



The Courts in Arizona

April 2008

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Authority

Courts in Arizona can be divided into appellate courts and courts of first instance. The Supreme Court and court of appeals are appellate courts that hear appeals of cases already heard in lower courts. Municipal and justice courts are courts of first instance in Arizona and hear initial proceedings. These courts are limited to hearing certain types of cases by statute and are also called "limited jurisdiction courts". Superior courts serve as both court of first instance for felonies and other cases, as well as an appellate court for matters appealed from municipal and justice courts. The superior court is the state's only general jurisdiction court and it hears the widest variety of cases.

Supreme Court

The Supreme Court is the highest court and court of last resort in Arizona. It has administrative supervision over all other courts in Arizona and the power to make rules regarding procedural matters.

Court of Appeals

The Court of Appeals is divided into two divisions. Division I has a total of 16 judges and Division II has a total of six. The divisions serve the following counties:

Division I: Apache, Coconino, La Paz, Maricopa, Mohave, Navajo, Yavapai, Yuma

Division II: Cochise, Gila, Graham, Greenlee, Pima, Pinal, Santa Cruz

Sessions of the Division I court are generally held in Phoenix, while sessions of the Division II court are generally held in Tucson. The Court of Appeals hears cases in three-judge panels, and at least two of the judges must concur for a decision to be reached. The state is responsible for funding both the Supreme Court and the Court of Appeals.

Superior Courts

The Arizona Constitution (Article 6, Sec 10 and A.R.S. § 12-121) requires that each county have at least one superior court judge, but not more than one judge per 30,000 inhabitants of the county. A presiding judge from each county is appointed by the Supreme Court. The Arizona Constitution stipulates that superior court cases be disposed of within 60 days of submission (Article 6 § 21). Larger superior courts may include special court divisions, including juvenile, family, tax or probate courts.

Superior courts are typically the courts of first instance for felonies or civil matters worth more than \$10,000, and act as appellate courts for misdemeanors and other cases originally heard in limited jurisdiction courts. Superior courts also share concurrent jurisdiction with justice courts.

Superior court judge salaries are recommended by the Commission on Salaries for Elected Officials and are included in the legislative budget. Judges are paid 50 percent by the county and 50 percent by the state (A.R.S. § 12-128).

The presiding judge of a superior court may ask the chief justice of the Supreme Court to appoint a superior court judge *pro tempore*, regardless of the county's population or the current number of serving judges. The appointment is subject to the approval of the county board of supervisors, and justices *pro tempore* are required to have the same qualifications as permanent justices, except they are not required to be residents of the county they preside in. Justices *pro tempore* may serve for no longer than a 12 month term and may be dismissed by the state's chief justice at any time. Justices may be reappointed for more than one term. Salaries for judges *pro tempore* are paid half by the state and half by the county (A.R.S. § 12-143).

Every county elects a superior court clerk at the general election to serve a four year term. The clerk of the superior court is charged with the court's record keeping. The salary of the clerk is set by statute at \$50,000 for counties with over 200,000 residents and \$45,000 for counties with under 200,000 residents (A.R.S. §12-281).

Court reporters are appointed by each superior court judge. Reporters keep a record of court proceedings and supply court transcripts. The salaries of court reporters are determined by the presiding judge, approved by the board of supervisors, and paid by the county.

Each superior court judge may appoint a commissioner. In the absence of the superior court judge, the commissioner may hear ex-parte motions for orders and writs (but not injunctions), administer oaths and take depositions, accept bonds, and investigate matters of fact. In large counties (with three or more superior court justices), commissioners appointed by the presiding judge may perform other duties as set by the Supreme Court. In practice, many commissioners are also titled as judges *pro tempore*. Commissioners must be U.S. citizens and residents of the county they serve in, as well as licensed members of the state bar and practicing attorneys for at least three years prior to their appointment. Courts are permitted to determine the salaries of court commissioners, which are paid one half by the county and one half by the state. Commissioners with broader powers in large counties are paid a salary determined by the presiding judge (although statute restricts a large county commissioner's salary to no more than 90 percent of a superior court judge's), and these commissioners are paid fully by the county.

