

# Courts of Record

And the Common Law in State Constitutions and State Statutes  
Last Updated on 04/02/2008

**Black's Law Dictionary, 4th Ed., 425, 426**

**COMMON LAW ACTIONS** are such as will lie, on the particular facts, at common law, without the aid of a statute. - Black's Law Dictionary 5th Edition

**COURT OF RECORD** A "court of record" is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial. Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

## CLASSIFICATION

Courts may be classified and divided according to several methods, the following being the more usual:

**COURTS OF RECORD and COURTS NOT OF RECORD.** The former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal.

Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded. 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal 225; Erwin v. U.S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.

"Inferior courts" are those whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law." Ex Parte Kearny, 55 Cal. 212; Smith v. Andrews, 6 Cal. 652

"The only inherent difference ordinarily recognized between superior and inferior courts is that there is a presumption in favor of the validity of the judgments of the former, none in favor of those of the latter, and that a superior court may be shown not to have had power to render a particular judgment by reference to its record. Ex parte Kearny, 55 Cal. 212. Note, however, that in California 'superior court' is the name of a particular court. But when a court acts by virtue of a special statute conferring jurisdiction in a certain class of cases, it is a court of inferior or limited jurisdiction for the time being, no matter what its ordinary status may be. Heydenfeldt v. Superior Court, 117 Cal. 348, 49 Pac. 210; Cohen v. Barrett, 5 Cal. 195" 7 Cal. Jur. 579

"The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it." Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973)]

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## CONCLUSION

Courts of Record must proceed according to the course of the common law, without the aid of a statute.

Courts which proceed according to statutory jurisdiction are inferior courts, and may be sued directly, without appealing.

Courts designated as courts of record may act as statutory courts unless the parties to a case object.

The "judge" has no discretion in a court of record, and can only do ministerial functions, such as signing your orders.

No judgment of a court of record can be appealed. There is no higher court.

The type of relief demanded by the plaintiff determines if the court will operate as a court of record or not, on a case by case basis.

There is no such thing as a "common law court." All courts of record can hear actions at (common) law.

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**All federal courts are courts of record. This includes United States Tax Court.**

# Courts of Record

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**All federal courts are courts of record. This includes United States Tax Court.**

**US. Code, TITLE 28 > PART I > CHAPTER 5 > § 132. Creation and composition of district courts**

(a) There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district.

**U.S. Code, TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter C > PART I > § 7441 Status.**

There is hereby established, under article I of the Constitution of the United States, a court of record to be known as the United States Tax Court. The members of the Tax Court shall be the chief judge and the judges of the Tax Court.

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**Almost all state courts are courts of record. See which courts are courts of record in your state!**

This page is a work in progress. If you find any information regarding courts in your home state being courts of record that you think should go on this page, then email me at patATobstacledelusionsDotcom

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## Alabama

Code of Alabama, 1975

### Section 12-12-2

District court a court of record; preparation, maintenance, etc., of records of proceedings generally; employment of reporters or provision for transcripts of proceedings by parties.

(a) The district court shall be a court of record.

(b) Records of proceedings shall be made, maintained and preserved according to rules promulgated by the supreme court, but neither reports nor transcripts of proceedings shall be required, except as provided by law or rule.

(c) Any party may employ a reporter or provide for a transcript of the proceedings on his own account.

(Acts 1975, No. 1205, p. 2384, §4-110.)

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## Alaska

Alaska Statutes Title 22, Chapter 10, Section 50

**AS 22.10.050. General Powers and Sessions.** The superior court shall always be open, except on judicial holidays as determined by rule of the supreme court. Injunctions, writs of prohibition, mandamus, and habeas corpus may be issued and served on holidays and nonjudicial days. The superior court is a court of record and is vested with all power and authority necessary to carry into complete execution all its judgments, decrees, and determinations in all matters within its jurisdiction according to the constitution, the laws of the state, [REDACTED] The superior court shall hold regular sessions in each district at the times and places as may be designated by rule or order of the supreme court.

