

# Guide to Iowa's Court System



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## A Message from the Chief Justice

### Iowa Judicial Branch

**O**ur mission is to: *Provide independent and accessible forums for the fair and prompt resolution of disputes, administering justice under law equally to all persons.*

Iowa's dedicated judges and court staff fulfill this crucial public mission with vigor. Each year, they work together to resolve thousands upon thousands of cases involving a gamut of difficult social, personal, and legal problems.



But despite our court system's vital civic function, many people view its operations and procedures as somewhat of a mystery. The purpose of this guide is to explain our work and organization in plain terms. This guide contains an overview of Iowa's statewide court system—its organization, people, workload, and administrative structure, as well as a summary of civil, criminal, and appellate procedures. We hope you find this guide useful and informative.

Sincerely,

Marsha Ternus  
Chief Justice  
Iowa Supreme Court

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## Iowa's Courts—Structure and People

### District Courts

#### Judges

**L**et's begin where most court cases begin—with the district courts. The district court, which is also known as the trial court, is the point of entry in the court system for most cases. The **Iowa District Court** has general jurisdiction of all civil, criminal, juvenile, and probate matters in the state. The Iowa district court is composed of different kinds of judicial officers with varying amounts of jurisdiction: judicial magistrates, associate juvenile judges, associate probate judges, district associate judges, and district court judges.

**Judicial magistrates** serve primarily within the county of residence, but they may hear cases in other counties upon order of the chief judge of the district. Magistrates serve four-year terms and are appointed by county magistrate appointing commissions. Although magistrates are not required by law to be attorneys, most magistrates are attorneys. Magistrates have jurisdiction over simple misdemeanors, including scheduled violations, county and municipal infractions, and small claims. Magistrates have authority to issue search warrants, conduct preliminary hearings, and hear certain involuntary hospitalization matters.

The jurisdiction of **associate juvenile judges** is limited to juvenile court matters. They have authority to issue orders, findings, and decisions in juvenile cases, including cases that involve juvenile delinquency, child in need of assistance, and termination of parental rights. Associate juvenile judges also have authority to preside over adoptions. Associate juvenile judges serve six-year terms. They are appointed by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission.

**Associate probate judges** have jurisdiction limited to probate cases. They have authority to audit accounts and perform judicial duties in probate as prescribed by the chief judge. Associate probate judges serve six-year terms. They are appointed by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission.

**District associate judges** have the jurisdiction of judicial magistrates plus authority to hear serious and aggravated misdemeanor cases, civil suits in which the amount in controversy is \$10,000 or less, and juvenile cases when the judge is sitting as a juvenile judge. District associate judges are appointed by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission. Their term is six years.

**District judges** have the authority to hear any type of case within the district court. District court judges typically hear a variety of cases including probate, felony criminal cases, dissolution of marriage, adoptions, disputes involving actions of state administrative agencies, juvenile cases and other matters. Many district judges travel extensively to make sure all of Iowa's counties have a regular schedule of judicial service. District judges are appointed by the

governor from a slate of nominees chosen by the judicial election district nominating commission. Their term of office is six years.

### **District Court Support Personnel**

All judges serve the public by using their legal skills and knowledge to impartially interpret and apply the laws. Their role is crucial, but their ability to perform this role effectively in today's complicated and litigious society requires the support of a professional staff.

In each of Iowa's 99 counties, a **clerk of district court** office manages and maintains all trial court records filed in the county. Clerks of court have hundreds of administrative duties some of which include:

- Accepting and processing fines, fees and court costs owed to the state, child support checks, and civil judgments owed to litigants
- Maintaining a record of liens on real estate
- Disposing of scheduled violations that are not contested and do not require a court hearing
- Notifying state and local government agencies, including law enforcement agencies, of court orders

**Court attendants** have a variety of duties, such as overseeing the activities of jurors, facilitating courtroom proceedings, and helping judges with clerical work.

**Court reporters** serve an important court function. Court reporters record everything that is said in the courtroom. Their transcription, which is a precise and accurate account of the court proceedings, becomes part of the official court record.

