

LABI JUDICIAL MODERNIZATION PROJECT

Modernizing Judicial District Lines

LABI presents the final installment in its four-part Judicial System Modernization Series, for more information or to view other series installments visit www.LouisianaJudiciary.com.

INTRODUCTION

2022 will mark an important milestone in Louisiana's future as our state legislators are tasked with executing a critical function of democracy — the reassessing and redrawing of representation maps to adjust for population changes recorded in the 2020 Census. Despite the complex process of reapportioning district boundaries, citizens have a compelling interest in understanding the process and evaluating whether it is being conducted in a fair and transparent manner guided by data. After all, the decisions that are made — assuming they withstand any legal challenges — will remain in place for the next 10 years and will affect taxpayers' ability to elect leaders who reflect the demographic diversity of the area and are representative of the population they serve.

As specified in the Louisiana Constitution and statutes, the state Legislature is responsible for drawing boundary lines of congressional, legislative, Public Service Commission, Louisiana State Board of Elementary and Secondary Education and judicial districts. The Constitution, however, does not provide a deadline for the Legislature to redistrict the courts every 10 years as it does with the other elected offices, leaving the state judicial districts largely untouched for decades.

The boundary lines for Louisiana's 42 district courts have never been comprehensively reassessed or reapportioned; the lines for our Courts of Appeal have not been redrawn since the 1980 census, and the last time our Supreme Court districts were reapportioned was in 1997.

During the most recent redistricting effort in 2011, legislative leaders chose not to pursue legislation to redraw Louisiana's judicial districts because, according to leadership, they "[were] not able to agree on a [redistricting] plan" with the Supreme Court's seven justices.¹

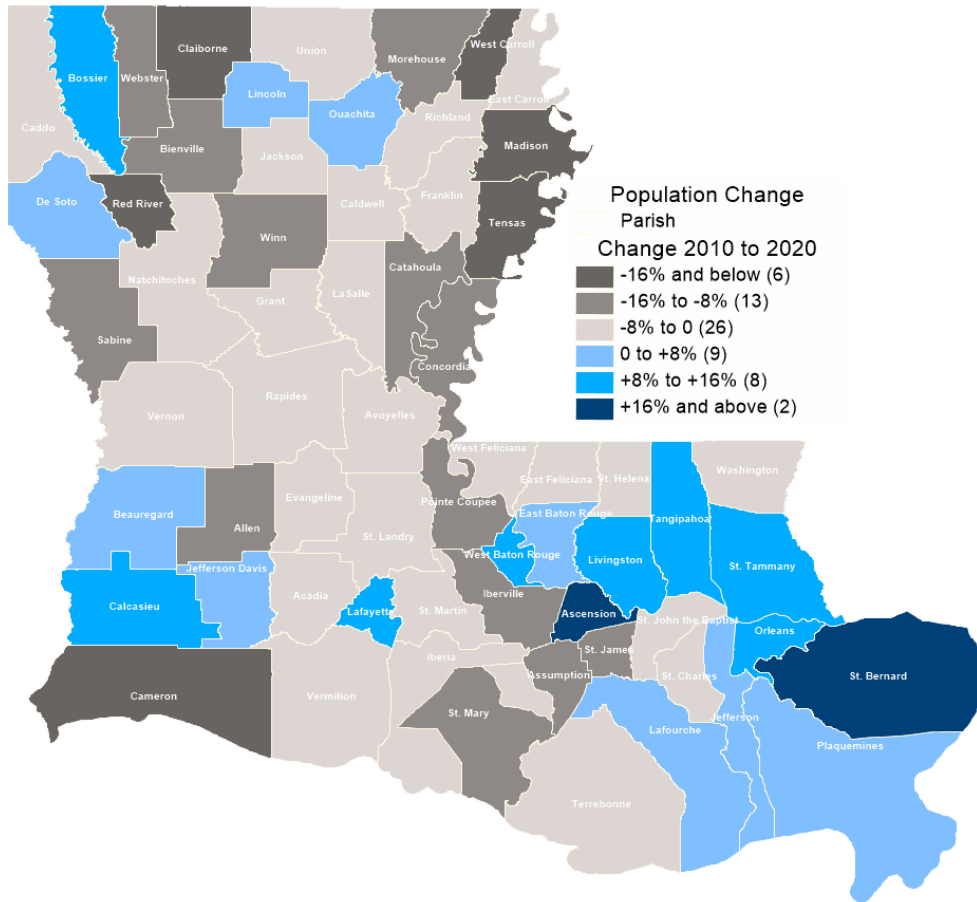
That is not to say there have never been changes to judicial district lines. Over the years, the Legislature has made changes to specific district boundaries, including Louisiana Supreme Court lines, and has added judgeships, but it has been in a piecemeal fashion to address specific problems such as population changes, racial makeup of courts or even political gamesmanship.

