a. Describe the ways that judges are selected in Georgia. b. Analyze the dual purpose of the judicial branch: to interpret the laws of Georgia and administer justice in our legal system. c. Explain the difference between criminal law and civil law. d. Explain the steps in the adult criminal justice system beginning with arrest.

a. Explain the difference between delinquent and unruly behavior and the consequences of each. b. Describe the rights of juveniles involved in the juvenile justice system. c. Explain the steps in the juvenile justice system when a juvenile is first taken into custody.

SS8CG4 Analyze the role of the judicial branch in Georgia state government.

SS8CG5 Explain how the Georgia court system treats juvenile offenders.

**Basic Court Structure in Georgia**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| TYPE | COURT | JUDGES SELECTED | # OF COURTS | RESPONSIBILITIES |
| Trial | State | Elected 4 year terms | 71 | \*misdemeanors\*Civil Cases\*Issue search warrants |
| Juvenile | Appointed by superior court judges | 159 | \*delinquent and unruly offenses by children under 17 |
| Probate | Elected to 4 year terms | 159 | \*will and estates\*marriage/firearms licenses\*traffic violations |
| Magistrate | Appointed or elected | 159 | \*Issues warrants\*minor criminal cases\*civil disputes |
| Superior | Elected to 4 year terms | 49 | \*Criminal trials\*felony trials\*divorce  |
| Appellate | Court of Appeals | 15 judges assigned to 4 panels. Elected to 6 year terms | 4 | \*someone seeking a new trial after a court decision |
| Supreme | 8 justices and 1 chief justice. Elected to 6 year terms | 1 | \*determines if laws are unconstitutional\*upholds or removes death sentences |

The Georgia Supreme Court is the state’s highest court and holds certain powers that no other court in Georgia has. These include resolving constitutional challenges to laws passed by the Georgia General Assembly, resolving challenges to elections results, and reviewing cases where the death penalty has been imposed. If the Supreme Court rules that a particular law is unconstitutional (not supported by the Georgia or U.S. Constitution), then the law is struck down.

**Civil Law versus Criminal Law**

Criminal Law deals with laws that are created to protect society from wrong-doers. Crimes are serious offenses that are punishable with fines, community service, prison, and sometimes even death. The majority of citizens understand more about criminal law than civil law. Civil Law deals with laws created to deal with relationships amongst individuals. Civil laws usually involve compensation from one individual or group to another individual or group based on injury or wrong doing. A civil wrong doing against an individual is called a tort. A person can be charged with both criminal and civil wrong doing for the same action. For example, a person can be acquitted of murder in his/her criminal case and can also be found guilty of wrongful death and ordered to pay damages in his civil trial.

**Adult Arrest Process**

The adult justice system is divided into civil and criminal law. In the case of criminal law, offenses are categorized into felonies and misdemeanors. Felonies are serious crimes such as arson, murder, rape and grand theft. The minimum sentence one can receive for committing a felony is no less than one year in jail. Felonies that can be punishable by death are called capital crimes. In Georgia, capital crimes include murder, kidnapping with bodily injury, aircraft hijacking, and treason. Misdemeanors are less serious crimes and are usually punished with less than a year in prison and a fine. Some misdemeanors are assault and battery, cruelty to animals, shop lifting, and trespassing. For more serious crimes, defendants are given a trial by jury; for less serious crimes, defendants stand before a judge. Several courts hear civil and criminal court cases depending on their severity. However, the superior court hears all felony trials. There are several steps in the criminal justice process.

**Pretrial**

• Arrest - There is enough evidence to warrant being taken in to custody (police detention).

 • Booking - Law enforcement officers make an official arrest report and hold the suspect in the local jail.

• Initial appearance - The suspect appears before a magistrate court where he or she goes before a judge to have the charges brought against them explained and to determine if they are to be released on bail.

• Preliminary hearing - The magistrate judge determines if there was a crime committed and if there is probable causes that the suspect was involved with the crime.