**Juvenile court officers** work directly with young people who are accused of committing a delinquent act. The function of a juvenile court officer is somewhat analogous to a probation officer for adult offenders. Juvenile court officers and their staff keep track of children who are under the jurisdiction of the juvenile court. They check on a young person's progress with treatment and restitution. Juvenile court officers also administer "informal adjustment programs" for youths who are not formally charged with delinquency but who still require some form of supervision to ensure accountability.



## Iowa's Appellate Courts

### Justices and Judges

**A**s the name suggests, appellate courts handle appeals—requests from litigants for a trial court decision to be heard by a higher court. There are two appellate courts in Iowa's judicial system—the **Iowa Supreme Court** and the **Iowa Court of Appeals**.

Seven justices sit on the supreme court and nine judges form the court of appeals. All appellate judges are appointed by the governor from a slate of nominees selected by the state judicial nominating commission. Supreme court justices serve eight-year terms. Appellate court judges serve six-year terms.

All appeals are to the Iowa Supreme Court. However, the supreme court may transfer a case to the Iowa Court of Appeals for consideration.

In addition to deciding cases, the Iowa Supreme Court is responsible for licensing and disciplining attorneys, promulgating rules of procedure and practice used throughout the state courts, and overseeing the operation of the entire state court system.

### Appellate Court Support Personnel

The Iowa Supreme Court and the Iowa Court of Appeals are assisted by the **Clerk of the Supreme Court**. The clerk is responsible for maintaining the records in all appeals.

Each court of appeals judge and supreme court justice has **clerical support** as well as a **law clerk** to assist with legal research. Staff lawyers also assist the court of appeals with its case work. In addition, **screening attorneys** help the supreme court sift through the appeals and dispose of hundreds of motions that are filed by litigants.

### Senior Judges

Retired judges can apply to the Iowa Supreme Court for assignment as a senior judge in the district or appellate courts. A senior judge receives an enhanced retirement benefit and annual stipend in exchange for working at least thirteen weeks a year. Senior judges assist at every level of the court system. Their service helps the judicial branch keep up with its high volume of cases.



## Iowa's Judiciary

### Eligibility for Judicial Office

**A**ll judges except judicial magistrates must be lawyers admitted to practice law in Iowa. They must be a resident of the state, district, or county to which they are appointed. Nominees must be of an age such that they can serve a full term of office before reaching age 72.

### Judicial Selection

In 1962, Iowa voters approved a constitutional reform that replaced the process of selecting judges by popular vote with a merit selection and retention election process. This reform, referred to as the “Missouri Plan,” promotes selection of the best qualified applicants and ensures that Iowa has fair and impartial judges who are accountable to the public.

The merit selection system involves a nonpartisan commission that reviews the qualifications of applicants for judicial office. Applicants provide the commission with extensive information about their education, professional career, and qualifications. In addition, the commission conducts interviews of all candidates. Once the commission screens and interviews applicants, it forwards a slate of nominees to the appointing authority.

The appointing authority varies according to the type of judgeship. The governor appoints supreme court justices, court of appeals judges and district judges. The district judges appoint associate judges for a judicial district. And the magistrate appointing commission in each county appoints magistrates.

### State Nominating Commission

The State Judicial Nominating Commission interviews applicants and selects nominees for appointment to the Iowa Supreme Court as well as the Iowa Court of Appeals. This commission is composed of:

- A chair, who is the senior justice of the supreme court, other than the chief justice
- Seven lawyer commissioners elected by lawyers
- Seven non-lawyer commissioners appointed by the governor and confirmed by the Iowa Senate.
- All commissioners, but the chair, serve for a term of six years.

The state court administrator serves as the secretary for the state judicial nominating commission and in this capacity receives all applications and issues news releases.

Within sixty days of receiving the notice from the secretary of state, the commission must submit the names of nominees to the governor. The commission selects three nominees for appointment to the Supreme Court, and five nominees for appointment to the Court of Appeals.