Each county elects a county attorney at the general election for a four-year term. County attorneys must be licensed members of the bar in good standing. County attorneys act as the county's public prosecutor, defend property tax appeals, and act as legal counsel to the board of supervisors. The salary for county attorneys is set by statute. Currently, the county attorney's salary in both counties with over and under 500,000 residents is \$96,600.

County public defenders are appointed by the board of supervisors and must be members of the bar in good standing. Public defenders are prevented from engaging in private practice, unless they are part-time deputy public defenders. The board of supervisors determines and pays a public defender's salary, although statute requires it to be at least 70 percent of the salary paid to the county attorney.

Although the salaries for county attorneys, county prosecutors, and public defenders are paid by the counties, the state contributes to the processing of criminal cases via the State Aid to County Attorneys Fund and the State Aid to Indigent Defense Fund.

Justice Courts

Statute requires that each county board of supervisors divide the county into justice precincts (A.R.S. § 22-101). Each precinct is served by a justice court, a justice of the peace and a constable.

Justice courts are the court of first instance for misdemeanors and civil matters worth \$10,000 or less.

Justices of the peace are funded jointly by the state and the county (A.R.S. § 22-117). Currently, counties pay 61.5 percent of the compensation and related expenditures for a justice (as well as 100 percent of the employer contribution to the state retirement service and county health plan), and the state pays the remaining 38.5 percent. These ratios reflect a consistent amendment in session law, although permanent statute reflects a 60 percent-40 percent ratio. Annual salaries for justices of the peace are calculated using a formula for total judicial productivity credits (See below). The highest salary permitted in statute for a justice of the peace in a justice court with 500-1200 JPCs is 70 percent of the salary of a superior court judge. If a justice court has no assigned clerical help, statute specifies that JPCs must be multiplied by two to determine compensation. If JPCs for any district exceed 1,200, the board of supervisors must redraw judicial precincts or create new courts.

JPC Calculation Formula

$\frac{\text{Total Civil Filings}^*}{10}$	+	$\frac{\text{Total Felony Filings}}{10}$	+	$\frac{\text{Total Misdemeanor Filings}}{10}$	+
$\frac{\text{Total Serious Traffic Filings}}{10}$	+	$\frac{\text{Total Other Traffic Filings}}{60}$	= Total JPC		

500-1200	75%
200-499	65%
150-199	55%
100-149	50%
50-99	45%
25-49	35%
24 or less	25%

Justice of the Peace Salaries as a Percent of Superior Court Judge Salaries

Presiding judges of the superior court may appoint justices of the peace *pro tempore* for periods of not more than six months at a time, although *pro tempore* justices may be reappointed. Compensation and qualifications of justices of the peace *pro tempore* are consistent with those for elected justices, except that *pro tempore* salaries are paid 100 percent by the county.

Each justice precinct also elects a constable every four years. Constables are responsible for executing and serving processes and notices of the justice court. Constables are required to attend a mandatory training course approved by the Arizona Peace Officer Standards and Training Board within six months of their election. Constables must be over 18 and residents of the precincts they represent, as well as able to communicate in English.

Adult Probation

Probation programs in Arizona serve two primary functions: pre-sentence investigations and probation supervision. During a pre-sentence investigation, a probation officer drafts a report which can be used by the judge in the sentencing process.

Offenders are often sentenced to probation supervision as an alternative to incarceration (as opposed to parole, a circumstance in which offenders serve a portion of a prison sentence in the community). Probationers are required to be employed (or enrolled as a full time student), must obey they law, and are frequently required to take drug and alcohol tests and pay financial restitution.

Intensive probation is an additional option for offenders who might otherwise be incarcerated. Intensive probationers are supervised by a team of a probation officer and a surveillance officer, and in addition to the stipulations of regular probation, required to perform community service.

