



### Tours

If you are interested in visiting the Vermont Supreme Court, we are located at 111 State Street in Montpelier. Court hours are 7:45 a.m. — 4:30 p.m. Monday thru Friday.

Guided School Tours and Mock Trials are also offered. Please contact the Supreme Court at 802-828-3278.

Phone: 802-828-3278  
[www.vermontjudiciary.org](http://www.vermontjudiciary.org)

# The Vermont Supreme Court

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## INTRODUCTORY INFORMATION AND A BRIEF HISTORY OF THE COURT

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This brochure is presented to provide you with information about the Vermont Supreme Court. The brochure contains introductory information about the organization and history of the Court and a description of a typical Court session.

Your interest in the Vermont Supreme Court is appreciated. We hope you will find this information about the Court useful. If you have questions that this brochure does not answer, Court personnel will be glad to answer them. You may also wish to visit our website at [vermontjudiciary.org](http://vermontjudiciary.org). We invite your comments and suggestions.

Paul L. Reiber  
Chief Justice

Lee Suskin  
Court Administrator and  
Clerk of the Supreme Court

### Organization

The Vermont Constitution establishes the legislative, executive, and judicial branches of Vermont government.

As part of the judicial branch, the Vermont Supreme Court was created to perform five broad functions: (1) to hear final appeals from all cases originating in state courts (Superior, District, Family, Environmental and Probate Court) and from certain administrative agency proceedings, (2) to establish rules of procedure in the trial and appellate courts, (3) to administer the court system, (4) to admit attorneys to practice, and (5) to serve as the disciplinary authority for all judicial officers and attorneys.

The Vermont Supreme Court is the highest court in the Vermont court system. The Supreme Court has appellate jurisdiction. Appellate jurisdiction is the power to review decisions made by lower courts. Two common types of error claimed in appeals are (1) that the lower court did not follow correct procedure, or (2) that the law was applied incorrectly to the facts of the case. The Supreme Court does not review the facts, but clarifies questions of law as applied to the facts. Once the Supreme Court has reviewed the case and given its decision, no further appeal can be made within the state court system. In special types of cases, the Supreme Court has original or exclusive jurisdiction. The case is brought directly to the Supreme Court without having to be heard first in one of the lower courts.

The Vermont Supreme Court consists of the Chief Justice and four Associate Justices. Law clerks and staff attorneys do legal research necessary to help the justices reach well-informed decisions. Judicial law clerks are recent law school graduates.

The Clerk of the Supreme Court and the Clerk's staff are responsible for the daily operations of the Court. Legal documents are filed with the Clerk.

The Clerk also serves as state Court Administrator. The Court Administrator works under the direction of the Supreme Court to manage the state court system.



# THE VERMONT SUPREME COURT

## Brief History

In 1777, the first Vermont Constitution provided that "courts of justice shall be established in every county in this state." At its first session in 1778, the General Assembly created special temporary courts to hear cases until a Superior Court was established at a later legislative session that same year.

The Superior Court consisted of a Chief Judge and four other judges chosen annually by the Governor, the Governor's Council, and the House of Representatives. The Superior Court Judges met four times a year for one week at a time in four different locations around the State. Decisions of the Superior Court could be appealed to the Governor, the Governor's Council, and the House of Representatives.

In 1782, the Vermont court system was reorganized. Courts in each county were established with one Chief Judge and four or five Assistant Judges elected by county voters. The Superior Court was abolished, and the Supreme Court was created. The five judges of the Supreme Court were elected annually by ballot of the Legislature. Supreme Court Judges met once in each county during the year. Although the Supreme Court and the county courts heard many of the same types of cases, cases tried in the county courts could be appealed to the Supreme Court.

The first lawyer was elected to serve on the Supreme Court in 1786. Before 1786, many of Vermont's judges were not lawyers. Strong common sense and a distinguished record of military or community service were considered necessary qualities for judicial candidates. By 1789, however, all Supreme Court Judges were lawyers.

The professional character of the Supreme Court was further enhanced when the General Assembly passed a law in 1797 requiring each Supreme Court Judge to give his opinion in writing, to be recorded by the court clerk. In 1823, the Legislature appointed a reporter to collect and officially publish the decisions of the Vermont Supreme Court.

