PREFACE

Successful court administration depends upon the working relationship between the chief judge and the court administrator. Developing a management style best suited to court administration consists of communication, coordination, cooperation, and conciliation.

It is important for the chief judge to communicate to the court administrator any expectations in the areas of personnel supervision, budget and fiscal management, caseflow management, and public relations, to name a few. The chief judge establishes policy and makes the major decisions and the court administrator implements those policy decisions through day-to-day activities.

One of the major responsibilities of the court administrator is to bring to the court a management knowledge and technique which permits the judge to hear cases and do legal research. Sound management practices allow the chief judge to achieve the optimum of performance.

Not all courts have a staff person designated to function as the court administrator as that term is used in this guide. Many, if not most, larger courts do have a specific person responsible to the chief judge who carries out administrative functions under the direction of the chief judge. Where a court administrator does not exist, the chief judge (or only judge) will, by default, have to perform all the administrative functions outlined in this guide in addition to his or her judicial functions.

This guide is published by the State Court Administrative Office as a tool to assist the chief judge and court administrator in the management of their trial court. It is intended as a reference tool only and should not be relied upon as legal authority.

Appendices for Michigan Court Administration Reference Guide

The following are appendix materials located in the Michigan Court Administration Reference Guide and their associated links to the materials on State Court Administrative Office website. Although some of these materials are located in more than one section, they are only listed once in the first section in which they appear.

Section 1 - Management Overview

Model Local Administrative Orders:
http://courts.michigan.gov/scao/resources/other/lao.htm

Guidelines for completing the local alternative dispute resolution plan:
http://courts.michigan.gov/scao/resources/standards/odr/ADRplngls.pdf

Videotape Record System Users Manual:
http://courts.michigan.gov/scao/resources/publications/manuals/Video-02-mnl.pdf

Section 3 - State Court Administrative Office

SCAO Administrative Memoranda:
http://courts.michigan.gov/scao/resources/other/proc.htm

Section 5 - Personnel Management

Model code of conduct for court employees (MJI):
http://courts.michigan.gov/scao/resources/other/codewithguidelines.pdf

State Bar of Michigan ethics resources, including codes, opinions, and bibliography of other ethics resources under the "ethics opinions" tab:
http://www.michbar.org

Travel reimbursement rates for travel authorized and reimbursed by the State Court Administrative Office:
http://courts.michigan.gov/scao/resources/other/intrate.htm

Section 6 - Fiscal Management

Court fee and service of process schedules:
http://courts.michigan.gov/scao/resources/other/ffc.htm

Interest rate on civil judgments:
http://courts.michigan.gov/scao/resources/other/ffc.htm

Civil fines and costs schedule for first-civil infractions:
http://courts.michigan.gov/scao/resources/other/ffc.htm

Standards regarding check registers:
http://courts.michigan.gov/scao/resources/standards/#chk

Department of Treasury Letters and Department of Treasury Transmittal Advice Forms and Instructions:
http://www.michigan.gov/treasury/0,1607,7-121-1751_2164---,00.html

Distribution of fines and costs table for civil infraction and misdemeanor:
http://courts.michigan.gov/scao/resources/other/disttbl.pdf

Guidelines for Court Ordered Reimbursement and Procedures for Reimbursement Program Operations (in the process of being developed). When finalized, they will be available at:
http://courts.michigan.gov/scao/resources/standards/reimb_guidelines.pdf

Section 7 - Caseflow Management

Caseload of Michigan Trial Court Reporting Forms and Instructions for Circuit Court, Caseload of Michigan Trial Court Reporting Forms and Instructions for District Court, Caseload of Michigan Trial Court Reporting Forms and Instructions for Probate Court:
http://courts.michigan.gov/scao/resources/publications/manuals/#promnl

Assignment Guidelines:
http://courts.michigan.gov/scao/resources/standards/assign_guidelines.pdf

General information on alternative dispute resolution:
http://courts.michigan.gov/scao/dispute/odr.htm

