

2.6

The Judicial System

Focus Question

- *What are the roles and responsibilities of the courts?*

Duties of Courts

Canadian courts are the judicial branch of the government. One of their main tasks is to interpret the laws made and administered by the legislative and executive branches. They also settle disputes between individuals—on contract and property issues or family matters—as well as conflicts between individuals and the government, and between the different levels of government. Our courts have a duty to be **impartial**.

impartial: Fair and free of bias.

Judges

An important element of the judicial system is the independence of judges in the federal and provincial courts. To safeguard their independence, judges are protected from dismissal. In theory, it is possible to remove a judge from office, but this has never occurred in any Canadian superior court, although some judges have resigned during misconduct hearings. Judges continue to work until they resign or retire, as late as 75 years of age. This means they can make judgments without the fear of being removed if politicians do not like what they decide. This enables them to judge cases fairly and impartially.

Canadian judges are appointed. By contrast, some American states elect some judges. In Canada, some people argue that because our judges are appointed, they do not have to make decisions that are popular in order to get reelected. Others argue that because politicians appoint judges, they may be chosen for their political views rather than because of their merit or skill.

Web Links

Courts and Judges

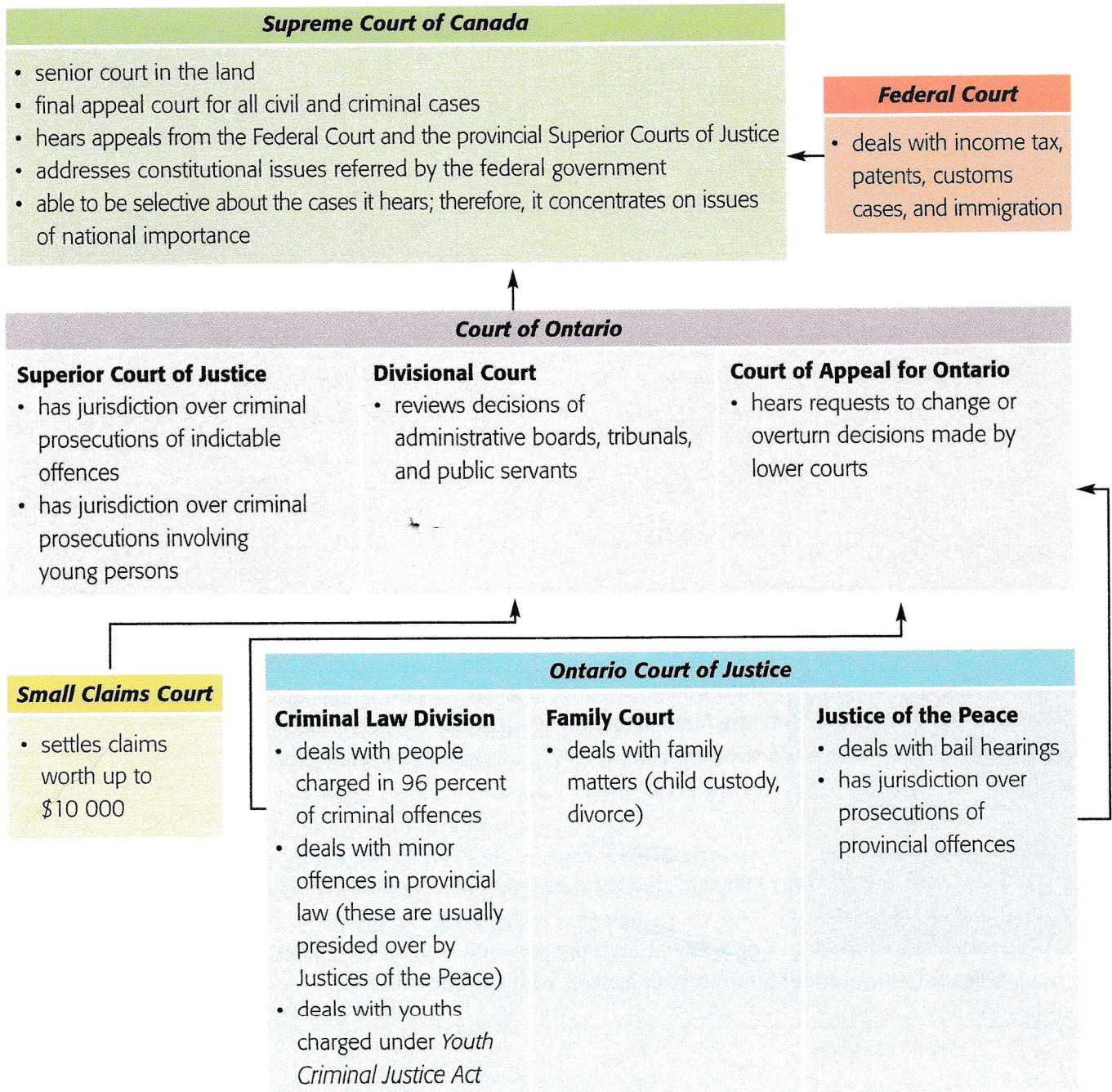
To learn more about the Supreme Court of Canada and the judiciary in Canada, go to

www.nelson.com/civicsnow.

The Court System

The federal government is in charge of the Supreme Court of Canada and the Federal Court of Canada. The provinces or territories are in charge of all other courts. Each court has a different role or function. The following chart shows the Ontario court system.

The Ontario Court System



Protecting Our Rights

Focus Question

- How does the judicial system protect the rights of individuals and society?

Our judicial system protects the rights of individuals in several different ways:

- Everyone is presumed innocent until proven guilty. This long-held principle of Canadian law is now part of the *Canadian Charter of Rights and Freedoms*.
- Courts operate in public. Their proceedings are open for the public to see that they work fairly and follow the rules of law.
- An individual cannot be charged with breaking a law that was not in place when the offence occurred.
- No one can be forced to testify as a witness at his or her own trial.
- All accused people have a right to a lawyer, if they wish. If they cannot afford one, the government will pay for one.

The judicial system protects the rights of society by enforcing or reinterpreting written laws. Laws set out expected behaviour from individuals. Should these laws be broken, the judicial system is responsible for providing punishment and rehabilitation. By enforcing laws, the judicial system discourages unacceptable behaviour.

The courts must balance the protection of the rights of individuals against the rights of society—a difficult job. The *Canadian Charter of Rights and Freedoms* makes individual rights part of the Constitution. It also recognizes collective rights for linguistic minorities, Aboriginals, and other groups.

The following Civics Showcase shows how the courts have applied the *Canadian Charter of Rights and Freedoms* to balance the rights of individuals and the rights of society.

Civics Now DVD

"Sexual Offenders"
from *Civics Now DVD*.



- ▲ The courts must balance the rights of individuals and the rights of society.