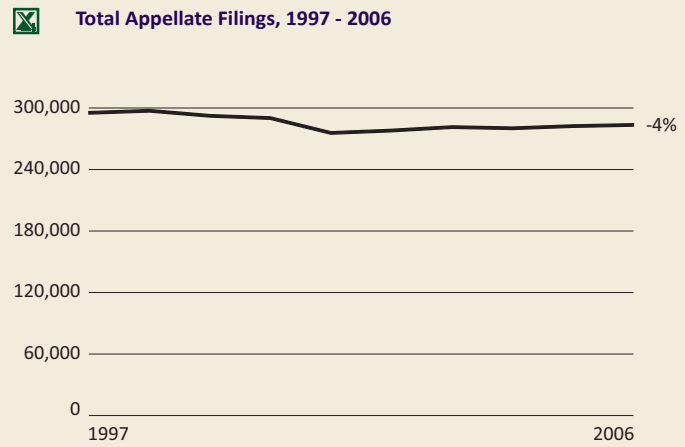


# Appellate Caseloads





National Center for State Courts  
Caseload Highlights  
Taxonomy of Appellate Courts

[http://www.ncsconline.org/D\\_Research/csp/Highlights/Vol3No1Taxom.pdf](http://www.ncsconline.org/D_Research/csp/Highlights/Vol3No1Taxom.pdf)

The primary function of state appellate courts is to review lower court determinations. In so doing, the appellate courts both correct irregularities in lower court decisions and provide overall direction in the law. In 39 states and Puerto Rico, an intermediate appellate court (IAC) provides the first level of appellate review in most cases, and a court of last resort (COLR) provides a second level of review. In certain types of cases in these states, such as those involving the death penalty, the COLR will hear appeals of trial court decisions directly. Eleven states and the District of Columbia have no intermediate appellate courts. In these states, the court of last resort provides the only level of appellate review.

Appellate courts can also entertain certain proceedings directly without the need for previous lower court activity. These cases, referred to as *original jurisdiction* proceedings, allow the appellate court to conduct the initial examination of a case or controversy. Habeas corpus, a court's review of the legality of a person's detention, is perhaps the most well-known type of original jurisdiction case.

Both appellate and original jurisdiction cases can be further divided into *mandatory* and *discretionary* jurisdiction cases. Mandatory jurisdiction cases are those in which an appellate court is required to hear the merits of the case. In contrast, the appellate court may choose whether or not to entertain a case that falls within its discretionary jurisdiction. If the court declines review of a discretionary appeal, the decision of the lower court stands.

The adjacent table displays appellate court caseloads in all states for 2006. The highest population-adjusted appellate caseloads were reported by the District of Columbia and Louisiana. The District of Columbia's high appellate caseload can be attributed, at least in part, to the fact that it is more like a city than a state. The large number of appeals in Louisiana may be explained by the Louisiana Court of Appeals' ability to review matters of both law and fact in civil cases. This is in contrast to most state appellate courts, which are permitted to review matters of law only.

In nearly all states, the majority of appellate cases fall within the courts' mandatory jurisdiction. States with no intermediate appellate court tend to report an especially high percentage of appeals as mandatory. In these states, the COLR is typically required to hear many appeals that in a two-tiered appellate system would be mandatory at the IAC level and discretionary at the COLR level.

Over the past decade, appellate court caseloads have decreased by 4 percent. Much of the decline between 1998 and 2001 can be attributed to changes in the mandatory jurisdiction of many courts in the late 1990s. However, the past five years have seen appellate filings rise less than one-half of one percent per year.