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## Arizona

Arizona Constitution Article 6, Section 30

**Section 30.** A. The supreme court, the court of appeals and the superior court shall be courts of record. Other courts of record may be established by law, [REDACTED] B. All justices and

judges of courts of record, except for judges of the superior court and other courts of record inferior to the superior

court in counties having a population of less than two hundred fifty thousand persons according to the most recent United States census, shall be appointed in the manner provided in section 37 of this article.

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## Arkansas

### Arkansas Statutes Chapter 2, Subchapter 1-119

#### 1-2-119. Common and statute law of England adopted.

§ 1-2-119. [REDACTED], so far as it is applicable and of a general nature, and all statutes of the British Parliament in aid of or to supply the defects of the common law made prior to March 24, 1606, which are applicable to our own form of government, of a general nature and not local to that kingdom, and not inconsistent with the Constitution and laws of the United States or the Constitution and laws of this state, [REDACTED]

### Arkansas Code

#### 16-10-104. Courts of record.

The Supreme Court, Court of Appeals, and all circuit and county courts shall be courts of record and shall keep just and faithful records of their proceedings.

History. Rev. Stat., ch. 43, § 13; A.S.A. 1947, § 22-101; Acts 2003, No. 1185, § 39.

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## California

### California Constitution Article 6, Section 1

SEC. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record.

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## Colorado

### Colorado Constitution Article 6, Section 9 District Courts

Section 9. *District courts jurisdiction.* (1) The district courts shall be trial courts of record with general jurisdiction, and shall have original jurisdiction in all civil, probate, and criminal cases, except as otherwise provided herein, and shall have such appellate jurisdiction as may be prescribed by law.

### Colorado Revised Statutes Title 2, Article 4, Part 2-211 Common Law of England

§ 2-211. [REDACTED] so far as the same is applicable and of a general nature, and all acts and statutes of the British parliament, made in aid of or to supply the defects of the common law prior to the fourth year of James the First, excepting the second section of the sixth chapter of forty-third Elizabeth, the eighth chapter of thirteenth Elizabeth, and the ninth chapter of thirty-seventh Henry the Eighth, and which are of a general nature, and not local to that kingdom, [REDACTED]

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## Connecticut

### Connecticut Statutes Chapter 870: Judicial Department

Sec. 51-15a. **Consultation between judiciary committee and rules committee of Superior Court.** The Senate and House chairmen of the joint standing committee on judiciary shall appoint six persons from among the members of the committee who, with the chairmen, shall meet, on the call of the Chief Justice, but not less frequently than annually, with the rules committee of the Superior Court to confer and consult with respect to the rules of practice,

pleadings, forms and procedure for all courts of record of this state and with respect to legislation affecting the courts pending before or to be introduced in the General Assembly.

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## Delaware

### Delaware Statutes Title 10 Chapter 13 §1301

§ 1301. Court of Common Pleas. There is a court of record known as "The Court of Common Pleas for the State of Delaware" sometimes referred to in this chapter as "the Court." (10 Del. C. 1953, § 1301; 59 Del. Laws, c. 133, § 1.)

### Delaware Statutes Title 10 Chapter 13 §1324

§ 1324. General powers of Court.

The Court shall have all the powers of a court of record possessed by the Superior Court of the State in the endorsement of its writs, rules, processes, the attendance of witnesses, the requiring of security for costs from nonresident plaintiffs, the production of documents, books and records and the production of all other necessary evidence. (10 Del. C. 1953, § 1316; 59 Del. Laws, c. 133, § 1; 69 Del. Laws, c. 426, § 1.)