Probation officers are responsible for monitoring offenders to ensure they adhere to the terms of their sentence and successfully reintegrate into the community. Surveillance officers must have the same qualifications as probation officers, but they are not responsible for conducting pre-sentence investigations. Statute specifies that probation officers should supervise no more than 60 adults or 35 juveniles.

The presiding judge of each superior court appoints a chief adult probation officer (who then appoints additional deputy probation officers). Superior courts and county probation offices may enter into agreements to provide pre-sentence investigation and probation services to municipal and justice courts. Salaries for the adult probation department are recommended by the presiding superior court judge and approved and paid by the county board of supervisors, although the state contributes to probation officer salaries through the State Aid for Probation Services Fund. Qualifications for probation officers are determined by the Supreme Court, although qualification standards may differ in counties with less than 300,000 residents.

Probation Supervision Ratios	
<u>Intensive Probation</u> (A.R.S. § 13-916, §13-919)	
1 Probation Officer/1 Surveillance Officer	
1 Probation Officer/2 Surveillance Officer	
<i>Small Counties-</i> 1 Probation Officer:	
 <u>Regular Probation</u> (A.R.S. §12-251)	
1 Probation Officer:	60 probationers

Funding

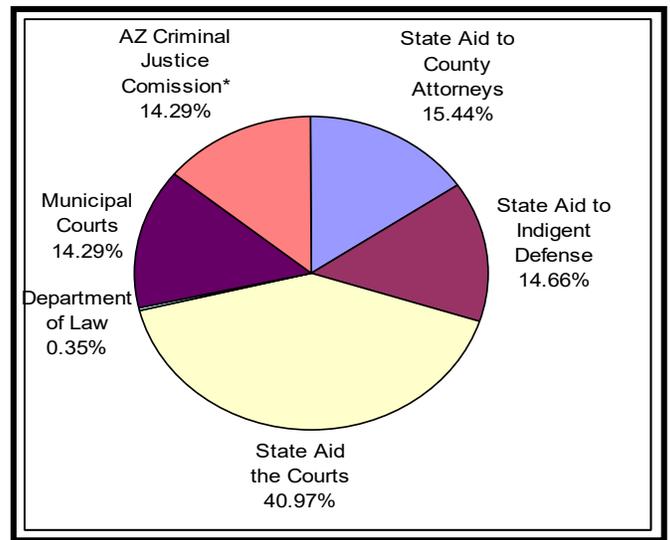
Court Fines and Penalties

It is common for financial penalties to be levied on offenders as part of a criminal sentence or civil punishment. These fees are determined by the type and classification of the offense. Additional fees may be required for a particular offense, and these fees are distributed to specific funds set out by statute (for example, a portion of DUI fines are distributed to the DUI abatement fund). Generally, fines and penalties are distributed to the general fund of the authority which collects them: fines collected in municipal courts go to city general funds, and fines and penalties collected in superior and justice courts are distributed to county general funds.

Court Surcharges

Statute permits the levying of penalty assessments, or surcharges, on fines, penalties and forfeitures collected on criminal offenses, civil penalties, and traffic fines (as well as vehicle and game and fish violations). A judge may suspend all or a portion of penalty assessments, unless a specific fine is classified as mandatory in statute. These surcharges are collected and distributed as follows:

- a 47 percent (of the fine or penalty) surcharge-distributed to the Criminal Justice Enhancement Fund
- a 7 percent surcharge-distributed to multiple accounts (see chart)
- a 7 percent surcharge-distributed to the DNA Identification System Fund
- a 10 percent surcharge distributed to the Clean Elections Fund
- a 13 percent surcharge-distributed to the Medical Services Enhancement Fund
- a \$10 probation surcharge-distributed to the Judicial Collections Enhancement Fund (JCEF) and allocated specifically for funding probation officer salary.