Standards of conduct for mediators adopted via SCAO Administrative Memorandum 2001-01:
http://courts.michigan.gov/scao/resources/other/proc.htm

Guidelines for Preparing Local Administrative Orders for Selecting Case Evaluators and Case Evaluation Panels:
http://courts.michigan.gov/scao/resources/standards/adrlao_guidelines.pdf

SCAO Approved form MC 34, Case Evaluator's Application:
http://courts.michigan.gov/scao/courtforms/caseevaluation/mc34.pdf

List of Community Dispute Resolution Program centers:
http://courts.michigan.gov/scao/dispute/index.htm

Section 8 - Records Management

General Schedule No. 1 - Definition of Non-Record Material (revised and approved July 7, 1964):
http://www.michigan.gov/documents/gs1_20727_7.pdf

General Schedule No. 16 - Records Retention and Disposal Schedule for Michigan Trial Courts (August 7, 2001):
http://courts.michigan.gov/scao/resources/standards/cf_schd.pdf

Rules for Microfilming - State Archives of Michigan, Department of State, 717 West Allegan, Lansing, MI 48918, (517) 373-1401:
http://www.michigan.gov/dmb/0,1607,7-150-9141_13131-31497--,00.html

Form MH-38 (rev. 3/87), Certificate of Records Disposal:
http://www.michigan.gov/hal/0,1607-17451_18673_19386-56141--,00.html

Section 9 - Technology

Guidelines on interactive video technology, see the State Court Administrative Office website at:
http://courts.michigan.gov/scao/resources/standards/#ivt

Llist of approved audiotape equipment systems:
http://courts.michigan.gov/scao/resources/other/recordingequip.pdf

Digital Audio Recording Systems Standards Checklist:
http://courts.michigan.gov/scao/resources/standards/#audio

Digital Video Recording Systems Standards Checklist:
http://courts.michigan.gov/scao/resources/standards/#video

Standards for Court Operations of Communication Equipment and Programs:
http://courts.michigan.gov/scao/resources/standards/cm_stds.pdf

Section 10 - Facility and Equipment Management

Audio recording equipment approved for use in Michigan:
http://courts.michigan.gov/scao/resources/other/recordingequip.pdf

Facility Standards:
http://courts.michigan.gov/scao/resources/standards/#facility

Minimum Standards for County Law Libraries:
http://courts.michigan.gov/scao/resources/standards/cllib_stds.pdf

Section 11 - Public Relations Management

Model Friend of the Court Handbook:
http://courts.michigan.gov/scao/resources/publications/manuals/focb/focb_hbk.pdf

Access to Justice Program and materials:
http://courts.michigan.gov/scao/services/access/access.htm

Domestic Relations Resources:
http://courts.michigan.gov/scao/services/focb/focb.htm

Pro se Forms:
http://courts.michigan.gov/scao/courtforms/index.htm

Public information pamphlets and other resources:
http://courts.michigan.gov/scao/resources/publications/

1997 Summary Report on Supreme Court's Efforts to Implement Recommendation of Citizens Commission to Improve Michigan Courts and the Race/Ethnic and Gender Issues Task Forces:
http://courts.michigan.gov/scao/resources/other/biassum.pdf

Determining accessibility of a courthouse, checklist:
http://courts.michigan.gov/scao/resources/standards/aj_checklist.pdf

Section 13 - Risk Management

State Court Administrative Office Guidelines for Securing Attorney General Representation for Courts dated 7/98 (revised from 3/19/92):
http://courts.michigan.gov/scao/resources/standards/ag_stds.pdf

Section 14 - Court Security

Court Security Standards and Security Handbook and Manual:
http://courts.michigan.gov/scao/resources/standards/index.htm#sec

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Appendices for Michigan Court Administration Reference Guide

The following are appendix materials located in the Michigan Court Administration Reference Guide and their associated links to the materials on State Court Administrative Office website. Although some of these materials are located in more than one section, they are only listed once in the first section in which they appear.