## **District Nominating Commissions**

District judicial nominating commissions are responsible for screening applicants and selecting nominees for district court judgeships. There is a nominating commission for each of Iowa's thirteen judicial election subdistricts.

Each district commission has eleven members, including:

- A chair, who is the most senior district court judge in the district,
- Five lawyer members elected by their peers, and
- Five nonlawyer members appointed by the governor and confirmed by the Iowa Senate.
- Each commissioner, except the chair, serves a six-year term.

The district nominating provides the governor with a slate of two nominees from which to make an appointment to the district court.

## **County Magistrate Appointing Commissions**

Each county has a magistrate appointing commission to assist with the selection of district associate judges, associate juvenile or probate judges, and to appoint magistrates. Each magistrate nominating commission is composed of the following members:

- A district court judge who serves as chair and who is designated by the chief judge of the judicial district,
- Up to three non-lawyer members appointed by the board of supervisors, and
- Up to two attorneys elected by the attorneys in the county.
- Commissioners, except for the district court judge, serve six-year terms.

The board of supervisors may not appoint an active law enforcement officer as a commissioner. A county attorney may not serve on the commission.

## **Judicial Retention Elections**

All judicial officers, except magistrates, must stand for retention election at the first general election following the judge's appointment, and then near the end of each regular term. In a retention election, judges do not have opponents. Instead, voters decide whether or not to retain a judge in office. If a judge receives a simple majority of "yes" votes, the judge may serve another full term.

An initial term shall be for one year after appointment and until January 1 following the next judicial election after expiration of such term. The length of a regular term varies according to type of judgeship:

- Eight years for a supreme court justice
- Six years for a court of appeals judge, district court judge, and district associate judge
- Four years for an associate juvenile or associate probate judge.

## A Snapshot of Iowa's Court Case Load

**I**owa's district judges and court personnel handle just over one million cases a year. Which cases take the most time? Which are the most common?

### District Courts Cases

The two most common case types are simple misdemeanors and small claims. Simple misdemeanors, including traffic offenses and county and city ordinance violations, account for nearly three-quarters of the total number of cases filed each year. However, because most people do not contest these violations and voluntarily pay the fines to the clerk of court, simple misdemeanors account for only about 10% of the work time of judges and magistrates throughout the state.

Small claims cases, which are civil claims for amounts of \$5000 or less, account for more than 9% of all filings and about the same percentage of all judicial officers' work time.

Statewide, judicial officers spend more time on indictable criminal cases (serious and aggravated misdemeanors, and felonies) than any other case category. While these cases represent less than 10% of the total number of cases filed, they are extremely labor intensive. Judges and magistrates collectively spend about 25% of their time on indictable criminal cases.

Civil cases involving children and families consume a large chunk of court time—more than one-third of the state's judicial resources. These cases fall into two categories: family law and juvenile.

Family law cases, including dissolution of marriage, child support and custody, and civil actions for protection from domestic violence, represent less than 5% of all district court filings, but they demand 15% of all judicial officers' time.

Juvenile cases require even more court resources. The juvenile caseload includes: delinquency, children or families in need of assistance, juvenile mental health or substance abuse commitments, and termination of parental rights. Together these cases comprise about 1% of the total case filings but, because they are extremely time-consuming they account for almost 20% of judicial work time throughout the state.

General civil litigation runs the gamut from contract disputes to foreclosures to torts. Approximately 14% of all judicial officers' time is devoted to civil cases. Tort cases, those involving personal injury, property damage, or both, garner a lot of media and public attention because of the perceived impact of tort litigation on the cost of products and services. But tort cases make up a small fraction of all civil cases and all civil cases combined account for about only 3% of all cases filed in the Iowa courts.

Probate cases (estates, guardianships, conservatorships, and adult mental health or substance abuse commitments) account for just over 2% of all case filings, and 6% of judges' time throughout the state.