Conversations about modernizing our judicial boundaries and composition have occurred within and outside of the State Capitol for many years. Yet despite talk of the need for modernization, long-standing traditions and customs within the judiciary, coupled with robust political influence of the stakeholders involved, have prevented the Legislature from taking any meaningful steps to realign our judiciary. We believe the time has come for a meaningful, comprehensive evaluation of the judiciary with concrete strategies to modernize our districts and judgeships.

First, Louisiana's out-of-date judicial districts should be updated to reflect the current needs of our state and our population. And second, our current system, which in many cases prioritizes parish lines and local political influence over practicality and fairness, can and should be more efficient.

¹https://www.nola.com/news/politics/article_ffc5f966-2bdd-5ae0-9a5b-a82bbf888bf0.html.

A process so critical to the public cannot be adjusted in the margins. This paper will examine the current judicial districts, including how they came to be, and highlight the need for a holistic approach to the allocation of resources within the judiciary: one that uses past experiences, data, stakeholder input and other information to develop lasting solutions that solve multiple problems. Louisiana taxpayers deserve that.



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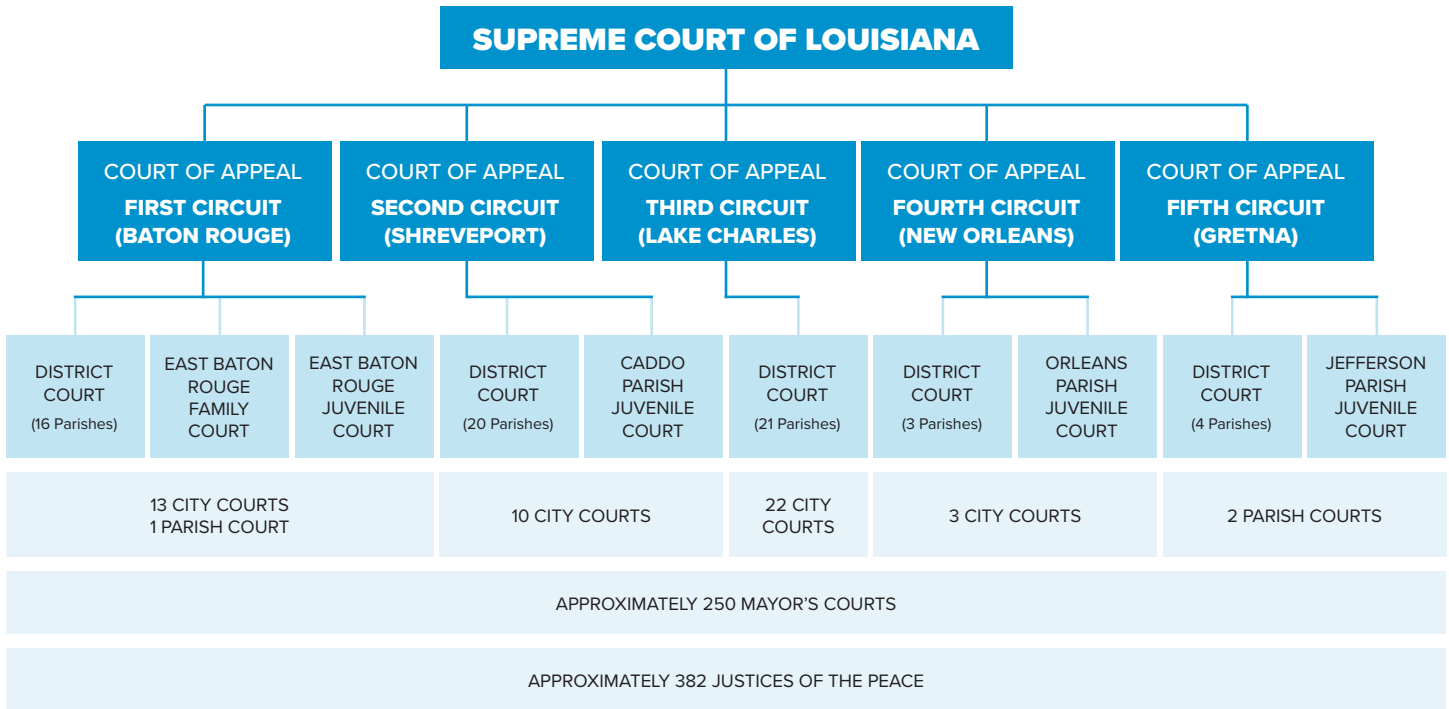
THE CURRENT SYSTEM AND THE FLAWS