Section 1 - Management Overview

Model Local Administrative Orders:
http://courts.michigan.gov/scao/resources/other/lao.htm

Guidelines for completing the local alternative dispute resolution plan:
http://courts.michigan.gov/scao/resources/standards/odr/ADRplngls.pdf

Videotape Record System Users Manual:
http://courts.michigan.gov/scao/resources/publications/manuals/Video-02-mnl.pdf

Section 3 - State Court Administrative Office

SCAO Administrative Memoranda:
http://courts.michigan.gov/scao/resources/other/proc.htm

Section 5 - Personnel Management

Model code of conduct for court employees (MJI):
http://courts.michigan.gov/mji/wbt/ethics/ethics.htm

State Bar of Michigan ethics resources, including codes, opinions, and bibliography of other ethics resources under the "ethics opinions" tab:
http://www.michbar.org

Travel reimbursement rates for travel authorized and reimbursed by the State Court Administrative Office:
http://courts.michigan.gov/scao/resources/other/intrate.htm

Section 6 - Fiscal Management

Court fee and service of process schedules:
http://courts.michigan.gov/scao/resources/other/ffc.htm

Interest rate on civil judgments:
http://courts.michigan.gov/scao/resources/other/ffc.htm

Civil fines and costs schedule for first-civil infractions:
http://courts.michigan.gov/scao/resources/other/ffc.htm

Standards regarding check registers:
http://courts.michigan.gov/scao/resources/standards/#chk

Department of Treasury Letters and Department of Treasury Transmittal Advice Forms and Instructions:
http://www.michigan.gov/treasury/0,1607,7-121-1751_2164---,00.html

Distribution of fines and costs table for civil infraction and misdemeanor:
http://courts.michigan.gov/scao/resources/other/disttbl.pdf

Guidelines for Court Ordered Reimbursement and Procedures for Reimbursement Program Operations (in the process of being developed). When finalized, they will be available at:
http://courts.michigan.gov/scao/resources/standards/reimb_guidelines.pdf

Section 7 - Caseflow Management

Caseload of Michigan Trial Court Reporting Forms and Instructions for Circuit Court, Caseload of Michigan Trial Court Reporting Forms and Instructions for District Court, Caseload of Michigan Trial Court Reporting Forms and Instructions for Probate Court:
http://courts.michigan.gov/scao/resources/publications/manuals/#promnl

Assignment Guidelines:
http://courts.michigan.gov/scao/resources/standards/assign_guidelines.pdf

General information on alternative dispute resolution:
http://courts.michigan.gov/scao/dispute/odr.htm

Standards of conduct for mediators adopted via SCAO Administrative Memorandum 2001-01:
http://courts.michigan.gov/scao/resources/other/proc.htm

Guidelines for Preparing Local Administrative Orders for Selecting Case Evaluators and Case Evaluation Panels:
http://courts.michigan.gov/scao/resources/standards/adrlao_guidelines.pdf

SCAO Approved form MC 34, Case Evaluator's Application:
http://courts.michigan.gov/scao/courtforms/caseevaluation/mc34.pdf

List of Community Dispute Resolution Program centers:
http://courts.michigan.gov/scao/dispute/index.htm

Section 8 - Records Management

General Schedule No. 1 - Definition of Non-Record Material (revised and approved July 7, 1964):
http://www.michigan.gov/documents/gs1_20727_7.pdf

General Schedule No. 16 - Records Retention and Disposal Schedule for Michigan Trial Courts (August 7, 2001):
http://courts.michigan.gov/scao/resources/standards/cf_schd.pdf

Rules for Microfilming - State Archives of Michigan, Department of State, 717 West Allegan, Lansing, MI 48918, (517) 373-1401:
http://www.michigan.gov/dmb/0,1607,7-150-9141_13131-31497--,00.html

Form MH-38 (rev. 3/87), Certificate of Records Disposal:
http://www.michigan.gov/hal/0,1607-17451_18673_19386-56141--,00.html

Section 9 - Technology

Guidelines on interactive video technology, see the State Court Administrative Office website at:
http://courts.michigan.gov/scao/resources/standards/#ivt