Unlike the stereotype that portrays all courts as clogged and plagued by delays, Iowa's courts handle cases quite expeditiously. Statewide, for example, Iowa's courts dispose of:

- 93 percent of simple misdemeanors within four months after they are filed;

- 60 percent of small claims within two months and 94 percent within six months after filing;
- 75 percent of indictable criminal cases within six months and 92 percent within twelve months after filing;
- 76 percent of contract and equity cases within eight months and 85 percent within twelve months after filing; and
- 72 percent of marriage dissolution and modification cases within eight months and 86 percent within twelve months after filing.

## **Appeals**

Each year, about 2000 appeals are filed with the Iowa Supreme Court. Not all of these appeals result in a formal opinion of either the supreme court or the court of appeals. Some are settled before submission and others are dismissed.

Criminal, family, and juvenile cases account for most of the appeals submitted to both courts. Criminal appeals represent nearly 30% of the appeals submitted; termination of parental rights and child in need of assistance constitute 25%; and family law appeals amount to nearly 20%.

## Iowa Judicial Branch Administrative Structure

**I**owa is one of a handful of states that has a unified court system that is mostly state funded. As the head of the state court system, the Iowa Supreme Court oversees a statewide operating budget of approximately \$130 million and is ultimately responsible for about 1,900 employees and judges.

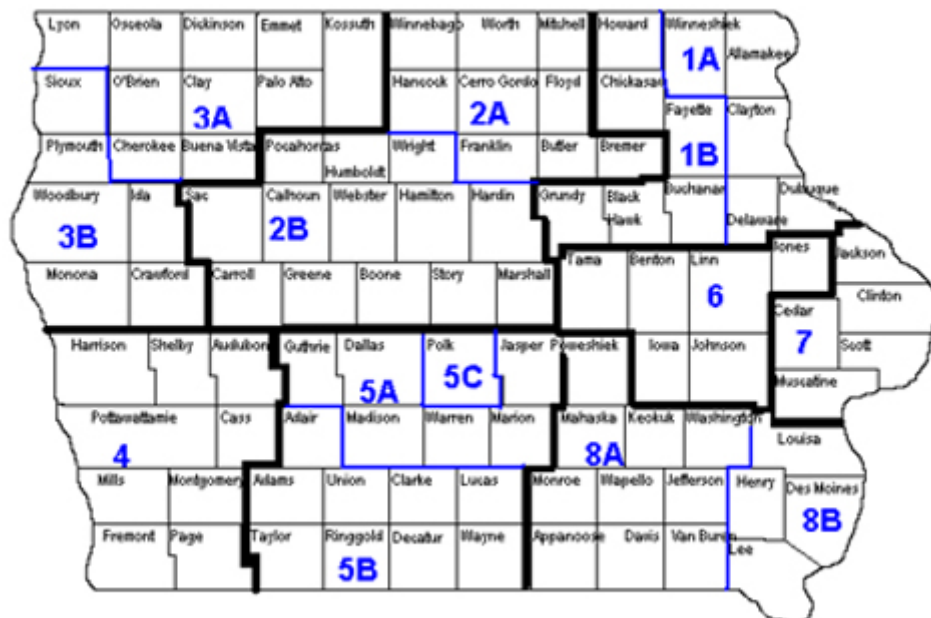
The **State Court Administrator** assists the court with this enormous responsibility. The State Court Administrator's duties include gathering statistical data for the Iowa Judicial Branch, arranging training and education programs for judges and staff, overseeing all aspects of the day-to-day operation of the state's court system.

For purposes of administration, Iowa is divided into **eight judicial districts**. The districts, which vary in population and in size, are determined by the legislature. Each district is headed by a chief judge who is selected by the Iowa Supreme Court. The **chief judge** is responsible for overseeing all district operations and personnel.

Each chief judge is assisted by a **district court administrator**. District court administrators handle the day-to-day responsibilities of managing the financial and personnel matters of the district, as well as case scheduling.

The **Judicial Council** advises the supreme court with respect to the supervision and administration of the judicial branch. The council consists of the chief judges of the districts, the chief judge of the court of appeals and the chief justice of the supreme court.

