, argue the case. The Montana Supreme Court has the power to order a lower court to do something.

The Montana Supreme Court does have original jurisdiction (the case starts in the supreme court) in limited types of cases. Under the Montana Supreme Court rules, an original proceeding can be initiated in the supreme court when emergency factors exist or the case involves questions of constitutional interpretation which are of statewide importance.

The majority of cases before the Montana Supreme Court are decided based upon the written briefs (reports) submitted by the parties. However, the court may decide that a case requires further discussion, in addition to what the parties have argued in their written briefs. In such cases, oral arguments are scheduled in open session before the court. Approximately 30 cases a year are scheduled for oral argument by the Montana Supreme Court.

Oral arguments are tightly structured and timed. The attorney for each party is allowed limited time to make an argument. Often, oral argument times shall be 40 minutes for the Appellant (entity bringing the appeal) and 30 minutes for the Appellees.

While this format allows the attorneys brief opportunity to further develop their arguments, it also gives the court an opportunity to ask questions of the attorneys on points in which the court needs clarification. The majority of oral arguments take place in the Montana Supreme Court Courtroom located in the Joseph Mazurek Justice Building in Helena. All oral arguments are open to the public.



Brief History of the Montana Judicial Branch

The Territory of Montana was organized by an Act of Congress and approved May 26, 1864. Section 9 of the Act vested the judicial power of the territory in a Supreme Court, District Courts, Probate Courts and Justice of the Peace Courts. The first term of the Supreme Court of the Territory of Montana was held in Virginia City on May 17, 1865. Hezekiah L. Hosmer was appointed as the first Chief Justice by President Abraham Lincoln on June 30, 1864.

In the initial years of the Supreme Court, decisions about cases were rarely given in writing. In January, 1872, the Territorial Legislature provided for written reporting of Supreme Court decisions. Copies of all the Montana Supreme Court decisions are available at the State Law Library in Helena.

The July 1889 term of the Territorial Supreme Court was the last term held before Montana became a state on November 8, 1889. When the Territorial Supreme Court adjourned on October 5, 1889, the Territorial period ended and the modern era of statehood began.

Statehood brought several changes to Montana's judicial system. During Territorial days justices and district court judges were appointed by the President of the United States. After 1889, Montanans turned to a system where they elected justices, district and local judges, and judicial officers. By doing so, they hoped to encourage "more prompt and accessible administration of justice."

Article VIII of the 1889 Montana Constitution established a three-member Supreme Court with members elected to six-year terms. During the first three decades of statehood, the Supreme Court remained at three Justices but the caseload required additional resources in order to keep current. The 1919 Legislature increased the membership on the Supreme Court to five members. The Supreme Court remained at five members until the 1979 Legislature authorized two additional Justice positions to assist in handling the overburdened Court calendar. The Montana Supreme Court now sits at seven members.

While the governor appoints judicial officers when vacancies occur, candidates can file against a judge seeking re-election or for a position that is open due to a judge not seeking re-election. After 1974, if a sitting judge is unopposed when seeking re-election, voters are given a Yes or No choice as to whether or not to retain the judge.

The 2001 Legislative Session enacted legislation for what was commonly called "state assumption of district courts." Under this legislation, the state assumed the cost of all district court employees, with the exception of employees in the offices of Clerks of District Court. Approximately 350 formerly county employees became state judicial branch employees. Today the Judicial Branch has over 400 employees statewide.

For more information on the Montana Supreme Court
<http://courts.mt.gov/supreme/default.mcpx>

For more information on Law-Related Education
<http://www.montanabar.org/?page=LREC>