Llist of approved audiotape equipment systems:
http://courts.michigan.gov/scao/resources/other/recordingequip.pdf

Digital Audio Recording Systems Standards Checklist:
http://courts.michigan.gov/scao/resources/standards/#audio

Digital Video Recording Systems Standards Checklist:
http://courts.michigan.gov/scao/resources/standards/#video

Standards for Court Operations of Communication Equipment and Programs:
http://courts.michigan.gov/scao/resources/standards/cm_stds.pdf

Section 10 - Facility and Equipment Management

Audio recording equipment approved for use in Michigan:
http://courts.michigan.gov/scao/resources/other/recordingequip.pdf

Facility Standards:
http://courts.michigan.gov/scao/resources/standards/#facility

Minimum Standards for County Law Libraries:
http://courts.michigan.gov/scao/resources/standards/cllib_stds.pdf

Section 11 - Public Relations Management

Model Friend of the Court Handbook:
http://courts.michigan.gov/scao/resources/publications/manuals/focb/focb_hbk.pdf

Access to Justice Program and materials:
http://courts.michigan.gov/scao/services/access/access.htm

Domestic Relations Resources:
http://courts.michigan.gov/scao/services/focb/focb.htm

Pro se Forms:
http://courts.michigan.gov/scao/courtforms/index.htm

Public information pamphlets and other resources:
http://courts.michigan.gov/scao/resources/publications/

1997 Summary Report on Supreme Court's Efforts to Implement Recommendation of Citizens Commission to Improve Michigan Courts and the Race/Ethnic and Gender Issues Task Forces:
http://courts.michigan.gov/scao/resources/other/biassum.pdf

Determining accessibility of a courthouse, checklist:
http://courts.michigan.gov/scao/resources/standards/aj_checklist.pdf

Section 13 - Risk Management

State Court Administrative Office Guidelines for Securing Attorney General Representation for Courts dated 7/98 (revised from 3/19/92):
http://courts.michigan.gov/scao/resources/standards/ag_stds.pdf

Section 14 - Court Security

Court Security Standards and Security Handbook and Manual:
http://courts.michigan.gov/scao/resources/standards/index.htm#sec