### Delaware Statutes Title 25: Property, Chapter 3: Titles and Conveyances §301: Fines

All fines and common recoveries levied and suffered within this State, in pursuance of or [REDACTED] in the Superior Court of the county wherein the lands, tenements or hereditaments entailed lie [REDACTED] to bar estates so entailed, as fines and common recoveries of lands, tenements or hereditaments levied, or suffered, in England are. Any heir at law or other person claiming any right in the lands, tenements or hereditaments may, either by appeal or writ of error, reverse such fines or recoveries for any errors in levying or suffering the fines or recoveries. (Code 1852, §§ 1639, 1640; Code 1915, § 3234; Code 1935, § 3697; 25 Del. C. 1953, § 301.)

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## Florida

### 2007 Florida Statutes Title 1

2.01 Common law and certain statutes declared in force. [REDACTED] which are of a general and not a local nature, with the exception hereinafter mentioned, down to the 4th day of July, 1776, [REDACTED] provided, the said statutes and common law be not inconsistent with the Constitution and laws of the United States and the acts of the Legislature of this state.

### Title 7, Chapter 92, Witnesses, Records and Documents

92.05 Final judgments and decrees of courts of record.--All final judgments and decrees heretofore or hereafter rendered and entered in courts of record of this state, and certified copies thereof, shall be admissible as prima facie evidence in the several courts of this state of the entry and validity of such judgments and decrees. For the purposes of this section, a court of record shall be taken and construed to mean any court [REDACTED]

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## Georgia

### Georgia Code Title 15: Courts>Chapter 7. State Courts of Counties>Article 3.

#### Practice and Procedure

##### § 15-7-41. State courts to be courts of record; seal; maintaining records and files

The state courts shall be courts of record and shall have a seal; and the minutes, records, and other books and files that are required by law to be kept for the superior courts shall, in the same manner, so far as the jurisdiction of state

courts may render necessary, be kept in and for such courts. **HISTORY:** Code 1981, § 15-7-41, enacted by Ga. L. 1983, p. 1419, § 2.

**§ 15-8-1. City courts as courts of record**

City courts created by special Act of the General Assembly shall be courts of record.

**HISTORY:** Ga. L. 1924, p. 83, § 1; Code 1933, § 24-2204.

**§ 15-11-4. Juvenile court as court of inquiry; court of record; issuance of warrants**

(b) *Court of record.* The juvenile court is a court of record, having a seal. The judge and the judge's duly appointed representatives shall each have power to administer oaths and affirmations.

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## Hawaii

### Hawaii Revised Statutes §604-17

§604-17 Courts of record; testimony and proceedings. The district courts shall be courts of record. The district courts shall in all cases preserve in writing, on tape, or such other mechanical device as may be appropriate, the minutes, proceedings, and testimony of their trials, transactions, and judgments, and the facts upon which their decisions rest. [L 1892, c 57, §13; RL 1925, §2285; am L 1927, c 71, §1; RL 1935, §3774; RL 1945, §9684; RL 1955, §216-15; HRS §604-17; am L 1970, c 188, §22; am L 1971, c 144, §6E]

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## Idaho

### Idaho Statutes

#### **TITLE 1: COURTS AND COURT OFFICIALS > CHAPTER 1: ENUMERATION OF COURTS**

1-101. COURTS ENUMERATED. The following are the courts of justice of this state: 1. The Supreme Court. 2. The Court of Appeals. 3. The district courts. 4. The magistrate's division of the district courts.

1-102. COURTS OF RECORD. The courts enumerated in section 1-101, Idaho Code, are courts of record.

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## Illinois

*(I found over 100 references for courts of record, but could not find which courts were courts of record in Constitution or statutes, so I moved on.)*

### Illinois Compiled Statutes

(705 ILCS 5/7) (from Ch. 37, par. 12)

[REDACTED]

(Source: P.A. 81-275.)

(5 ILCS 50/1) (from Ch. 1, par. 801) "The Common Law Act"

[REDACTED]

[REDACTED]

(Source: R.S. 1874, p. 269.)