Finally, dozens of committees assist with the administration of justice in Iowa. The courts depend on these committees to regularly advise them on a broad scope of topics, including rules of procedure, technology, planning, child support guidelines, and most aspects of attorney regulation. Committees are composed not only of judges, lawyers, and court staff, but also of Iowans from many walks of life, who bring a valuable perspective to the administration of justice.



## **Civil Procedures: Overview**

**C**ivil cases typically fall into three major categories: family law (e.g., divorce and child support and custody), tort law (e.g., personal injury, property damage, or product liability), and contract law (e.g., written and oral agreements).

### **Pretrial Procedures**

#### **First Steps: Petition and Answer**

A civil action is commenced by one party filing a petition. In most cases, this party is referred to as the plaintiff. In domestic relation cases, the person filing the petition is the petitioner. In the petition, the plaintiff sets forth the parties involved, the theories of recovery, and the relief sought. The petition is filed in district court and served or delivered to the opposing party. An opposing party, referred to as the defendant or in domestic relations cases, the respondent, has an opportunity to either file pre-answer motions or an answer. An answer is a document denying or admitting liability.

#### **Pretrial Motions and Discovery**

After the initial petition, the parties may file pretrial motions. These motions may request the court to dismiss the entire lawsuit, dismiss a claim or party, or limit the evidence to be presented at trial. The parties may also engage in discovery—a process to obtain information from the opposing party. A party may file interrogatories, which are written questions to be answered by the other party. A party may also take depositions, or ask oral questions, of a witness after the witness has taken an oath to tell the truth. Parties often reach a settlement or an agreement to resolve the lawsuit during this process.

#### **Pretrial Conference**

After the completion of the discovery process and the filing of any pretrial motions, the court will schedule a pretrial conference unless the parties have reached a settlement. During the pretrial conference, a judge and the lawyers for the parties discuss a wide variety of trial topics and the judge will set a trial date.

### **The Trial**

Many civil actions may be tried to either a judge (often referred to as a bench trial) or a jury. Generally, the plaintiff must make a jury demand or a request for a jury trial. If such a request is not made, the case will proceed to a bench trial, in which the judge, rather than a jury, acts as the fact finder and enters the verdict. Certain types of civil actions such as domestic relations cases, probate matters, and administrative law cases are always tried to a judge.

#### **Jury Selection**

If instead the plaintiff requests that a jury determine the outcome, the court will proceed with the jury selection process. A jury panel consisting of sixteen jurors will be drawn randomly

from a jury pool. The judge and the parties then have the opportunity to ask the prospective jurors questions. This process is referred to as *voire dire*. From that panel, each party will strike or remove four jurors, leaving an eight-person jury.

### **Opening Statements**

Each party has the opportunity to give an opening statement, which is an overview of the evidence that is expected to be presented. The opening statements are followed by the presentation of evidence.

### **Presentation of Evidence**

Parties generally present evidence by calling witnesses and asking questions. Each party must abide by the Iowa Rules of Evidence in doing so. These rules govern what evidence is admissible at trial, and how it is presented. If a party believes the other party is not following the rules, that party may raise an objection. The judge will then either sustain or overrule the objection. During a bench trial, the judge may reserve ruling on the objection.

The plaintiff must present evidence first. The defendant has the opportunity to cross-examine—question the plaintiff’s witnesses. After the plaintiff is done presenting evidence, the defendant may present evidence. However, because the plaintiff has the burden to prove his/her case the defendant is not required to present evidence. If the defendant does present evidence, the plaintiff has the right to cross-examine any defense witnesses, and after the completion of the defendant’s case, the plaintiff may present further evidence to rebut the evidence presented by the defendant.

Most civil court trials are stenographically recorded by a court reporter so that there is an official transcript of the testimony given during the proceedings.

### **Closing Arguments**

Once the parties are through presenting their evidence, they each have an opportunity to make closing arguments to the jury. Closing arguments are an opportunity to persuade the judge or jury to decide the case in favor of a party. Closing arguments must be based upon the evidence produced in trial.