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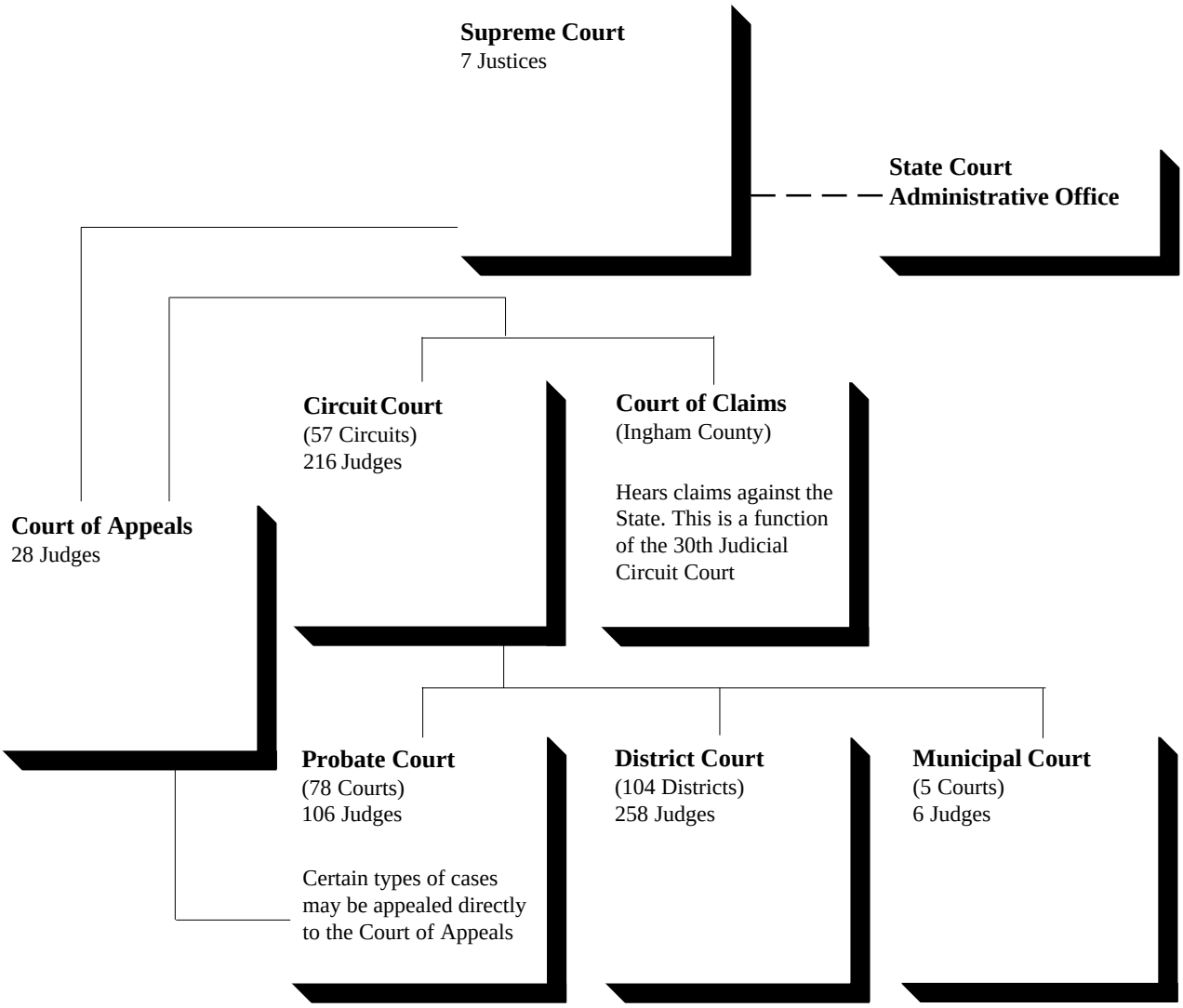
INTRODUCTION

This section is only a general outline of the manual. See individual sections for detailed information.

Management Overview

1-01 MICHIGAN COURT SYSTEM



Connecting lines to the Circuit Court, the Court of Appeals, and the Supreme Court represent the various levels in the appeal process

1-02 JUDICIAL POWER - ONE COURT OF JUSTICE

A. Authority

The present (1963) Michigan Constitution created "one court of justice," incorporating the concept that the State of Michigan has a single court with several divisions. Article 6, Section 1 of the 1963 Constitution invests the judicial power of the state exclusively in one court of justice; divided into one Supreme Court, one Court of Appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to, and serving in, each House. Each of these several divisions devote attention to a certain level of judicial administration.

B. Recent Goals and Objectives

In the late 1990's, the concept of “one court of justice” began moving closer to practical reality through initiatives within the Judiciary, combined with action on the part of the Legislative and Executive branches of government and numerous court-related agencies and associations, to begin modernizing and streamlining the system in an effort to redirect attention and resources to a more efficient and responsive delivery of court services.

Major justice initiatives begun in 1995 focused on the well-being of Michigan's families, especially children. These initiatives stressed the need to: 1) provide families with a clear path through the judicial system; 2) ensure that children are fully protected by the legal process and are provided a home; 3) strengthen protection for victims of domestic violence; 4) make the system more accessible to litigants representing themselves in domestic relations matters; and 5) offer alternative methods of dispute resolution to those whose cases may benefit from a collaborative rather than an adversarial approach.

Significant structural changes were also begun, including: 1) court mergers for improving efficiency in court administration; 2) programs for improving trial court management, revenue collections, budgeting practices, and court security; and 3) new technologies and data protocols to organize and share data seamlessly on a system-wide basis.

[Paraphrased excerpts of October 23, 1997, State of the Judiciary Message, Chief Justice Conrad L. Mallett, Jr.]