MALAPPORTIONED DISTRICTS

As discussed in our previous publication, *Enhancing Transparency in Judicial Funding and Budgeting*, district courts rely on a combination of state-appropriated funds, local government support, self-generated funds, grants and other sources of revenue to fund their operations, although the mix and proportions of funding sources is different in each district. State funds are appropriated by the Legislature annually for district judges’ salaries, benefits, travel and certain office expenses. State funds are also appropriated for staff and operations in some courts.² Each district has its own courthouse(s), staff, clerk of court, IT system and, in general, its own unique way of operating. Significant efficiencies could be realized — to the benefit of Louisiana citizens and taxpayers — by re-examining the many smaller, stand-alone districts to determine both when and where it might be appropriate to revise and/or consolidate districts, as well as the appropriate number of judges serving each district.

In the short-term, the Legislature should conduct a detailed analysis of Louisiana’s judicial districts across all levels this year, just as is required every 10 years for districts that elect other public officials. The analysis should use comprehensive data to evaluate the composition of Louisiana’s district courts and courts of appeal, as well as number of judges in each district, with a goal of creating districts that are more transparent, less perplexing and better reflect the population of the state.

² See Act 60, 2019 Regular Session, available at <http://www.legis.la.gov/legis/ViewDocument.aspx?d=1144511>.



In 2019, LABI’s Louisiana Free Enterprise Institute launched www.louisianajudiciary.com to provide the public with detailed, current information about Louisiana’s judicial districts and the judges elected to serve in each. The research exercise revealed several interesting – and concerning – facts about our courts. First, the relative populations of our districts vary widely. Second, in many cases the number of judges elected to serve a particular judicial district does not align with the relative population of that district. Districts with roughly equal population may vary by up to nine judges.

The Louisiana Supreme Court has seven seats. The 2020 census shows the smallest district (District 7), which includes parts of Jefferson and Orleans parishes, is comprised of about 475,000 citizens. The largest district (District 5), which consists of the Baton Rouge metropolitan area, has about 840,000 citizens. Having some justices on the high court winning elections that include hundreds of thousands more residents than others ultimately dilutes the power of certain individual voters to choose their justice depending on where in the state they live. This is not a new phenomenon. In the 2010 census, the smallest district had about 440,000 citizens and the largest had about 790,000. Yet the last time the Legislature tweaked the number of supreme court seats was in 1997.

Since then, Louisiana’s population has changed dramatically. Hurricane Katrina caused major shifts in population and demographics, and Louisiana has followed a national trend of outmigration, with citizens of urban hubs moving into more suburban areas. At the same time, judicial caseloads are consistently declining, with district court and courts of appeal filings down 22 percent and 35 percent, respectively, over the past 10 years.³

COURTS OF APPEAL STATS ⁴

APPELATE COURT DISTRICT	NUMBER OF OPINIONS RENDERED PER JUDGE	
	2019	2020
1	35	38
2	25	14
3	31	22
4	20	19
5	25	22

³ Louisiana Supreme Court Annual Reports (2010-2019), available at <https://www.lasc.org/AnnualReports>. 2020 filing data was excluded due to the disproportionate drop in filings due to COVID-19.

⁴ Louisiana Supreme Court Annual Report 2019 (page 19) and 2020 (page 23).

For those familiar with the one-person, one-vote standard applied to the apportionment of congressional and legislative districts, Louisiana’s malapportioned Louisiana Supreme Court districts raise immediate questions of constitutional inconsistency. This issue has been litigated in the past, and the courts have found that the one-person, one-vote standard does *not* apply to judicial districts.⁵ Courts have reasoned that the primary purpose of one-person, one-vote apportionment is to ensure each member of an elected body speaks for approximately the same number of constituents. But because judges, unlike legislators, “do not represent people, they serve people,” the courts have concluded the one-person, one-vote standard should not apply, leaving the Legislature to determine what evaluation standard it uses.

If not the one-person, one-vote standard, the Legislature should adopt an alternative, well-defined standard to evaluate judicial election districts based on fairness and efficiency. Otherwise, the public trust in judicial elections themselves is at risk and other methods of choosing judges may need to be considered.

LOUISIANA SUPREME COURT DISTRICTS

SUPREME COURT DISTRICT	NUMBER OF PARISHES	IDEAL POPULATION	CURRENT DISTRICT POPULATION
1	5	665,394	747,403
2	11	665,394	638,062
3	8	665,394	733,573
4	20	665,394	586,849
5	8	665,394	838,610
6	11	665,394	634,904
7	1	665,394	478,356

Similarly, Louisiana’s courts of appeal vary widely in reflecting Louisiana’s population. The First Circuit covers 16 parishes with 12 judges and has a population of over 1.5 million, while the Fourth Circuit covers three parishes with 12 judges and a population of only 450,000.