**Total Appellate Caseloads and Rates, 2006**

State	Cases	Appeals		Per 100,000 Population	Population Rank	Number of Justices	
		Percent Mandatory	Percent Discretionary			Court of Last Resort	Intermediate Appellate Court
<b>With an Intermediate Appellate Court</b>							
Louisiana	10,646	24%	76%	251	25	7	53
Puerto Rico	6,140	49	51	156	27	7	39
Florida	27,381	70	30	152	4	7	62
Oregon	4,830	77	23	131	28	7	10
Pennsylvania	15,234	82	18	123	6	7	24*
Ohio	13,781	86	14	120	7	7	68
New Jersey	10,401	72	28	120	11	7	34
Alabama	5,328	78	22	116	23	9	10*
Oklahoma	4,090	88	12	114	29	14*	12
Kansas	3,022	71	29	110	34	7	11
Alaska	738	76	24	109	48	5	3
Michigan	10,469	38	62	104	8	7	28
Nebraska	1,715	80	20	97	39	7	6
Idaho	1,357	81	19	93	40	5	3
Washington	5,875	65	35	92	14	9	24
Texas	21,325	86	14	91	2	18*	80
Kentucky	3,694	80	20	88	26	7	14
Illinois	11,135	80	20	87	5	7	54
Colorado	4,141	69	31	87	22	7	16
California	31,411	43	57	87	1	7	105
New York	16,496	77	23	86	3	7	71*
Missouri	4,864	89	11	83	18	7	32
Hawaii	1,062	90	10	83	43	5	6
Arkansas	2,322	74	26	83	33	7	12
New Mexico	1,605	63	37	83	37	5	10
Arizona	4,973	76	24	81	16	5	22
Virginia	5,967	11	89	78	12	7	11
Wisconsin	4,127	75	25	74	20	7	16
Mississippi	2,051	70	30	71	32	9	10
South Carolina	3,054	69	31	71	24	5	9
Iowa	2,012	100	0	68	31	7	9
Utah	1,644	98	2	64	35	5	7
Maryland	3,523	66	34	63	19	7	13
Minnesota	3,227	75	25	63	21	7	16
North Dakota	383	100	0	60	49	5	3
Indiana	3,680	75	25	58	15	5	16*
Tennessee	3,474	67	33	57	17	5	24*
Georgia	5,302	62	38	57	9	7	12
Massachusetts	3,635	59	41	56	13	7	25
Connecticut	1,684	70	30	48	30	7	10
North Carolina	3,344	57	43	38	10	7	15
<b>Median</b>				<b>86</b>			
<b>Without an Intermediate Appellate Court</b>							
District of Columbia	1,687	99%	1%	288	51	9	
West Virginia	3,631	0	100	201	38	5	
Vermont	548	95	5	88	50	5	
Nevada	2,185	100	0	88	36	7	
Montana	821	85	15	87	45	7	
Delaware	688	100	0	81	46	5	
New Hampshire	964	0	100	73	42	5	
Wyoming	319	100	0	62	52	5	
South Dakota	451	85	15	57	47	5	
Maine	709	81	19	54	41	7	
Rhode Island	341	67	33	32	44	5	
<b>Median</b>				<b>81</b>			

\*Indicates justices sit on two separate courts (e.g. Supreme Court and Court of Criminal Appeals)


**Percentage Change in Appellate Caseloads, 1997-2006**

State	Cases Filed 2006	Percent Increase 1997-2006	Percent Increase 2005-2006
South Carolina	3,054	60%	7%
Puerto Rico	6,140	36	8
Idaho	1,357	35	5
Delaware	688	25	18
North Carolina	3,344	23	-3
Utah	1,644	21	6
Nevada	2,185	19	6
West Virginia	3,631	17	20
Hawaii	1,062	16	-6
Massachusetts	3,635	15	7
Indiana	3,680	12	0
Colorado	4,141	10	-2
Florida	27,381	10	-5
Washington	5,875	9	-8
Maryland	3,523	7	8
South Dakota	451	7	22
Mississippi	2,051	6	-26
Texas	21,325	6	6
New Hampshire	964	5	3
Nebraska	1,715	4	-10
Virginia	5,967	3	1
Minnesota	3,227	3	-1
Kansas	3,022	-2	5
Maine	709	-2	13
Oklahoma	4,090	-4	14
Missouri	4,864	-4	4
North Dakota	383	-5	-19
Connecticut	1,684	-6	22
Vermont	548	-6	3
California	31,411	-6	2
Montana	821	-6	11
Georgia	5,302	-6	3
Alabama	5,328	-6	-6
Michigan	10,469	-7	4
New Jersey	10,401	-9	1
New Mexico	1,605	-9	8
Ohio	13,781	-9	-2
New York	16,496	-13	0
Illinois	11,135	-14	-3
Pennsylvania	15,234	-14	-1
Arizona	4,973	-14	-4
Iowa	2,012	-15	-6
Alaska	738	-15	-20
Wisconsin	4,127	-16	0
Wyoming	319	-16	17
Tennessee	3,474	-18	-9
Oregon	4,830	-18	-1
Kentucky	3,694	-19	-2
District of Columbia	1,687	-20	2
Louisiana	10,646	-20	2
Arkansas	2,322	-39	3
Rhode Island	341	-50	-1