Justice initiatives continue to focus on the operation of the family division of the circuit court, and recent efforts have begun to strengthen the trial courts’ ability to meet the challenges of providing better protection for individuals who are subject to guardianships and/or conservatorships. One of the latter efforts is the appointment of a Guardianship Ombudsman to investigate complaints relating to guardianship and conservatorship.

Continued structural changes in the judiciary are being launched through the “Next Generation Model Trial Court Project”, an experimental search for improvements in the court system through a variety of cooperative efforts. Twelve jurisdictions will be added to the trial court demonstration projects which were begun in 1996 to develop coordinated adminstrative structures between multiple courts. Some of the features of the Next Generation Project will be: 1) consolidation of court functions; 2) improved computer technology; 3) improved collection of fines and costs; 4) improved use of resources; 5) improved case scheduling; and 6) on-line transactions and information.

[Paraphrased excerpts of September 28, 2000 State of the Judiciary Message, Chief Justice Elizabeth A. Weaver]

1-03 CHIEF JUDGE RULE - MCR 8.110

A. Applicability

This rule applies to all trial courts; i.e., the judicial circuits of the circuit court, the districts of the district court, the probate court in each county or a probate district established by law, and the municipal courts.

B. Chief Judge, Chief Judge Pro Tempore, and Presiding Judges of Divisions

1. The Supreme Court shall select a judge of each trial court to serve as chief judge. No later than October 1 of each odd-numbered year, each trial court with two or more judges may submit the names of no fewer than two judges whom the judges of that court recommend for selection as chief judge.

2. Unless a chief judge pro tempore or presiding judge is named by the Supreme Court, the chief judge shall select a chief judge pro tempore and a presiding judge of any division of the trial court. The chief judge pro tempore and any presiding judges shall fulfill such functions as the chief judge assigns.

3. The chief judge, chief judge pro tempore, and any presiding judges shall serve a two-year term beginning on January 1 of each even-numbered year, provided that the chief judge serves at the pleasure of the Supreme Court and the chief judge pro tempore and any presiding judges serve at the pleasure of the chief judge.

4. Where exceptional circumstances exist, the Supreme Court may appoint a judge of another court to serve as chief judge of a trial court.

C. Duties and Powers of Chief Judge

1. A chief judge shall act in conformity with the Michigan Court Rules, administrative orders of the Supreme Court, and local court rules, and should freely solicit the advice and suggestions of the other judges of his or her bench and geographic jurisdiction. If a local court management council has been created by a funding unit and adopts the bylaws as described in AO 1998-5, the chief judge shall exercise the authority and responsibilities under this rule in conformity with the provisions of AO 1998-5.

2. The chief judge shall select a chief judge pro tempore, who shall fulfill such functions as the chief judge assigns.

3. The chief judge and chief judge pro tempore shall serve a two-year term beginning on January 1 of each even-numbered year, provided that the chief judge serves at the please of the Supreme Court and the chief judge pro tempore serves at the pleasure of the chief judge.

1-04 GENERAL MANAGEMENT DUTIES OF CHIEF JUDGE

A. General Responsibility

It is assumed throughout the materials that follow in this manual that all of the duties and responsibilities enumerated in the Chief Judge Rule and in this manual apply equally to the sole judge in a single judge court. Obviously, there will be no need for a chief judge pro tempore or for the selection of a chief judge.

B. Specific Duties

1. Presiding Officer

Specific duties of the chief judge include acting as presiding officer of the court. As presiding officer of the court, a chief judge shall call and preside over meetings of the court and appoint committees of the court.