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## Indiana

Indiana Code

### IC 33-33

#### ARTICLE 33. COURT SYSTEM ORGANIZATION IN EACH COUNTY

Chapters 1-92 list all courts of record for all the counties in Indiana. These are too numerous to list. [Click here to view them.](#)

#### IC 33-34-1-3: Not a court of record

Sec. 3. [REDACTED]

*As added by P.L.98-2004, SEC.13.*

[REDACTED]

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## Iowa

### Iowa Code, ARTICLE 5: COURT OF APPEALS, PART 1: GENERAL PROVISIONS

Court

#### 602.6101 Unified trial court .

A unified trial court is established. This court is the "Iowa District Court ". The district court has exclusive, general, and original jurisdiction of all actions, proceedings, and remedies, civil, criminal, probate, and juvenile, except in cases where exclusive or concurrent jurisdiction is conferred upon some other court , tribunal, or administrative body. The district court has all the power usually possessed and exercised by trial courts of general jurisdiction, and is a court of record .

83 Acts, ch 186, §7101, 10201

#### 602.5101 Court of appeals.

The Iowa court of appeals is established as an intermediate court of appeals. The court of appeals is a court of record

83 Acts, ch 186, §6101, 10201

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## Kansas

Constitution of the State of Kansas

Article 3.--JUDICIAL

§ 1: Judicial power; seals; rules. The judicial power of this state shall be vested exclusively in one court of justice, which shall be divided into one supreme court, district courts, and such other courts as are provided by law; and all courts of record shall have a seal. The supreme court shall have general administrative authority over all courts in this state.

Kansas Statutes 20-101, Chapter 20.--COURTS Article 1.--SUPREME COURT

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## Minnesota

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## Mississippi

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## Missouri

### Missouri Revised Statutes Chapter 476.010

#### Courts of record.

476.010. The supreme court of the state of Missouri, the court of appeals, and the circuit courts shall be courts of record, and shall keep just and faithful records of their proceedings. [REDACTED]

(RSMo 1939 § 1990, A.L. 1945 p. 806, A.L. 1973 S.B. 263, A.L. 1978 H.B. 1634, A.L. 1997 S.B. 248, A.L. 2001 S.B. 267)

Prior revisions: 1929 § 1826; 1919 § 2323; 1909 § 3845

#### CROSS REFERENCES:

Effect of 1945 constitution on existing courts, Const. schedule § 4 (Schedule follows Const. Art. XII)

Judicial power, where vested, Const. Art. V § 1

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## Montana

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## Nebraska

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## Nevada

### Nevada Constitution Article 6, Section 8

Sec. 8. Number, qualifications, terms of office and jurisdiction of justices of the peace; appeals; courts of record. [Effective through November 22, 2010, and after that date unless the proposed amendment is agreed to and passed by the 2009 Legislature and approved and ratified by the voters at the 2010 General Election.] The Legislature shall determine the number of justices of the peace to be elected in each city and township of the State, and shall fix by law their qualifications, their terms of office and the limits of their civil and criminal jurisdiction, according to the amount in controversy, the nature of the case, the penalty provided, or any combination of these.

The provisions of this section affecting the number, qualifications, terms of office and jurisdiction of justices of the peace become effective on the first Monday of January, 1979.

The Legislature shall also prescribe by law the manner, and determine the cases in which appeals may be taken from justices and other courts. The Supreme Court, the district courts, and such other courts, as the Legislature shall designate, shall be courts of record.

[Amended in 1978. Proposed and passed by the 1975 Legislature; agreed to and passed by the 1977 Legislature; and approved and ratified by the people at the 1978 General Election. See: Statutes of Nevada 1975, p. 1952; Statutes of Nevada 1977, p. 1691.]