• Grand Jury indictment - A group of citizens, called a grand jury, examines the evidence in order to determine if the suspect should be charged with a crime. If they do decide there is enough evidence, they issue what is called an indictment (a formal charge of a serious crime).

• Arraignment- formal reading of the charges

• Assignment before Superior Court - The suspect is brought before a superior court judge.

-If suspect pleads not guilty, case goes to trial.

-If suspect pleads guilty, no trial, only sentencing

**Trial**

• Selecting a Jury - 12 citizens are selected as jurors for the case by the lawyers.

• Opening Statements - Once the trial begins, both attorneys are given the opportunity to speak directly to the jury to explain what they hope to prove in the case.

• Presentation of evidence - witnesses are called to the stand to give testimony.

• Closing statements - After all of the witnesses have had a chance to speak, both attorneys present their final arguments in the case to the jury.

• Jury deliberation and verdict -the jury is asked to discuss the case amongst themselves to determine if they think the defendant is guilty or not. Once the jury makes their decision, they notify the judge. If the verdict is not guilty, the defendant is released.

• Sentencing - If the jury finds the defendant guilty, the judge sentences the defendant, telling him/her the amount of time he/she will spend in prison and how much they owe in damages.

• Appeal - If the defendant maintains his or her innocence or if there were mistakes made by the legal team or court in the case, the defendant can make an appeal where an appellate court will review the case. If they overturn the ruling, the case goes back to the superior court for a new trial.

**Juvenile Treatment**

A delinquent act is an act committed by a juvenile that would be a criminal offense if committed by an adult. These actions can include theft, assault, possession of drugs, rape, and murder. If the act is serious enough, the juvenile may be charged as an adult and can be subject to adult penalties. If the child is judged as delinquent, the consequences include placing the juvenile on probation, incarceration for up to 60 days, or committing the child to the custody of the Department of Juvenile Justice. An unruly act is one that is committed by a juvenile that would not be a criminal offense according to adult law. These actions could include the possession of alcohol or cigarettes, leaving home without permission of their parents or guardians, breaking curfew, skipping or not attending school (truancy), driving without a license, or not abiding by the reasonable commands of parents or other adults. If a child commits these acts, they may be placed in a juvenile detention center. The consequences of being guilty of an unruly act include:

• Give child back to parent

• Probation

• Send to Juvenile Detention Center

• Youth Detention Center 90 days

• Boot Camp

**Juvenile Rights**

When a juvenile is taken into custody, he or she has several rights.

**• The right to have a parent or guardian present before they can be questioned by authorities**

**• The right not to have their names or photographs made public**

**• The right to two phone calls (parent and attorney)**

**• The right to not self-incriminate and to be counseled on what self-incrimination is**

**• The right not to be placed with adult offenders**

**• The right for parents to be contacted immediately**

Unlike adults, in order for a juvenile to be taken into custody, the law enforcement officer must only have reasonable grounds to believe that the juvenile committed an offense.

**Juvenile Arrest Process**

There are several steps in the juvenile justice process. These steps include:

• Intake Officer - The juvenile is brought to an intake officer who decides if there is enough evidence to make a charge against them.

• Release or Detained - If there is not enough evidence, the juvenile is released to their parents or guardian; if there is enough evidence against the juvenile, they are held in a youth detention center or adult prison depending on the crime. If the juvenile is detained, there must be a hearing within 72 hours to determine if proceedings should continue.

• Informal Adjustment - (optional if a juvenile is a first-time offender) The juvenile must admit guilt to the judge and is under the supervision of the courts for 90 days.

• Adjudicatory Hearing - The judge determines the juvenile’s guilt or innocence**. Juries do not hear juvenile cases.**

• Disposition Hearing - The judge hears witnesses and determines the punishment for the juvenile.

• Sentencing - The judge rules on the juvenile’s punishment, which can include boot camp, probation, the youth detention center, fines, and/or mandatory counseling and school attendance.

• Appeal - The juvenile can appeal the ruling if there is enough evidence to prove that they were innocent.