LOUISIANA COURTS OF APPEALS

APPELLATE COURT DISTRICT	NUMBER OF PARISHES	IDEAL POPULATION	CURRENT DISTRICT POPULATION	NUMBER OF JUDGES
1	16	931,551	1,570,302	12
2	20	931,551	830,266	9
3	21	931,551	1,249,914	12
4	3	931,551	451,276	12
5	4	931,551	555,999	8

Louisiana’s district court lines are even more perplexing. The population among Louisiana’s 42 judicial districts ranges from 456,781 at the high end (19th JDC, East Baton Rouge) to 5,617 at the low end (38th JDC, Cameron Parish). Districts with roughly similar populations vary widely in the number of judges. Orleans Parish, which makes up the entirety of the 41st JDC, has a population of 383,997 and elects 26 district court judges. Nearby Jefferson Parish, by contrast, which makes up the 24th JDC, has a larger population of 440,781 but only 17 judges. And St. Tammany Parish, which joins Washington Parish in the 22nd JDC, has a population of 310,033 but only 12 judges.

⁵See *Wells v. Edwards*, 347 F. Supp. 453 (M.D. La. 1972), *summarily aff’d*, 409 U.S. 1095 (1973); *Chisom v. Edwards*, 839 F.2d 1056 (5th Cir. 1988). The court in *Wells* based its decision in part on the fact that the 1921 Louisiana Constitution did not grant the Legislature authority to change the makeup of Supreme Court districts. The 1974 Constitution, which now governs our state, contains a specific provision granting the Legislature authority to change both district lines and the number of justices. See La. Const. 1974, Art. V, § 4 (“The districts and the number of judges assigned to each on the effective date of this constitution are retained, subject to change by law enacted by two-thirds of the elected members of each house of the legislature.”).

JDC	PARISHES	NUMBER OF JUDGES	CURRENT DISTRICT POPULATION
41 st JDC	Orleans Parish	26 judges	383,997
24 th JDC	Jefferson Parish	17 judges	440,781
22 nd JDC	St. Tammany/Washington	12 judges	310,033

Many of Louisiana’s smaller judicial districts also reflect an imbalance between population and the number of judges.

JDC	PARISHES	NUMBER OF JUDGES	CURRENT DISTRICT POPULATION
34 th	St. Bernard	5	43,764
2 nd	Claiborne, Bienville, Jackson	3	42,182
30 th	Vernon	3	48,750
40 th	St. John the Baptist	3	42,477
12 th	Avoyelles	2	39,693

The charts and hard data are helpful to explain the broader trends and inequity in the judicial election districts. But a snapshot of a neighbor in Gonzales proves to be a compelling case study: Resident A lives on the north side of Cornerview Road in Gonzales and votes for four district judges, while her neighbor, Resident B, who lives across the street, only votes for one district judge. This means while her neighbor could have to appear in front of any of the five judges in the district, she did not have a choice in electing 80 percent of them — simply because she lives on the wrong side of the street.

Apart from concerns about whether the current districts afford all voters equal representation and accurately reflect our population, the current alignment of our districts also raises efficiency concerns. The system is forcing parishes with decreasing populations to continue to pay for more services than are required. In certain cases, combining multiple single-parish, single-judge districts to create fewer, more evenly populated districts could likely achieve savings for taxpayers without compromising access. In fact, as we discussed in our previous publication, *Accessibility Through Technology*, we believe a more streamlined judicial system, coupled with greater investment in technology, would *increase* access.

PARISH	DCT	SINGLE PARISH JDC	SINGLE JUDGE JDC	2020 CENSUS POPULATION
East Baton Rouge Parish	19	Y	N	456,781
Jefferson Parish	24	Y	N	440,781
Orleans Parish	41	Y	N	383,997
Caddo Parish	1	Y	N	237,848
Calcasieu Parish	14	Y	N	216,785
Rapides Parish	9	Y	N	130,023
Terrebonne Parish	32	Y	N	109,580
Lafourche Parish	17	Y	N	97,557
St. Landry Parish	27	Y	N	82,540
St. Charles Parish	29	Y	N	52,549

