



SUPREME COURT OF KENTUCKY

Judicial Redistricting

**John D. Minton, Jr.,
Chief Justice of Kentucky**

**Interim Joint Committee on State Government
July 20, 2021**



Judicial Redistricting: Two Distinct Concepts and Constitutional Requirements

- Redistricting of Supreme Court and Court of Appeals Districts [Kentucky Constitution, Sec. 110(4)]
- Redistricting of Circuit and District Court [Kentucky Constitution, Sec. 112(2) & (3) and Sec. 113(2) & (3)]



SUPREME COURT OF KENTUCKY

Redistricting of Supreme Court/ Appellate Districts



Kentucky Constitution Section 110(4):

*The Court of Appeals districts existing on the effective date of this amendment to the Constitution shall constitute the initial Supreme Court districts. The **General Assembly** thereafter **may redistrict** the Commonwealth, **by counties**, into **seven Supreme Court districts** as nearly **equal in population** and as **compact in form** as possible. There shall be one Justice from each Supreme Court District.*

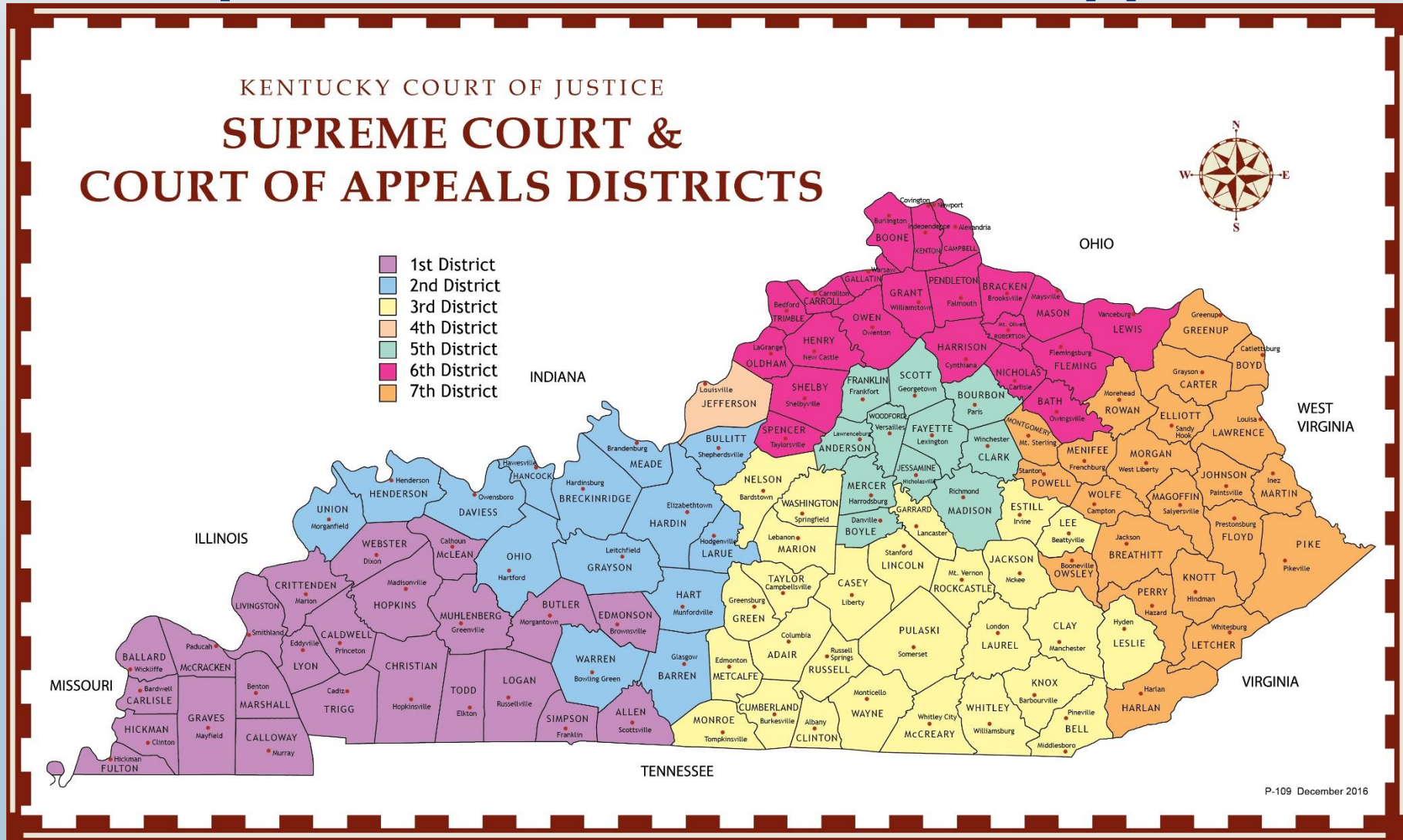
CONSTITUTIONAL REQUIREMENTS:

- 1) General Assembly may redistrict
- 2) by counties
- 3) into seven Supreme Court districts
- 4) as equal in population as possible
- 5) as compact in form as possible



SUPREME COURT OF KENTUCKY

Current Supreme Court and Court of Appeals Districts





Appellate Redistricting

2012 Regular Session

- Appellate redistricting was included in HB 1 (Section 139, pages 602-603).
- HB 1 included a non-severability clause that provided: “[I]f any court finds any part of any single plan contained herein to be unconstitutional, or unenforceable under state or federal law, the entire Act, and all of the plans contained herein, are, and shall be declared, void and unenforceable.”
- HB 1 was challenged by several legislators and ultimately struck down by the Supreme Court in *Legislative Research Commission v. Fischer, et al.*



Appellate Redistricting

2013 Special Session

- General Assembly passed HB 2, the legislative redistricting plan, but did not include appellate redistricting.

2019 Regular Session

- HB 496, filed by Rep. Nemes, presented an appellate redistricting plan.
- The bill did not receive any readings and was heard for informational purposes only in House Elections, Const. Amendments & Intergovernmental Affairs Committee.



Appellate Redistricting

- Population shifts from the west and the east have resulted in disparate population distribution among the current districts.
- Because counties cannot be split, the population of the 4th Appellate District (Jefferson) will always be an anomaly.
- To determine the appropriate distribution of population among the other six appellate districts, must subtract Jefferson from the population of the state and divide the remainder.

Estimated state population: 4,467,673

Estimated Jefferson population: 766,757

Remainder: 3,700,916

Ideal population of remaining six appellate districts: 616,819



Redistricting of Judicial Circuits and Districts (Trial Courts)



Kentucky Constitution Sections 112(2) and 113(2)

The Circuit Court districts existing on the effective date of this amendment to the Constitution shall continue... the General Assembly having power upon certification of the necessity therefor by the Supreme Court to reduce, increase or rearrange the judicial districts. A judicial circuit composed of more than one county shall be as compact in form as possible and of contiguous counties. No county shall be divided in creating a judicial circuit.

CONSTITUTIONAL REQUIREMENTS:

- 1) Need must be certified by the Supreme Court before General Assembly can act;
- 2) as compact in form as possible;
- 3) contiguous counties;
- 4) no counties divided.



Kentucky Constitution Sections 112(3) and 113(3)

The number of circuit or district judges in each district shall be determined by the General Assembly upon certification of the necessity therefor by the Supreme Court.