### **Jury Deliberation**

Prior to, or after closing arguments, the court will give jury instructions, which describe the law and procedure that the jury must use in making its decision. After the conclusion of the closing arguments, the jury will pick a foreperson and discuss the evidence in private. To reach a decision, seven of the eight jurors must agree. If the jury cannot agree, the court may declare a hung jury and the case may be tried again to another jury at a later date.

### **Post-Trial Procedure**

Following the jury’s verdict, the parties may file post-trial motions seeking certain relief from the court, such as a motion for new trial or a motion for judgment notwithstanding the verdict. The parties may also file a notice of appeal to have the case reviewed by an appellate court.

## **Criminal Procedure and Sentencing Overview**

**C**riminal cases involve charges filed by the government—typically the state—alleging that a person, the defendant, has violated a criminal law or ordinance. Typically, a person convicted of committing a criminal offense is subject to certain penalties such as paying a fine and restitution, serving time in prison or jail, or community service.

Criminal law is divided into two major classifications: misdemeanors and felonies. Misdemeanors are divided into three categories: simple, serious, and aggravated. Felonies are more serious crimes, and are classified from the most to the least serious as follows: class A, B, C, and D. For both misdemeanor and felony offenses, the penalty for conviction generally increases in severity with the level of offense.

### **Pretrial Procedures**

#### **Initial Appearance**

Generally speaking, a person arrested for breaking a criminal law appears before a judge within twenty-four hours. The judge will inform the person of the charges and bail or conditions of release. For some minor offenses, the judge may allow the person to enter a plea of guilty or not guilty at the initial appearance.

#### **Preliminary Hearing**

After the initial appearance, the defendant is entitled to a preliminary hearing to determine if there is sufficient evidence to continue the case. Generally, the defendant will waive that right, and the prosecutor will file a trial information, which is a formal statement of the charges.

#### **Indictment**

On occasion, the county attorney will call a grand jury, a panel of seven citizens, to decide whether criminal charges should be brought. If five of the seven jurors determine there is enough evidence to support the charge, they will return an indictment. An indictment and the trial information have the same effect of formally charging the defendant with a crime and beginning the criminal trial process.

#### **Arraignment**

Following the filing of a trial information or indictment, the defendant will appear for an arraignment. At the arraignment, the court may read the formal charges and the defendant must enter a plea, generally guilty or not guilty. If the defendant cannot afford to hire an attorney, the court will appoint an attorney to represent the defendant.

If the defendant enters a not guilty plea, there must be a trial within ninety days from the date of the filing of the trial information or indictment. However, the defendant may waive this right. The defendant may also waive the right to a jury trial, and have the judge decide the case.

## **Discovery**

The defendant may engage in discovery, including requesting evidence from the state and taking depositions of witnesses. The defendant may also file various pre-trial motions, including motions to exclude evidence believed to be illegally obtained. The defendant and the state may engage in plea bargaining—discussions to resolve the charges short of a trial. If the defendant and the state do not reach an agreement, the court may schedule a pre-trial conference and thereafter a trial date.

## **Trial**

### **Jury Selection**

If the case proceeds to a jury trial, the parties will have the opportunity to question the prospective jurors—a process called *voir dire*. In a criminal case, the jury is comprised of twelve jurors and each party may exercise strikes, which means objecting to a certain person serving on the jury. The number of strikes is determined by the level of the offense charged, ranging from four to ten. Additionally, the court may determine that alternate jurors are necessary.

Following jury selection, the state will read the trial information or indictment and the defendant's plea.

### **Opening Statements**

The state may then give an opening statement. The defendant may also give an opening statement, or reserve doing so until immediately prior to the presentation of the defense's evidence.

### **Presentation of Evidence**

Parties generally present evidence by calling witnesses and asking questions. Each party must abide by the Iowa Rules of Evidence in doing so. These rules govern what evidence is admissible at trial, and how it is presented. If a party believes the other party is not following the rules, that party may raise an objection. The judge will then either sustain or overrule the objection. During a bench trial, the judge may reserve ruling on the objection.