PARISH	DCT	SINGLE PARISH JDC	SINGLE JUDGE JDC	2020 CENSUS POPULATION
Vernon Parish	30	Y	N	48,750
St. Bernard Parish	34	Y	N	43,764
St. John the Baptist Parish	40	Y	N	42,447
Avoyelles Parish	12	Y	N	39,693
Natchitoches Parish	10	Y	N	37,515
Beauregard Parish	36	Y	N	36,549
Evangeline Parish	13	Y	N	32,350
Jefferson Parish	31	Y	N	32,250
De Soto Parish	42	Y	N	26,812
Allen Parish	33	Y	N	25,627
Plaquemines Parish	25	Y	N	23,515
Grant Parish	35	Y	N	22,169
Sabine Parish	11	Y	N	22,155
LaSalle Parish	28	Y	N	14,791
Winn Parish	8	Y	N	13,755
Caldwell Parish	37	Y	N	9,645
Red River Parish	39	Y	N	7,620
Cameron Parish	38	Y	N	5,617

HOW LOUISIANA GOT HERE

A discussion of redistricting and realignment without considering the system’s evolution would be irresponsible. Personal, political and constitutional issues have played a role in the creation of our current judicial district lines and, in large part, are why they have never been meaningfully reassessed and redrawn. While these considerations should not be central in any modern process, understanding how we got here is important.

THE POLITICS

Louisiana’s judicial districts in many cases seem to reflect local parish politics rather than broader population figures and trends. Twenty-eight of Louisiana’s judicial districts are one-parish districts, and of those, eight have a single judge. Forty percent of our district courts have fewer than three judges. A little bit of Louisiana history reveals a lot about how we got here. In 1935, Huey Long redrew the boundaries of the 13th JDC to separate Evangeline and St. Landry Parishes to eliminate the seat of a personal political enemy, Judge Benjamin Pavy. Moments after the House moved Long’s redistricting bill to third reading and final passage, the judge’s son-in-law, Dr. Carl Weiss, fatally shot the Kingfish in a Capitol corridor.⁶ The court’s lines have remained untouched ever since.⁷ Twenty-two of Louisiana’s 42 JDCs⁸ still have the same exact boundaries they had in 1954. Undoubtedly, there are many personal and political stories behind each one of those districts.

⁶ Zinman, David. *The Day Huey Long Was Shot*. Lafayette, LA: Center for Louisiana Studies, 1997.

⁷ *Constitution of the State of Louisiana*. Baton Rouge, LA: Claiborne Law Books, 1954.

⁸ The 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 9th, 12th, 13th, 15th, 16th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 26th, 27th, and Orleans.

Politics have also played a major role in how our judiciary has grown over the past half century. Ten new judicial districts have been created since 1954:

- 32nd JDC – Terrebonne split from Lafourche (1968)
- 33rd JDC – Allen split from Jeff Davis (1968)
- 34th JDC – St. Bernard split from Plaquemines (1977)**
- 35th JDC – Grant split from Winn (1976)**
- 36th JDC – Beauregard split from Vernon (1977)**
- 37th JDC – Caldwell split from LaSalle (1977)**
- 38th JDC – Cameron split from Calcasieu (1978)**
- 39th JDC – Red River split from Natchitoches (1979)**
- 40th JDC – St. John split from St. Charles (1989)
- 42nd JDC – DeSoto split from Sabine (2007)

Of those 10, six (in bold) were created under former Governor Edwin Edwards. In fact, he created more judicial district courts than any governor in the past 66 years.

THE LITIGATION

Louisiana’s judicial districts have also changed due to court fights over their constitutionality. For decades, although seven justices sat on the supreme court, state law split Louisiana into just six electoral districts to choose them. Voters in most parts of the state cast ballots for a single justice, but in Orleans Parish, which is majority-minority, votes were lumped together with mainly white voters in nearby Jefferson, Plaquemines and St. Bernard parishes. Voters in that district elected two justices. Ronald Chisom, a civil rights organizer, argued the arrangement violated federal law, and the U.S. Supreme Court sided with him in 1991⁹. Lawmakers created a temporary eighth “Chisom” justice on the court before new election lines — including a new majority-black 7th District — went into effect in 2000. Challenges to the supreme court’s makeup persist today.

THE 2011 EFFORT

At the district court level, consent decrees creating majority-minority districts within our current statutorily created districts have added to the confusion. In 2011, members of the House and Governmental Affairs Committee, dissatisfied with the piecemeal approach to redistricting but still unwilling to take on a full realignment, attempted to work with the supreme court to come up with a plan going forward. They passed HCR 143, described in more detail below, which set up a work group within the Louisiana Supreme Court to gather information and study each court to determine the best way to redistrict. Several years later, a report was issued, and changes were recommended, but as is too often the case with resolution reports, nothing has changed.