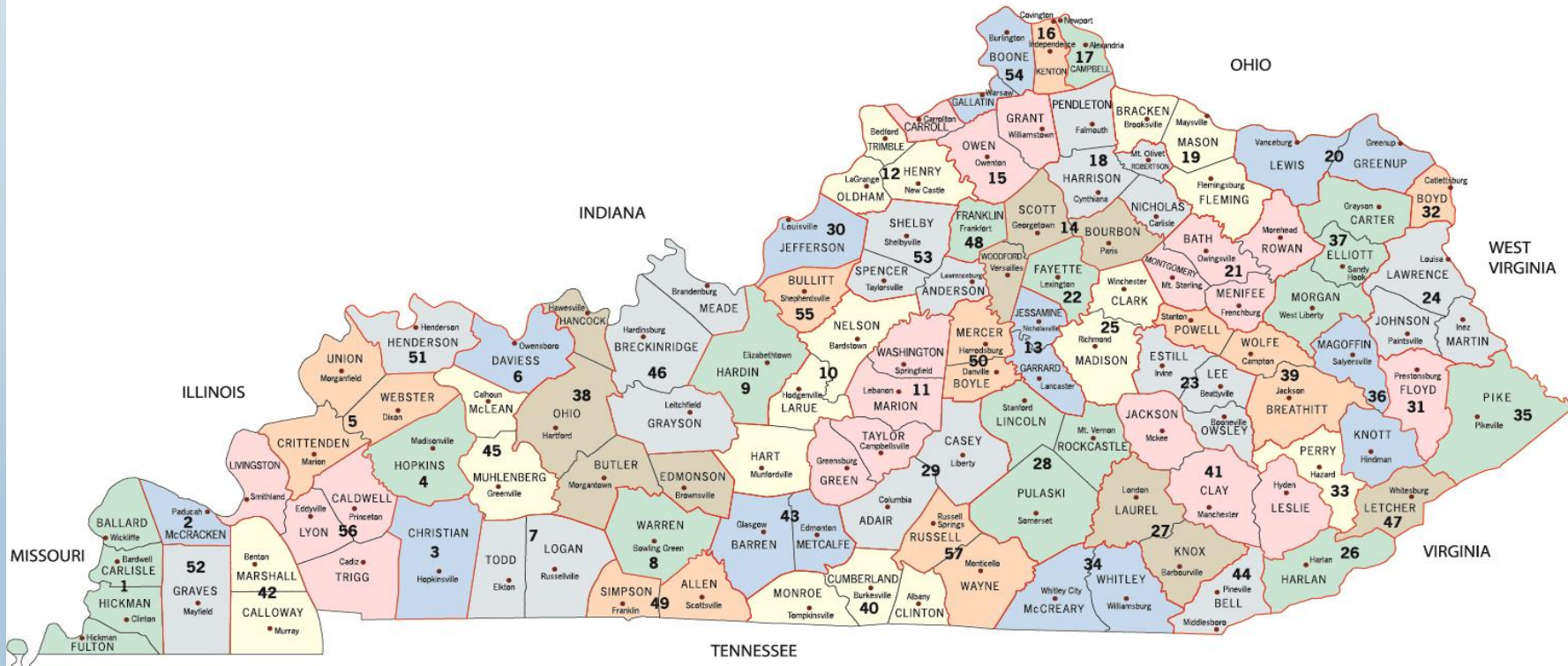


SUPREME COURT OF KENTUCKY

Current Judicial Circuits (57)