Distribution of 7% Surcharge
 *14.29% distributed to the Arizona Criminal Justice Commission for distribution to local forensic crime labs

Court Fees

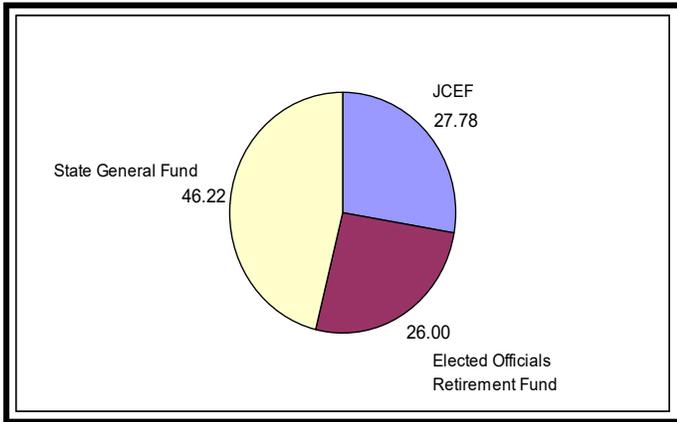
Each court in Arizona may charge fees, which are set by statute, for case filing, clerk services, copies, and other services. Court fees may be deferred on the order of a judge in cases of financial hardship.

Statutory References for Court Fee Schedules

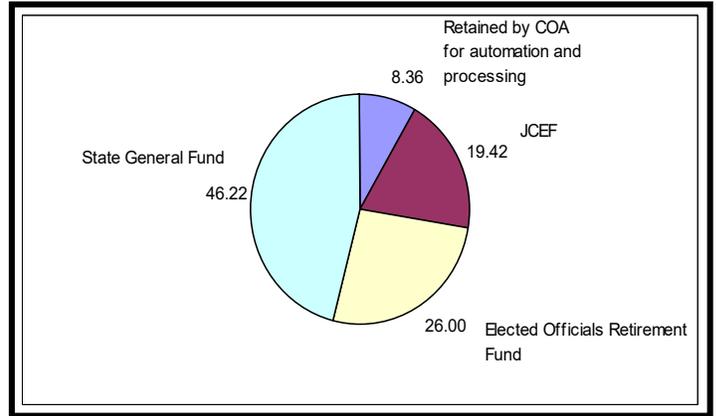
Supreme Court	12-119.01
Court of Appeals	12.120.31
Superior Court	12-284
Justice Court	22-281

Court fees are distributed differently based on which court collects them. In all courts but the Supreme Court, a portion of court fees are kept to fund court automation and enhance the court's ability to process cases, manage funds, or generally administer justice. In many cases, the clerk of the court must have a plan to spend these funds approved by the Supreme Court.