THE 2011 HCR 143 REPORT

HCR 143, authored by former Rep. Rosalind Jones (D-Monroe), requested the supreme court “...conduct a comprehensive study of the caseload data and the number of judges of each appellate court, district court, parish court, and city court in Louisiana to determine changes necessary to the existing structure of the judiciary to provide the most efficient use of judicial resources...”¹⁰ In consultation with the National Center for State Courts (NCSC), the supreme court completed its work primarily by surveying judges and conducting site visits to courts. The Court did not complete its final report on Louisiana’s courts of appeal and district courts until February 2014.¹¹

Among the topics discussed at length in the report was Louisiana’s “Work Point Value” (WPV) system. The Louisiana Supreme Court’s Judicial Council (Council) has used this system for decades to assess the need for additional judgeships.¹² Through its Standing Committee to Evaluate the Need for New Judgeships, the Council maintains WPV for both district courts and courts of appeal and developed guidelines regarding its application.¹³ WPV are applied to court filings (dispositions, in the courts of appeal) and used, along with other criteria, by the Council in developing recommendations to the Legislature regarding the

⁹ *Chisom v. Roemer*, 501 U.S. 380 (1991).

¹⁰ HCR 143 (Jones, R.) 2011 Regular Session. See C:\TEMP\COPY of HCR143 Enrolled (rev 2).wpd (la.gov)

¹¹ [https://www.lasc.org/documents/LA_Supreme_Court_HCR_143_\(2011\)_Report.pdf](https://www.lasc.org/documents/LA_Supreme_Court_HCR_143_(2011)_Report.pdf).

¹² The Judicial Council is composed of 18 members representing the judiciary, the Louisiana State Bar Association, the Louisiana State Law Institute, the Legislature, the Louisiana District Attorneys Association, the Public Defender Board/defense bar, the Louisiana Clerks of Court Association, and the citizens of Louisiana. The Chief Justice of the Louisiana Supreme Court serves as Chair of the Council and one other Justice serves as a member. The Council and its various committees are staffed by the office of the Judicial Administrator.

¹³ See Judicial Council General Guidelines for New Judgeships, revised 2013, available at https://www.lasc.org/la_judicial_entities/Judicial_Council/NewJudgeshipGuidelines.pdf.

need for new judgeships. If a request for a new judgeship is made, the Council evaluates the request against set criteria and conducts a site visit to the requesting jurisdiction prior to making a recommendation to the Judicial Council.

A few key features of the current system stand out. First, as evidenced by its title – the committee on “new” judgeships — is designed only with an eye toward *growing* the judiciary. Based on Judicial Council records dating back to the 1980s, no judicial districts have been combined, and no record of a request for a combination of judicial districts has ever been made to the Judicial Council, despite declining population trends in certain parts of the state and consistent declines in caseloads.¹⁴ There have been discussions about widening the scope of the Council to allow it to evaluate the needs of the judiciary more holistically rather than just looking at adding judgeships. We applaud these discussions and hope to see these changes made.

YEAR ¹⁵	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	% CHANGE
COURT OF APPEAL FILINGS	833,898	787,104	750,530	733,805	677,802	663,118	665,826	700,818	646,747	648,768	-22%
DISTRICT COURT FILINGS	7,824	7,949	7,303	7,355	6,375	6,101	5,453	5,317	5,172	5,066	-35%

Second, the system does not include objective input from the governor, legislators, local governments and other stakeholders who may have valuable input and are impacted by changes to the composition of our judiciary. State general fund dollars fund salaries of appellate court judges and the operation of all state courts of appeal, as well as the salaries of all district court judges and operational costs for some district courts. Local parish governments help fund district courts in many cases. But because they have no role on the supreme court’s evaluation committee, neither the Legislature nor local governments have a way to effectively evaluate whether it is appropriate in a particular case to expand the judiciary. As a result, in most cases they simply rubber-stamp the committee’s recommendation.

Lastly, the WPV system used by the Judicial Council is out-of-date and likely does not accurately reflect the real need for more (or fewer) judgeships. It also is not designed to assess how judgeships might be re-allocated within the state to more accurately serve our population and its needs. In its 2014 report to the Louisiana Supreme Court, the National Center for State Courts (NCSC) concluded:

“The current methodology for assessing the need for judges in each district court, parish court, and city court in Louisiana should be revised and updated. The existing model does not account for the evolving character of judicial work in Louisiana, including recent changes in legal procedures (e.g., problem solving courts), changes in law requiring additional hearings (e.g., child abuse and neglect cases), changes in population, and changes in information technology. ... **A new workload model will enable Louisiana to effectively determine the need for judicial resources and manage the equitable allocation of judgeships across the state.**”¹⁶

The Louisiana Supreme Court has made no public announcement, but they have given some indications of an update to the judicial evaluation system. Of particular concern is the baseline our current system uses to determine proper workload for a judge. The standard expectation for Louisiana judges is that of working 209 days per year and 7.5 hours per day.¹⁷ On average, there are 260 working days in each calendar year. The NCSC suggested in its report that the Louisiana Supreme Court should consider modifying this standard, and we agree. **When evaluating the foundational values of the current system the NCSC’s 2012 report stated, “this threshold value has been in use for about 20 years and the basis for its establishment is unknown.** The Council should consider this threshold value in light of changes to appellate caseloads, in appellate procedures, use of technological applications, number of staff support positions and their related responsibilities, appellate court performance measures and other applicable criteria.”