The Vermont court system was reorganized again in 1825. Although voters in each county continued to elect two Assistant Judges, the Supreme Court Judges became the presiding judges in county courts.

Each Supreme Court Judge traveled to various counties during the year to hear cases. In addition to their individual duties in county courts, the Supreme Court Judges continued to serve as the Vermont Supreme Court when all the Judges sat together for Supreme Court terms. Supreme Court Judges were required to preside in county courts until 1906.

In 1906, the General Assembly increased the number of judges and separated their functions. The Supreme Court consisted of four judges. Terms were held in Montpelier, so that Supreme Court Judges no longer had to travel to the county courts. In 1908, the size of the Supreme Court was set at five judges and has remained the same since then. In keeping with modern practice, the judges of Vermont's highest court are now called justices.

Today, the Vermont Supreme Court is in session at Montpelier for 8 terms each year, beginning the first Tuesday of February, March, April, May, June, September, October and November. However, the Court may hear cases at any time. When Court is in session, the Vermont and United States flags are flown at the front of the Supreme Court Building.

The present State Library and Supreme Court Building was erected in 1918. The building is constructed of light Barre granite. When first completed, the building housed not only the Supreme Court and the Library Commission but also eight other State agencies. The Vermont Supreme Court and the Vermont Department of Libraries now occupy the building.

The Chief Justice and the four Associate Justices are appointed for six-year terms by the Governor, who selects from a list of applicants recommended by the Judicial Nominating Board. The Governor's appointee must then be confirmed by the State Senate. The current members of the Supreme Court are in order of seniority:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice

The State Court Administrator and Clerk of the Vermont Supreme Court is Lee Suskin.

## A Typical Session of the Vermont Supreme Court

Among the requirements to bring a case to the Vermont Supreme Court, the attorneys for the parties must file briefs, or written arguments, explaining in detail the basis of the appeal and the law that applies. Before a case is argued in the Supreme Court, the justices read the attorneys' briefs to become familiar with the facts and the points of law involved. Appeals are considered either before a three-justice panel or the full Court, depending on whether the Court may be establishing a new rule of law or it is a legal issue of substantial public interest. Cases may be orally argued or considered on the briefs submitted.

A Court session begins when the justices are ready to enter the courtroom from their chambers. The bailiff, who is seated at the left in the courtroom, stands, bangs the gavel, and the justices enter. All persons in the courtroom rise. The bailiff announces, "The Honorable, the Supreme Court." When the justices are seated, the bailiff announces the case number and name and the attorneys present. The bailiff bangs the gavel again. All persons in the courtroom sit down. The Chief Justice sits in the middle chair at the bench. The attorneys begin their oral arguments.

The first to argue before the Court is the attorney for the appellant, seated on the right side of the courtroom. The appellant is the party who has brought the appeal to the Court. When the attorney for the appellant has finished speaking, the attorney for the appellee, seated on the left side of the courtroom, rises to make his/her argument before the Court. The appellee is the other party in the case and is defending against the appeal. The justices ask questions of both attorneys during oral argument to clarify points and to bring out any additional information needed to make a decision in the case.

After the attorney for the appellee finishes speaking, the attorney for the appellant may speak once more in rebuttal. This rebuttal time is used to respond to the appellee's argument in a way that takes advantage of its strengths and weaknesses.

When all the arguments for the case have been heard, the bailiff stands and bangs the gavel for exit. All persons in the courtroom rise as the justices file out. During the courtroom session, flash photography is not permitted, and quiet must be maintained in the lobby and corridors near the courtroom.

After the hearing before the Supreme Court, the justices undertake the difficult work of making a decision and writing an opinion. Under the usual procedure, one justice is assigned to prepare a written opinion which states a proposed decision and the reasoning behind it. The proposed opinion is then circulated to the other justices who sign it if they agree, write a dissenting opinion if they disagree, or write a concurring opinion if they agree but have different reasoning. A majority must agree on the decision of the Court.

Once decided, the opinions are filed with the Clerk of the Supreme Court and released to the public. The decisions of the Supreme Court are final in Vermont and must be followed by lower courts and other officials. The only possible appeal from a Vermont Supreme Court decision is to the United States Supreme Court, if a question of the United States Constitution or a federal statute is involved. Since the United States Supreme Court accepts only a small number of the cases that are presented to it, very few cases travel from the Vermont Supreme Court to the United States Supreme Court.