Supreme Court Fee Distribution



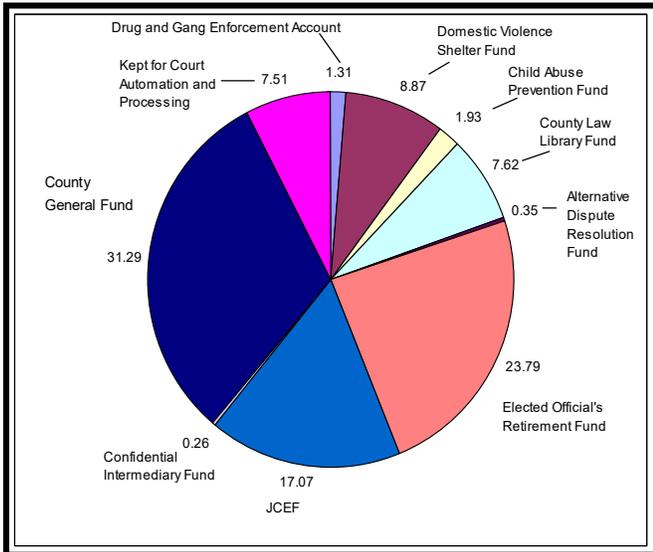
Court of Appeals (COA) Fee Distribution



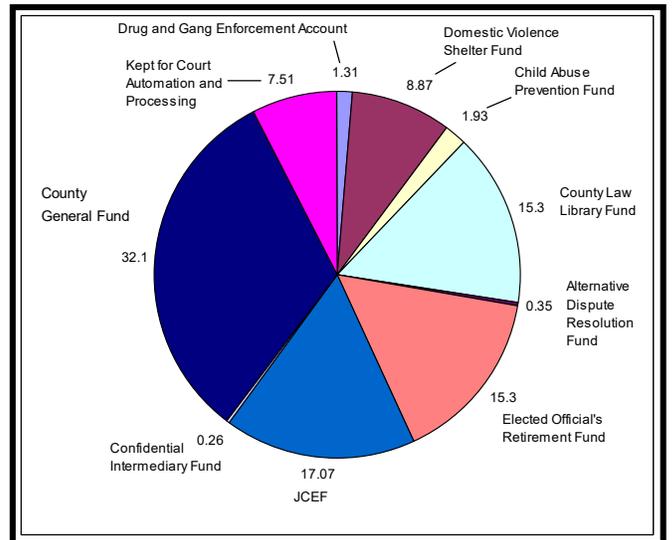
Superior Court Fee Distribution

The distribution of superior court fees changes depending on whether the county the court serves has over or fewer than 500,000 residents.

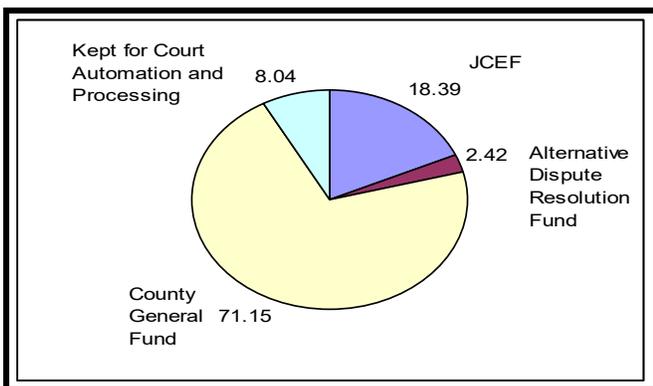
Superior Court Fee Distribution (under 500,000 resident)



Superior Court Fee Distribution (over 500,000 residents)



Justice Court Fee Distribution



Time Payment Fee

Fund Source: The Time Payment Fee is charged to anyone who pays fines or fees owed to the court on an installment basis instead of a lump sum payment. A judge may not suspend the time payment fee. Currently, a \$20 fee assessed on a person who pays a court ordered fine or sanction on an installment basis.

Fund Distribution:

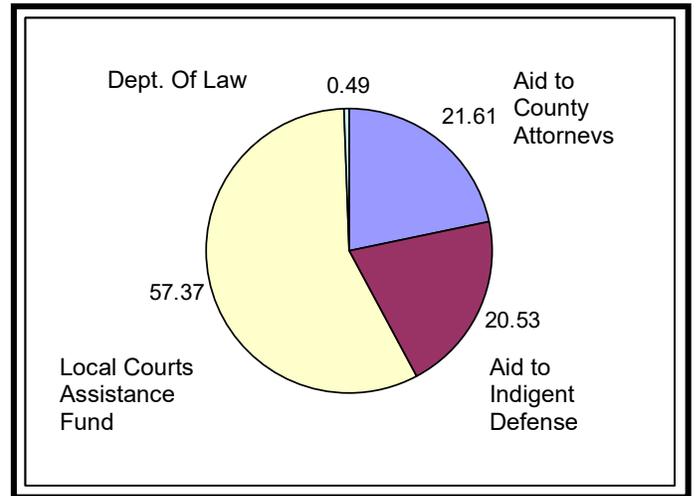
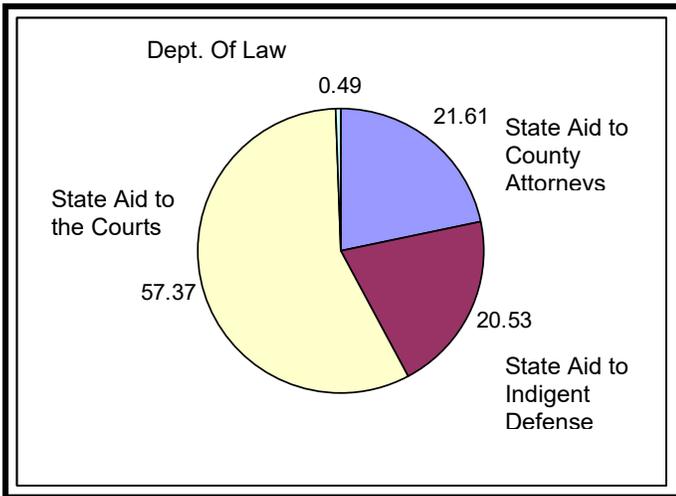
- \$11 deposited in the Judicial Collections Enhancement Fund
- \$2 deposited in JCEF and earmarked for county public defender training
- \$7 kept by the court collecting the fee to improve collection of money by the court, automation, case processing, or administration of justice

Enhanced Collections

Five percent of all money collected at the courts (including fees, penalties, and surcharges) is diverted into special accounts to fund criminal justice entities (A.R.S. § 41-2421). The distribution of these collections varies depending on the court level. Funds collected by superior and justice courts are to be allocated by the county treasurer for the same purposes as funds in the State Aid to County Attorneys and Indigent Defense Funds, but are held locally instead of being transferred to the state funds. Enhanced collections do not apply to municipal courts.

Enhanced Collections-5% of all money collected by Supreme Court and Court of Appeals

Enhanced Collections-5% of all money collected by superior courts



Funds of Interest

Funding for the court system is transferred in and out of a number of funds which are related to county financial structures. The funds included in the graphs above, as well as other funds of significance are described below.

-The Composite Index (A.R.S. § 41-2409)

Many state funds are distribute according to a formula called the composite index. The composite index is calculated as follows:

$$\frac{3 \text{ yr Avg. Felony Filings in Superior Court}}{3 \text{ yr State Average of Felony Filings in Superior Ct}} + \frac{\text{County Population}}{\text{State Population}}$$

2

-Adult Probation Services Fund (A.R.S. § 12-267)

Fund Source:

- State and county general fund appropriations
- Federal grant money
- Probation fees, and money from any other source designated for adult probation use.

Fund Distribution: County appropriations and probation fees collected in superior, justice and municipal courts are held at the county and allocated by the board of supervisors. State money is appropriated under guidelines set by the Supreme Court. Money in the fund may be used for adult probation programs and probation officer salaries.

-Criminal Case Processing and Enforcement Improvement Fund (A.R.S. § 12-102.01)

Fund Source: State general fund appropriation

Fund Distribution: By the Supreme Court to counties in order to identify problems and solutions related to improving case processing time, the enforcement of court orders, and collection of fines and fees.

-Criminal Justice Enhancement Fund (CJEF-A.R.S. §41-2401)

Fund Source: A 47 percent surcharge on criminal violations, civil penalties, and civil traffic violations

Fund Distribution: CJEF supports a number of judicial and public safety programs (for a complete detail of CJEF allocation, see Appendix A), many of which serve statewide populations. CJEF funds multiple items of specific interest to counties:

- 9.35 percent of the fund is dedicated to the Department of Law, which allocates this money to county attorneys for enhancing prosecutorial efforts
- 6.02 percent of the fund goes to the supreme court, which uses this money to pay superior court judges *pro tempore* involved in resolving domestic violence matters, judicial discipline cases, and investigating licensees of the court
- 11.70 percent is allocated to the state department of corrections, which passes this money on to county sheriffs for enhancing county jail operations and facilities