The state will present its evidence first. The defendant is not required to present any evidence because the state bears the burden of proving the defendant is guilty beyond a reasonable doubt, and the defendant is presumed innocent until the state proves otherwise. If the defendant does present evidence, the state has the opportunity to present rebuttal evidence. The parties in a criminal case have the right to cross-examine each other's witnesses. Following the presentation of all of the evidence, the parties may give closing arguments and the jury will receive its instructions, similar to a civil jury trial.

Most civil court trials are stenographically recorded by a court reporter so that there is an official transcript of the testimony given during the proceedings.

## **Closing Arguments**

Once the parties are through presenting their evidence, they each have an opportunity to make closing arguments to the jury. Closing arguments are an opportunity to persuade the judge or jury to decide the case in favor of a party. Closing arguments must be based upon the evidence produced in trial.

## **The Verdict**

Unlike a civil jury trial, the jury in a criminal case must return a unanimous verdict. In most cases, the verdict is either guilty or not guilty. The jury may also find the defendant guilty of a lesser charge, if that lesser charge was submitted in the jury instructions. If the jury cannot reach a unanimous verdict, the court will declare a mistrial and the case may be tried again to another jury at a later date. Following the verdict, the defendant may file post-trial motions.

## **Sentencing Phase**

After the return of a guilty verdict, the jury's duty is complete. The jury is not involved in determining the defendant's punishment; sentencing is left solely to the judge. The court will schedule a sentencing hearing, and the parties will have the opportunity to make sentencing recommendations.

## **Pre-sentence Investigation**

Before any defendant is sentenced (except in traffic and less serious criminal matters) the judge is given a pre-sentence investigation report usually prepared by a probation officer. This report contains information about the defendant such as any criminal record, family and financial circumstances, harm to the victim, circumstances of the offense, and sentencing recommendations from the probation officer and others.

## **Victim Impact Statement**

In addition, victims may make a written victim impact statement and present their statement in court.

## **Sentencing Laws**

In determining the sentence, Iowa law requires the court to consider which sentence or combination of sentences authorized by the legislature, in the discretion of the court, will provide for the maximum opportunity for rehabilitation of the defendant and the protection of the community from further offenses by the defendant.

After careful consideration, the court will impose a sentence, which may include a fine, jail or prison term, probation, community service, and victim restitution. The amount of a fine or the term of imprisonment entered against a defendant must be within a range set by the legislature according to the type of offense. Judges do not have the legal authority to impose sentences outside these statutory parameters.

## **Incarceration**

A defendant who is sentenced to a term of imprisonment greater than one year is turned over to the custody of the Iowa Department of Corrections, an executive branch agency. The department decides in which prison facility the defendant will serve the sentence. A defendant who receives a sentence of less than one year serves that time in a county jail.

## **Parole**

Defendants who are sent to a state correctional facility may be released prior to the expiration of their sentence. This early release is known as parole. Parole is granted by the parole board, which is also an executive branch agency. Certain conditions are attached to parole. If a defendant violates these conditions, parole may be revoked and the defendant may be returned to the correctional facility.

## **Probation**

Probation is another sentencing option. A defendant who is placed on probation is placed under the supervision of a community-based correctional program. In Iowa, community-based correctional programs are public agencies that are supervised by appointed boards of directors. Typically, probation comes with court ordered conditions attached. A defendant must comply with these conditions to successfully complete probation. A defendant who violates a probation order may be sent to a correctional facility or a county jail.

## **Deferred Judgment**

In some cases, the court may grant the defendant a deferred judgment, which means that if the defendant successfully completes certain conditions during a fixed period of probation, the crime will be removed from the defendant's criminal record.

The defendant who has been convicted of a crime has the right to appeal. The state does not have the right to appeal when a defendant is acquitted (found not guilty). The appellate process follows a different set of procedures, which are explained in the next section.

## Appellate Procedure Overview

**A** party dissatisfied with the final outcome of a case at the trial level may appeal. A party does not always have the right to appeal. In some cases, for example, those involving a simple misdemeanor crime or a small claims action, the party must seek permission from the supreme court to file an appeal. Additionally, in limited circumstances, a party may seek an early appeal, or an appeal in advance of final judgment, by obtaining permission from the supreme court.