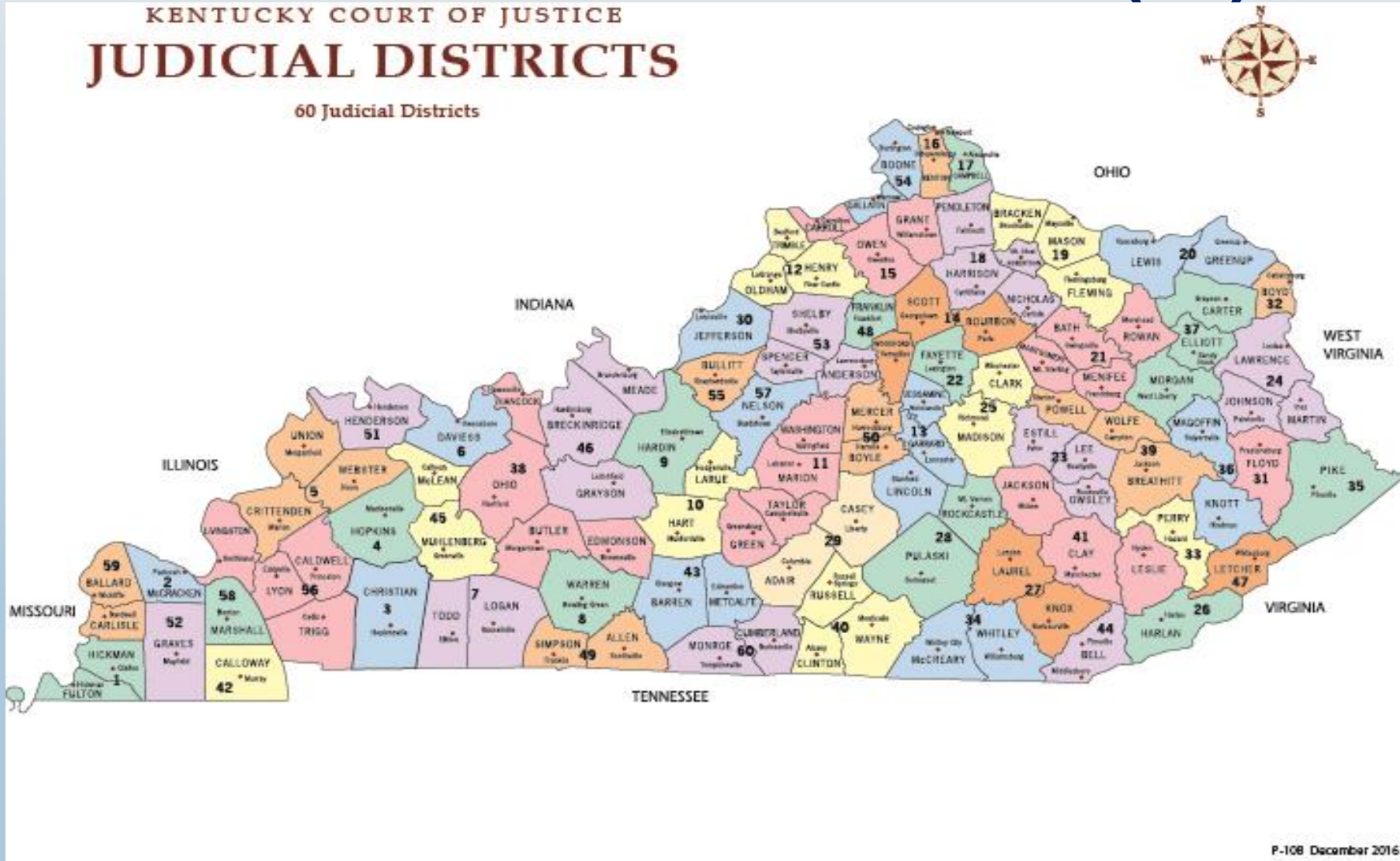
KENTUCKY COURT OF JUSTICE JUDICIAL CIRCUITS

57 Judicial Circuits





Current Judicial Districts (60)





“One Man, One Vote” Principle Does Not Apply to the Judiciary

- Unlike the legislature, the state judiciary is not the body responsible for achieving representative government.
- Judges do not represent people, they serve people.
- Judges must be conveniently located to the people they serve but do not have to be distributed on a per capita basis. [See KY Const. Secs. 112(1) and 113(1), requiring circuit and district court to be held in each county].
- These principles were adopted in *Kentucky State Bar Ass’n v. Taylor*, 482 S.W.2d 574 (Ky. 1972): “It is our opinion that the ‘one man, one vote’ principle should not and does not apply to the judiciary.”



