



Private Prosecutions via Courts of Star Chamber aka Chambers of Commerce

In the United States:

All federal enclave courts are courts of limited jurisdiction. Many U.S. states have divided their courts between criminal and civil, with some making further divisions, assigning probate, family law, and juvenile cases, for example, to specialized courts. One significant effect of the classification of a court is the liability that a judge from that court might face for stepping beyond the bounds of that court. Judges are able to claim judicial immunity for acts that are not completely beyond their jurisdiction. For example, if a probate judge were to sentence a person to jail, that judge would not have immunity and could be sued because a probate judge has no jurisdiction to effect a criminal sentence. However, a judge in a court of general jurisdiction who happened to be overseeing a probate case *would* be immune from suit for sending a party to jail, because handing down a criminal sentence is not completely beyond the jurisdiction of such a judge.

In the United States, this principle was established by the Supreme Court in *Stump v. Sparkman*, 435 U.S. 349 (1978). The Court found in that case that an Indiana judge was immune from a suit brought by a young woman whom the judge had ordered to be sterilized, at the behest of the woman's mother. Because the Indiana court was a court of general jurisdiction, and no law of Indiana expressly prohibited the judge from issuing such an order, the Supreme Court found that the order was not completely beyond the jurisdiction of that judge. --- The Tax Court is a court of limited jurisdiction, i.e., within the United States, its territories and possessions. Tax Court judges hear appeals of tax decisions made by County Boards of Taxation. They also hear appeals on decisions made by the Director of the Division of Taxation on such matters as state income, sales and business taxes, and homestead rebates. Appeals from Tax Court decisions are heard in the Appellate Division of Superior Court. Tax Court judges are appointed by the Governor for initial terms of seven years, and upon reappointment are granted tenure until they reach the mandatory retirement age of 70. There are 12 Tax Court judgeships.

- 1) **California:** Private prosecutions are not legal in California.
- 2) **Colorado / Utah:** In 1974, the Colorado Supreme Court ruled that private prosecutions were improper and prejudicial to the defendant.
- 3) **Georgia:** In Georgia, criminal proceedings may be initiated at the request of a private citizen, but only after the defendant is given an opportunity to argue why he or she should not be charged.
- 4) **Idaho:** Idaho allows private citizens to file criminal complaints to a magistrate; the magistrate can issue an arrest warrant upon satisfaction that a crime has occurred.
- 5) **Kentucky:** Kentucky allows a private citizen to initiate criminal cases by filing criminal complaints, although it is up to the county attorney or Commonwealth's attorney to decide whether to proceed with the case.
- 6) **Maryland:** Maryland allows private citizens to file affidavits against another citizen.
- 7) **Massachusetts:** Private prosecutions in Massachusetts were declared void in 1849 and formally outlawed in 1855.



- 8) **Michigan:** Michigan banned private prosecutions in 1875. Private citizens can however file and attest misdemeanor arrest warrants which if accepted by a judge or magistrate would be automatically transferred to a prosecuting attorney.
- 9) **Minnesota:** The Minnesota Supreme Court ruled in 1977 in *State ex rel. Wild v. Otis* that a private citizen does not have a right to prosecute an alleged crime.
- 10) **Missouri:** The right to private prosecution in Missouri was removed in 1976 following the decision in *State v. Harrington*.
- 11) **New Hampshire:** New Hampshire allows private prosecution of any crime that does not carry incarceration as a possible penalty. However, prosecutors have the right to dismiss private criminal charges.
- 12) **New Jersey:** New Jersey continues to allow private prosecutions in its Municipal Courts. However, the 1995 decision of *State v. Storm* prohibited private prosecutions if the party intending to prosecute has a conflict of interest with the defendants or a financial interest in the case. Furthermore, state law states that all private prosecutions require approval of the county prosecutor and the court. The Municipal Courts in New Jersey are considered courts of limited jurisdiction, responsible for handling motor vehicle and parking tickets, minor criminal offenses and violations (for example, simple assault and bad checks), municipal ordinance offenses (such as dog barking or building code violations), and other offenses, such as fish and game violations. **A Municipal Court has jurisdiction only over those cases that occur within the boundaries of its municipality.** Many serious criminal cases, such as robbery, auto theft, or assault, start out as complaints filed in the Municipal Court; however, those cases are then transferred to the Superior Court located at the county courthouse. The **Judiciary of New Jersey** comprises the New Jersey Supreme Court as the **state supreme court** and many lower courts. New Jersey's judiciary is unusual in that it still separates cases at law from those in equity, like its neighbor Delaware but unlike most other U.S. states; however, unlike Delaware, the courts of law and equity are formally "divisions" of a single unified lower court of general jurisdiction, and each division may award "limited" relief in the form appropriate to the other division.
- 13) **New York:** In 2002, a federal district court concluded in *Kampfer v. Vonderheide* that private prosecutions were barred under New York law as a violation of the defendant's due process rights. However, in *Kampfer* the court distinguished, in dicta, private prosecutions where there is an "underlying civil cause of action" in relation to the events which gave rise to the prosecution. – Second Federal Reserve Banking District
- 14) **North Carolina:** Private prosecutors were used in North Carolina as late as 1975. The court ruled in *State v. Best* in 1974 that an elected prosecutor must be in charge of all prosecutions. A private citizen may go before a magistrate to request that criminal process be issued, but any such charges are prosecuted by the State.
- 15) **Ohio:** Ohio state law allows private citizens to file an affidavit to support criminal charges. However, the actual prosecution is limited to the state. Only prosecutors can present a criminal case to a grand jury. State law was further amended in 2006 to bar judges from issuing arrest warrants in private prosecution cases. Following the 2014 shooting of Tamir Rice, activists attempted to invoke the law to charge the officers involved. But because prosecution is limited to the state, the judge could only send the case back to the prosecutor.
- 16) **Pennsylvania:** Private prosecutions in Pennsylvania require approval from a state prosecutor. – Third Federal Reserve Banking District.
- 17) **Rhode Island:** In 2001, the Rhode Island Supreme Court ruled in *Diane S. Cronan ex rel. State v. John J. Cronan* that a private citizen could file criminal complaints for misdemeanors. However, prosecution of



felonies remains limited to the state. Private prosecutors also cannot seek penalties of greater than one year of incarceration or a fine of greater than \$1,000.

- 18) **South Carolina:** The right was removed from South Carolina law in the nineteenth century. However, private citizens may still initiate a criminal case by filing a request with a magistrate, although magistrates can only issue summonses in response to private criminal complaints.
- 19) **Texas:** Texas allows a private citizen to contact a grand jury to seek an indictment.
- 20) **Virginia:** The use of a private prosecutor was incorporated into the common law of Virginia and is still permitted there.
- 21) **Wisconsin:** Private prosecutions in Wisconsin were outlawed following the decision of *Biemel v. State* in 1855. In 1890, the court ruled that a private attorney can assist in a prosecution as long as there is no conflict of interest.