### Nevada Revised Statutes

NRS 1.030 Application of common law in courts. [REDACTED]

[1911 CPA § 532; RL § 5474; NCL § 9021]

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## New Hampshire

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## New Jersey

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## New Mexico

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## New York

### New York Statutes Article 2, Section 2

§ 2. Courts of record. Each of the following courts of the state is a court of record: 1. The court for the trial of impeachments. 2. A court on the judiciary. 3. The court of appeals. 4. The appellate division of the supreme court in each department. 5. The supreme court. 6. The court of claims. 7. A county court in each county, except the counties of New York, Bronx, Kings, Queens and Richmond. 8. The family court. 9. A surrogate's court in each county. 10. Each city court outside the city of New York. 11. The district court in each county or portion thereof in which such court shall be established. 12. The civil court of the city of New York and the criminal court of the city of New York. [REDACTED]

### New York Constitution, Article I, Section 14

[REDACTED]

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## North Carolina

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## North Dakota

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## Ohio

### Ohio Revised Code, Chapter 1901.02

#### 1901.02 Jurisdiction of municipal courts.

(A) The municipal courts established by section 1901.01 of the Revised Code have jurisdiction within the corporate limits of their respective municipal corporations, or, for the Clermont county municipal court, within the municipal corporation or unincorporated territory in which it is established, and are courts of record. Each of the courts shall be styled "..... municipal court," inserting the name of the municipal corporation, except the following courts, which shall be styled as set forth below:

(1) The municipal court established in Chesapeake that shall be styled and known as the "Lawrence county municipal court";  
etc. etc. etc.

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## Oklahoma

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## Oregon

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## Pennsylvania

### Pennsylvania Constitution Article 5

#### Right of Appeal

Section 9. There shall be a right of appeal in all cases to a court of record [REDACTED]; and there shall also be a right of appeal from a court of record or from an administrative agency to a court of record or to an appellate court, the selection of such court to be as provided by law; and there shall be such other rights of appeal as may be provided by law.

### Pennsylvania Consolidated Statutes Title 42 Chapter 3

#### § 321. Court of record

Except as otherwise provided in this subpart every court of this Commonwealth shall be a court of record with all the qualities and incidents of a court of record [REDACTED]

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## Rhode Island

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## South Carolina

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## South Dakota

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## Tennessee

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## Texas

### Texas Constitution, Article 5 Section 15

#### Article 5 - JUDICIAL DEPARTMENT

#### Section 15 - COUNTY COURT; COUNTY JUDGE

There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law. (Amended Nov. 2, 1954.)

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## Utah

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## Vermont

### Vermont Statutes Title 4: Judiciary, Chapter 9, § 442. Powers of the district court.

#### § 442. Powers of the district court.

(a) The district court is a court of record and has all of the powers of a superior court as to civil actions and criminal prosecutions except as specifically limited by statute.

(b) The district court has the same power over its judgments, records and proceedings as that vested in the superior courts from time to time by statute [REDACTED] therewith all the powers of courts of record [REDACTED]

(c) The district court shall have a seal with the name of the court and the word "Vermont" thereon.

Added 1967, No. 194, § 7, eff. March 1, 1968; amended 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974.

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## Virginia

### Virginia Constitution Article 6: Judiciary

#### Section 1. Judicial power; jurisdiction.

The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish.

Trial courts of general jurisdiction, appellate courts, and such other courts as shall be so designated by the General Assembly shall be known as courts of record.

## Virginia Statutes

### § 1-200. The common law.

[REDACTED]

(Code 1919, § 2, § 1-10; 2005, c. 839.)

### § 19.2-367. Proceedings to be according to common law.

[REDACTED]

[REDACTED] except that no formal pleadings shall be necessary.

(Code 1950, § 19.1-356; 1960, c. 366; 1975, c. 495.)

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## Washington

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## West Virginia

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## Wisconsin

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## Wyoming

### Wyoming Statutes Title 5, Chapter 9: Circuit Courts, Article I

#### 5-9-101. Definitions; construction of provisions.

(b) When no special provision is otherwise made by law, the circuit court shall be vested with all inherent powers which are possessed by courts of record in this state.