In 2012, the NCSC noted that filings of all types in the courts of appeal had declined during the last decade. That trend has remained consistent, with courts of appeal filings declining more than 20 percent over the past 10 years (see above chart). Despite this pattern, our courts of appeal have remained the same size, and workloads among the circuits have grown even more imbalanced. The First Circuit, for example, had nearly 600 filings in 2019, split among 12 judges. The Fourth Circuit, by contrast, also with 12 judges, was tasked with handling only 300 filings.¹⁸

¹⁴Louisiana Supreme Court Annual Reports (2010-2019), available at <http://www.lasc.org/AnnualReports>. 2020 filing data was excluded due to the disproportionate drop in filings due to COVID-19.

¹⁵Louisiana Supreme Court Annual Reports (2010-2019), available at <http://www.lasc.org/AnnualReports>. 2020 filing data was excluded due to the disproportionate drop in filings due to COVID-19.

¹⁶National Center for State Courts, HCR 143 Report at p.1 (Jan. 2014).

¹⁷National Center for State Courts Report to the Louisiana Supreme Court, *Development of Appellate Work Point Values and Examination of Appellate Case Complexity*, at p.3 (Oct. 2012).

¹⁸Louisiana Supreme Court Annual Report (2019) at pp. 20-21.

APPELLATE COURT DISTRICT	NUMBER OF JUDGES	2019 FILINGS	CURRENT DISTRICT POPULATION
1	12	597	1,570,302
2	9	237	830,266
3	12	359	1,249,914
4	12	302	451,276
5	8	207	555,999

Courts have rejected the idea of using population as a sole factor in determining the constitutionality of judicial district lines, finding they are not subject to the one-person, one-vote standard because the judges elected serve rather than represent constituents. Yet, many judges still hold population as a relevant factor. In the HCR 143 report, 33 percent of the judges surveyed said population shifts were an important factor when assessing the need for judgeships.¹⁹ We agree that population is a valuable metric for determining potential judicial workload, recognizing it is not the only factor to consider.²⁰ In addition, parity of workload among districts will lead to greater fairness and efficiency in administering judicial services

If the judiciary is to serve rather than represent the people who elect them, the appropriate standard for determining election districts should be citizens' need.

Population and workload should be key factors of any changes, and there should be a mechanism to adjust districts when the needs of our state change. Other branches of our government operate within a system designed to adapt; the judiciary should do so as well.

LOUISIANA'S APPELLATE JUDGES

Louisiana has more appellate court judges per capita than any state in the country: 53 to serve our 4.6 million population. States with comparable populations to Louisiana have dramatically fewer. Kentucky, for example, which has roughly the same population as Louisiana has 39 fewer appellate court judges than we do. Alabama has 43 fewer. Illinois has a similar number of judges as Louisiana – 48 – to serve nearly three times as many (12.7 million) citizens.

APPELATE COURT DISTRICT	NUMBER OF APPELLATE COURT JUDGES	STATE POPULATION (BASED ON 2020 CENSUS RESULTS)
Louisiana	53	4.7 million
Kentucky	14	4.5 million
Alabama	10	5.0 million
South Carolina	9	5.1 million
Missouri	32	6.1 million
Illinois	48	12.8 million

The cost for one appellate court judgeship in 2011 (including salary, staff, and travel, etc.) was nearly \$500,000.00 annually. This number is undoubtably much higher today when you consider pay raises alone.²¹ At this price, the cost of a mid-sized judiciary becomes a significant and potentially unnecessary burden to Louisiana taxpayers.

¹⁹ National Center for State Courts, HCR 143 Report at p.33 (Jan. 2014).
²⁰ The 19th JDC in Baton Rouge hears most of the lawsuits filed against the state and its agencies, adding to the workload they have from the general population.
²¹ See House Bill 40 Fiscal Note, 2011 First Extraordinary Session, available at [ViewDocument.aspx \(la.gov\)](#).