At the appellate level, the court does not conduct trials or hear new evidence, but rather it determines whether legal errors were committed in the rendering of the lower court's judgment or order. The appellate court can affirm—uphold the decision or order of the lower court, reverse—set aside the decision or order, or remand—send the case back to the lower court with instructions, including instructions to hold a new trial.

### Notice of Appeal

Generally, a party must file a notice of appeal within thirty days of the filing of the challenged judgment or order. The notice is filed with the clerk of court in the county where the district court order was entered. The party filing the notice of appeal is generally called the appellant. The opposing party in the case is usually called the appellee. The appellee may file a notice of cross-appeal if also dissatisfied with the final judgment.

### Preparation of the Appeal

Following the filing of the notice of appeal, the parties must follow with a variety of steps contained in the Iowa Rules of Appellate Procedure to prepare the case for submission to the court.

### Order Transcripts and Docket Appeal

In a typical case, the appellant orders the relevant and necessary transcripts of the prior proceedings from the court reporter, and files a certificate with the supreme court clerk stating that the transcripts have been ordered. The appellant will then have a certain number of days, depending on the type of case, to pay a docketing fee.

### Appellate Briefs and Appendix

The parties are required to file briefs, which are written documents setting forth the facts, a party's legal arguments, and the relief sought from the appellate court. The filing deadlines for briefs vary depending upon the type of case. In their briefs, the parties may request to make an oral argument before the court.

The parties must also include the portions of the district court record that are referred to in their briefs in an appendix. The appendix is a mini record of the trial court proceedings containing those parts of the transcript, trial court papers, and exhibits most relevant to the issues raised on appeal. The appellant generally prepares and files the appendix on behalf of the parties.

The time required for the preparation of a typical case, from the filing of the notice of appeal to the filing of final briefs, appendix, and the request for the transmission of the record, is about five or six months. Court rules allow for an expedited process for certain types of cases, such as child in need of assistance and termination of parental rights.

### **Case Screening**

Once a case file is ready, it will be forwarded to a staff of research attorneys who will prepare summaries of each case and make recommendations concerning whether a case is appropriate for retention by the supreme court or transfer to the court of appeals. A panel of three supreme court justices makes the final routing decision, which is generally based upon the types of issues raised in the case.

### **Submission of the Case**

Each court sets its own case submission schedule. In some cases, parties are granted an opportunity to address the court, a process known as oral argument. During oral arguments lawyers have a brief period of time to summarize their legal arguments before the court and to answer questions asked by justices or judges. Both courts have complete discretion whether or not to grant oral argument and decide many cases without oral argument.

### **The Opinion**

After a case is submitted or after oral arguments, the justices or judges will discuss in private conference, the legal issues presented in the case. Later, the justice or judge who has been given the assignment of writing the court's opinion (written ruling) will prepare a draft. The opinion writer circulates copies of the draft opinion to the other members of the court who may comment on the draft. A justice or judge who disagrees with the opinion may write a dissent. A justice or judge who agrees with the result, but not necessarily for the same reasons, may draft a special concurrence.

### **Rehearing and Further Review**

A party dissatisfied with a decision may file a petition for rehearing asking the court which heard the case to reconsider its decision. Rehearing is rarely granted.

After an opinion is filed by the court of appeals, the parties may seek further review by the supreme court. This procedure is commenced by filing an application for further review by following the applicable rules of appellate procedure. The research staff drafts a memorandum recommending whether an application should be granted or denied. A three-justice panel reviews the staff recommendation and makes a recommendation of its own. The supreme court as a whole ultimately decides whether to grant or deny the application.

### **Appeals to the U.S. Supreme Court**

The Iowa Supreme Court is the court of last resort in the Iowa court system, and for the most part, its decisions are final. However, if a case involves a federal question, a party may appeal to the United States Supreme Court. The United States Supreme Court has discretion to decide whether or not it will hear an appeal.