Statewide Redistricting

- Last time there was **statewide** redistricting was 1893.
 - Grover Cleveland was the president and John Y. Brown I was the governor.
- Important to note there have been changes to Kentucky's circuits and districts since then. However, they have not occurred on a statewide basis.
- Kentucky's judicial circuits and districts have remained largely untouched since the passage of the Judicial Article in 1976.
- The Judicial Article put the burden of initiating judicial redistricting and changes in the number of judges on the Supreme Court.



Recent Judicial Redistricting Efforts

Language in Judicial Branch Budget, HB 238 (2014):

Realignment of Circuit and District Judicial Boundaries: The Administrative Office of the Courts shall develop and implement a weighted caseload system to precisely measure and compare judicial caseloads throughout the Commonwealth on the Circuit Court, Family Court, and District Court levels for the purpose of recommending a plan for the realignment of the circuit and district judicial boundaries. This plan shall be submitted to the House and Senate Judiciary Committees by January 15, 2016.



Judicial Workload Assessment Process

- Engaged the services of the National Center for State Courts to help carry out a weighted caseload study.
- For redistricting of circuits and districts, it is the type of caseload, not population, that ultimately determines workload and the distribution of judicial resources.
- Used the weighted caseload study to develop a comprehensive, statewide judicial redistricting plan that was submitted to the General Assembly in December 2016.
- Supreme Court entered a Certification of Necessity endorsing the changes in the redistricting plan.



2017: Statewide Redistricting Plan

- Sen. Schickel filed SB 9, which incorporated all of the changes recommended in the Supreme Court's Certification of Necessity.
- Rep. Meade filed HB 515, which added a family court to the 28th Circuit (Lincoln, Pulaski, and Rockcastle counties) and the 54th Circuit (Boone and Gallatin counties).



2017: Statewide Redistricting Plan

- SB 9 passed the Senate with a vote of 23-13. It was received in the House and assigned to Judiciary but there was never a committee hearing and the bill only received one reading on the House floor.
- HB 515 passed the House with a vote of 82-7. It was received in the Senate and assigned to Appropriations & Revenue. No further action was taken.
- The 2017 session ended with no progress on judicial redistricting.



2018: Scaled-Down Redistricting Plan

- The Supreme Court came back to the legislature with a significantly scaled-down proposal for judicial redistricting.
- The proposed plan impacted the 10 jurisdictions with the greatest need.
- Rep. Hoover filed HB 348, which included the following changes:
 - Add a family court to the 28th Judicial Circuit.
 - Add a family court to the 54th Judicial Circuit.
 - Convert a district judge to a family judge in the 55th Judicial Circuit.
 - Abolish a circuit judge division in the 31st Judicial Circuit.
 - Combine the 1st and 59th Judicial Districts and abolish one district court division.



HB 348 (2018)

- HB 348 passed the House with a vote of 69-17. It passed the Senate with a vote of 32-5, with a committee substitute. The House concurred with the substitute and passed the Senate version of the bill by a vote of 63-31.
- New family judges were elected in the 28th, 54th, and 55th Judicial Circuits and took office Jan. 7, 2019.
- Abolishment of divisions in the 31st Judicial Circuit and the 1st/59th Judicial Circuits will occur at the end of the current term in Jan. 2023.
- The bill requires the Administrative Office of the Courts to perform a weighted caseload study in 2020 and every eight years thereafter.
- The Supreme Court is also required to submit any changes indicated by the weighted caseload analysis to the General Assembly under Secs. 112 and 113 of the Constitution.



2021: Round Three

- Per the requirement in HB 346 (2018), the AOC conducted a weighted caseload study.
- Results of that study were thoroughly examined by the Judicial Workload Assessment Committee and smaller groups of district, circuit and family judges.
- Ultimately, the Supreme Court certified the need for five changes in the circuits with the greatest need.
- The plan did not pass during the 2021 Regular Session.