RECOMMENDATIONS (OPTIONS FOR MODERNIZING JUDICIAL LINES)

To address the issues outlined above, LABI believes the time has come for a new system to analyze apportionment of judicial districts and allocation of judgeships across the state. At the outset, we note the goal of such reform is not to do away with districts or shrink the size of our judiciary simply for the sake of creating a smaller government. Rather, the goal is to create a more equitably apportioned judiciary, which accurately reflects the population and needs of our state or legal system in order to responsibly and efficiently deliver justice for Louisiana citizens. We also recognize that, as with almost any new major policy idea, change must be gradual to account for the fiscal, political and practical implications of the proposed reform.

In the event the Legislature determines it cannot accomplish this task in the upcoming redistricting special session, we propose several options below, including a plan that would gradually realign our judiciary to create a fairer, more efficient system.

Any of the proposed options are preferable to the status quo, and LABI is committed to working with all stakeholders to modernize our judicial election district lines as long as the goals of efficiency and fairness remain. The below proposals for modernization are options we believe stakeholders should research, consider, evaluate and implement.

- **The Legislature should consider creating a new framework to analyze the need for and allocation of judgeships to be adopted in statute through the creation of a Louisiana Judicial Alignment Commission. This process should focus on creating a judiciary that more accurately reflects the needs of the state, prioritizing on population and workload with an eye towards fairness and efficient delivery of justice.**

HOW IT COULD WORK

The proposed Judicial Alignment Commission could be composed of a variety of stakeholders, including members of the judiciary at all levels, local government officials, law enforcement, attorneys, members of the public, as well as the governor and state legislative leadership, including leadership of the House and Senate Governmental Affairs Committees, Judiciary Committees and Finance Committees. No single stakeholder group should hold a majority on the Commission.

The work of the Commission would be year-round and ongoing. Following its establishment, the Commission would maintain a continuous timeline for evaluating judicial districts and courts. At a minimum, each district would be evaluated at least every five years. The Commission's evaluation should include, among other things,

- An analysis of each district's current and recent trends/shifts in population and demographics;
- An analysis of how the district compares in size, both geographically and in number of judges, to other districts in the state; and
- An analysis of the court's recent and current workload based on an updated set of objective criteria, as determined by the legislature. Such criteria should include population, filing data, case complexity data, information about how the court is structured (i.e., are there multiple divisions?), staffing information and fiscal data.

While this process would require refining by the Legislature, the fruit of this Commission would come when a vacancy occurs in the office of a district or court of appeal judgeship. At this time, the Commission would use existing data and analyses to inform its recommendation to the Legislature on whether the common good of the judiciary and Louisiana citizens would be best served by filling the judgeship, moving the judgeship to another district, or eliminating the judgeship altogether.

The Commission, once formed, may wish to rely on the Judicial Council as a resource for gathering and analyzing data. Regardless, among the Commission's first tasks should be updating Louisiana's WPV System to create a more modern model that accurately measures judicial workload and manages any imbalances among courts throughout the state.

- During the 2022 special session for redistricting, the Legislature and the Judicial Council should use comprehensive data to re-assess the composition of Louisiana’s state courts across all levels and the number of judges within each judicial district and realign judgeships based on those assessments.
- In the event this cannot be done thoughtfully in the general redistricting special session, the Legislature should call a separate special session in 2022 to redistrict our judiciary. A task as complex as re-evaluating dozens of judicial districts may require the full attention of the judiciary, the Legislature and the public — but the size and scope of the challenge alone should not serve as an excuse for omitting a critical function of democracy.
- Regardless of whether the Legislature chooses to re-evaluate judicial lines in 2021 or 2022, they might also consider requiring each level of the judiciary to propose a redistricting plan every 10 years and consider requiring that the proposal satisfy the same legal standard courts require of the Legislature when redistricting themselves (the “one-person, one-vote standard”).
- If after analyzing and considering all of the options above, stakeholders find our elected judiciary is too unique to follow the same constitutional standards imposed on lawmakers and other elected officials, then perhaps Louisiana should commence to study and prepare for a revised system to either wholly or partially incorporate the appointment judges through a merit process, coupled with periodic retention elections. Such a system could be a sensible solution should other efforts to update and modernize Louisiana’s judicial districts prove unsuccessful.²²

²² Throughout Louisiana’s recent history, numerous proposals to move to an appointment system have been considered. At the 1921 Constitutional convention a plan was proposed providing for the appointment of state judges by the governor from a list submitted by the Supreme Court. The convention ultimately opted for judicial elections. A merit selection plan was again proposed and rejected at the 1973 Convention. Since 1978, at least one proposed constitutional amendment calling for merit selection has been introduced in all but [a handful of] legislative sessions. Most recently, Rep. Lance Harris (R-Alexandria) proposed a constitutional amendment during the 2020 Regular Session.