The adjacent table shows the percentage change in appellate caseloads between both 1997 and 2006, and 2005 and 2006, for each state. This display tells a somewhat different story than the aggregated trend data and reveals a 10-year caseload increase as high as +60 percent (South Carolina) and a 10-year caseload decrease as low as -50 percent (Rhode Island).

South Carolina's increase over the last decade can be attributed to a surge in post-conviction relief requests as well as improved statistical reporting practices in their appellate courts. The decrease reported by Rhode Island can be attributed to changes in the handling of *pro hac vice* admission petitions (allowing out-of-state attorneys to temporarily appear in the state's court for a case), which rose sharply in the late 1990s only to subsequently fall.

The relative stability shown in the aggregate trend line demonstrates the affect of the larger states and their comparatively large caseloads. The four largest states, California, Texas, New York, and Florida, combined to equal about one-third of the total appellate court caseload, but none of these states reported an annualized increase or decrease greater than 1.5 percent.

**CSP**  
Court Statistics Project

National Center for State Courts  
The Effects of Jurisdictional  
Change on Appellate Courts from  
*Examining the Work of State Courts, 1999-2000*

[http://www.ncsconline.org/D\\_Research/csp/1999-2000\\_Files/1999-2000\\_Part\\_II\\_Section.pdf](http://www.ncsconline.org/D_Research/csp/1999-2000_Files/1999-2000_Part_II_Section.pdf)

## The *State Court Guide to Statistical Reporting*

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### and the Appellate Courts

When it was first introduced in 2003, the *State Court Guide to Statistical Reporting* was intended to “provide a framework for states that captures and makes comparable the most important data elements of court caseloads.” The Court Statistics Project staff has worked with a committee of the National Conference of Appellate Court Clerks (NCACC) for the past several years to design the *Guide’s* new appellate section. Beginning with the collection of 2007 data, the *Guide* will take the place of the *State Court Model Statistical Dictionary*, which had previously been the basis for reporting appellate caseloads.

*State Court Model Statistical Dictionary:***Mandatory Jurisdiction Cases****Civil****Criminal**

- Capital Criminal
- Other Criminal

**Juvenile****Administrative agency****Unclassified****Disciplinary matters****Original proceedings****Interlocutory decisions****Advisory opinions***State Court Guide to Statistical Reporting:***Appeal By Right****Civil**

- Tort, Contract, and Real Property
- Probate
- Family
- Juvenile
- Civil Interlocutory
- Other Civil

**Criminal**

- Felony (non-Death Penalty)
- Misdemeanor
- Criminal Interlocutory
- Other Criminal

**Administrative Agency**

- Administrative Agency
- Interlocutory

**Other**

- Other Appeals
- Other Interlocutory

**Case Types**

Perhaps the most critical differential for the new *Guide* is the consistency in distinguishing cases by more than simply the mandatory or discretionary jurisdiction criterion. Most cases will continue to be separated (as “By Right” and “By Permission” appeals) but with greater detail. For example, courts that had been reporting their criminal cases will be asked to break out those appeals into felony (non-death penalty), misdemeanor, interlocutory, and other criminal appeals. Similar additional details will be requested for each of the major case types.