-Judicial Collection Enhancement Fund (JCEF-A.R.S. § 12-113)

Fund Source:

- \$11 of each Time Payment Fee
- Each \$5 fee collected from court ordered diversion programs (such as defensive driving schools)
- Each \$5 probation surcharge collected on criminal, civil, and traffic offenses. This \$5 is earmarked to be spent on probation departments and salaries.
- All electronic filing fees
- A portion of fees collected by the Supreme Court, court of appeals, superior, municipal, and justice courts

Fund Distribution: By the Supreme Court. Counties may submit plans for funding which may be used for:

- training personnel
- enhancing and managing collections of child support, restitution, and fines
- improving court automation
- improving case processing or administration of justice
- probation services

-Juvenile Probation Fund (A.R.S. § 12-268)

Fund Source:

- State and county general fund appropriations
- Fees collected in confidential intermediary program for juvenile supervision and juvenile diversion programs
- Juvenile penalty assessments.

Fund Distribution: County appropriations and probation fees collected in superior, justice and municipal courts are held at the county and allocated by the board of supervisors. State money is appropriated under guidelines set by the Supreme Court. Money in the fund may be used for officers, diversion programs, or other juvenile probation expenditures but not for probation-related facilities, buildings, or court-appointed special advocate costs.

-Local Courts Assistance Fund (A.R.S. §12-102.03)

Fund Source: A portion of 5 percent of superior court fines, fees, and penalties

Fund Distribution: By the Supreme Court to superior and justice courts for aid in criminal case processing. Allocation of Local Courts Assistance money is determined through the same submission of plans required for the State Aid to the Courts fund.

-State Aid to the Courts Fund (A.R.S. §12-102.02)

Fund Sources:

- State General Fund Appropriation
- A portion of 5 percent of supreme court and court of appeals enhanced collections
- A portion of a 7 percent penalty assessment on criminal, civil, and traffic violations

Fund Distribution: By the Supreme Court to superior and justice courts in each county for improving criminal case processing. Funds are allocated according to the composite index.

The result of this formula is used as a multiplier against the total amount in the fund. Counties are required to submit a plan for the funding for approval by the Supreme Court.

-State Aid to County Attorneys (A.R.S. § 11-539)

Fund Source:

- Appropriations
- Enhanced Collections from the Supreme Court and Court of Appeals
- A portion of the 7 percent surcharge on fines, fees, and penalties

Fund Distribution: The Fund is administered by the Arizona Criminal Justice Commission (ACJC) and distributed according to the composite index.

-State Aid to Indigent Defense Fund (A.R.S. § 11-588)

Fund Source:

- Appropriations
- Enhanced Collections from the Supreme Court and Court of Appeals
- A portion of the 7 percent surcharge on fines, fees, and penalties

Fund Distribution: The Fund is administered by the Arizona Criminal Justice Commission (ACJC) and distributed according to the composite index.

Appendix A: Qualification and Selection of Judges

	Length of Term	Qualifications-	Appointment	Retention
Supreme Court	6 years	<ul style="list-style-type: none"> • 10 years AZ residency • Admitted to bar 	Nominated By Commission on Appellate Court Appointments Appointed by Governor	By Election
Court of Appeals	6 years after retention	<ul style="list-style-type: none"> • At least 30 • Admitted to bar • 5 years AZ residency • Qualified elector 	Nominated By Commission on Appellate Court Appointments Appointed by Governor	By Election
Superior Courts	4 years	<ul style="list-style-type: none"> • At least 30 • Admitted to bar • 5 years Arizona residency 	Large Counties: Nominated by Commission on Trial Court Appointments Small Counties: Elected at General Election	By Election
Justice Courts	4 years	<ul style="list-style-type: none"> • 1 year AZ residency 	Election	By Election

Appendix B: Allocation of the Criminal Justice Enhancement Fund (CJEF)