*State Court Guide to Statistical Reporting:***Death Penalty****By Right**

- Direct Appeal
- Interlocutory

**By Permission**

- Interlocutory
- Other Appeal

**Post-Judgment**

- Habeas Corpus
- Other Writs/Actions

**Original Proceedings/Other Appellate Court Matters****Application for a Writ**

- Habeas Corpus
- Other Writ Application

**Certified Question****Advisory Opinion****Bar/Judiciary Proceedings**

- Bar Discipline
- Bar Admission
- Bar Eligibility
- Judicial Qualification
- Other Bar/Judiciary Proceeding

Death Penalty (formerly Capital criminal) cases will be treated separately and in greater detail than in the past. Because of their unique status and handling by state appellate courts, additional information will be requested as to Post-Judgment activity (habeas corpus being the most common), By Right appeals, and By Permission appeals.

Original Proceedings and other matters handled by the appellate courts will now be treated as a fourth major case category, as shown at left.

## Manner of Disposition

The *Guide* will seek to report manner of disposition for *individual case types* classified according to the type of dispositive action taken by the court.

*State Court Model Statistical Dictionary:*

### Manner of Disposition

**Pre-argument disposition**  
(dismissed/withdrawn/settled)

**Signed opinion**

**Per curiam opinion**

**Decision without opinion**  
(memo/order)

**Transferred**

**Other**

*State Court Guide to Statistical Reporting:*

### Appeal By Right Cases

**Decided**

**Dismissed Prior to Decision**

**Withdrawn**

**Settled**

**Transferred**

**Other Resolution**

## Opinion Types

Having determined the dispositive action, the *Guide* will also seek to report the type of opinion. The new Opinion Type section will include for each case type Full Opinion, Memorandum, Summary Opinion/Dispositional Order, and Other Opinion. The new Full Opinion category will reflect those opinions (whether per curiam, “signed” or otherwise) that include expansive discussion and elaboration of the merits of the case and that may include statements of fact, issues, and the court’s reasoning.

*State Court Guide to Statistical Reporting:*

### Opinion Type

**Full Opinion**

**Memorandum**

**Summary Opinion/Dispositional Order**

**Other Opinion**

## Case Outcomes

Each case type will be reported by case outcomes. This is particularly critical for Appeal By Permission cases in which the outcome may be Permission Denied. The new case outcomes also allow for recording of those cases in which the court ultimately dismisses a case and finds the case should never have been accepted or that at some point in the review process a procedural defect occurred.

*State Court Guide to Statistical Reporting:*

### Case Outcome

**Permission Denied**

**Affirmed**

**Reversed**

**Modified**

**Dismissed**

**Other Outcomes**

### Examples of Applying the *Guide* for Reporting Appellate Cases

**Case Type:** ..... By Permission-Civil-Probate  
**Manner of Disposition:** ..... Decided  
**Opinion Type:** ..... Summary Opinion/Dispositional Order  
**Case Outcome:** ..... Permission Denied

A trial court case involving a dispute over the interpretation of a will involving a \$10,000 estate is appealed to the state's intermediate appellate court. A state statute grants the intermediate appellate court discretionary jurisdiction on all civil cases involving less than \$50,000. The intermediate appellate court exercises its discretion and opts not to hear the merits of the case and issues a one-sentence order: "Leave to appeal denied."

**Case Type:** ..... By Right-Civil-Tort, Contract and Real Property  
**Manner of Disposition:** ..... Dismissed Prior to Decision  
**Opinion Type:** ..... Summary Opinion/Dispositional Order  
**Case Outcome:** ..... Other Outcome

In the same state, a person is found liable at the trial court for breach of contract and has a judgment entered against her for \$100,000 (i.e., above the \$50,000 threshold for mandatory jurisdiction). She files her notice of appeal but never follows up with any other activity. After the deadline to file the record on appeal passes, the court enters an order dismissing the appeal for failure to prosecute.

**Case Type:** ..... Death Penalty-By Right-Direct Appeal  
**Manner of Disposition:** ..... Decided  
**Opinion Type:** ..... Full Opinion  
**Case Outcome:** ..... Modified

A person is convicted of murder and sentenced to death. The state's constitution requires that any death sentence be automatically appealed and heard by the court of last resort. The court of last resort hears the case and determines in a lengthy opinion detailing the trial court proceedings that while the conviction phase of the case was properly conducted, errors in the sentence phase require the death sentence be set aside.