2. Director of Administration

As director of the administration of the court, a chief judge has administrative superintending power and control over the judges of the court and all court personnel. The chief judge has authority and responsibility to effect compliance by the court with all applicable court rules and provisions of the law. Furthermore, the chief judge has the authority and responsibility to perform any act or duty or enter any order necessarily incidental to carrying out the purposes of the chief judge rule. [MCR 8.110(C)(1), (2), (3)]

3. Delegation of Duties

The chief judge may delegate administrative duties to a trial court administrator or others. [MCR 8.110(C)(6)]

4. Internal and External Court Relations

As presiding officer of the court, a chief judge shall initiate policies concerning the court's internal operations and its position on external matters affecting the court; represent the court in its relations with the Supreme Court, other courts, other agencies of government, the bar, the general public, and the news media, and in ceremonial functions; and counsel and assist other judges in the performance of their responsibilities. The chief judge of each trial court, the other judges of that bench, and the court manager/administrator must establish and maintain an environment that promotes and protects equal opportunity, bias free attitudes, and fair treatment (see also page 1-07-01). A chief judge must meet regularly with all chief judges whose courts are wholly or partically within the same county. [MCR 8.110(C)(2)(d), Mich Sup Ct AO 1998-5]

1-05 TRIAL COURT ADMINISTRATORS

A. Authority and Scope

In "Section 1-04 General Management Duties of Chief Judge", which covers the administrative duties of the chief judge, MCR 8.110(C)(6) provides for delegation of administrative duties by a chief judge to a trial court administrator or others. The duties of these trial court administrators or court managers vary depending upon the location and size of the court in which they are employed. The court administrator or manager functions in management areas rather than legal areas. They provide an executive component to the court, blending judicial management skills with the discipline of business and public administration.

B. Function

A heightened awareness of the need for managerial expertise to direct the complex operations of the court has resulted in a rapid growth in the area of professional court administration. The increasing complexity of American life and the scope of litigation in the United States have created an administrative burden on the courts. It is difficult for judges and traditional court staff to handle this burden alone. In order to assist in this area, professional administrators and managers, under the general guidance of judges, manage the business of the court. It should be emphasized that all judges, particularly the chief judge, are responsible for the administration of the court. The judges determine the policy; the court administrators implement this policy.

Court administrators and managers employed by the court do work in a complex environment. The court administrator serves a dual function of increasing the amount of time the judge has for adjudication and bringing professional management knowledge and experience to the judiciary. Professionally trained administrators and managers, schooled in judicial procedures and modern administrative principles, can provide court systems with the managerial confidence that the courts traditionally have lacked.

Court administrators and managers can serve efficiently and effectively in small courts with two or three judges as well as in the larger courts. Professional administrators can administer juries, handle budgets, administer and supervise personnel, automate systems, and reduce delay. Regardless of the size of the court, the success of a court administrator depends largely on clearly defined job descriptions, acceptance by the judges, appropriate funding, and good communication between the court administrator and others in the court system. In order to make the best use of the court administrator position, courts should clearly delineate the duties and clarify the functions of the administrator. The judicial policy implemented by the court administrator should be clearly documented and defined.

1-06 ADOPTING LOCAL COURT RULES, ADMINISTRATIVE ORDERS, AND PLANS

A. Introduction

Generally, local court rules are adopted to supplement the Michigan Court Rules. Local court rules regulate practice in the court adopting them. Since the adoption of the Michigan Court Rules effective March 1, 1985, the Supreme Court has approved few local court rules. The Supreme Court's goal is to achieve a uniformity of practice through the Michigan Court Rules.

Local administrative orders are adopted to govern only internal court management. Trial courts are encouraged to adopt administrative orders to document delegations of authority and directions to court staff.

Guidelines for local court rules and administrative orders are located at the SCAO website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

B. Local Court Rules

1. Authority

A trial court may adopt rules regulating practice in that court. These rules are not to be in conflict with the Michigan Court Rules and regulate matters not covered by the court rules. [MCR 8.112(A)]

2. Purpose

If a practice of a trial court is not specifically authorized by the Michigan Court Rules and 1) reasonably depends on attorneys or litigants being informed of the practice for its effectiveness or 2) requires an attorney or litigant to do some act in relation to practice before that court, the practice, before enforcement, must be adopted by the court as a local court rule and approved by the Supreme Court.

3. Notice of Proposed Local Court Rules

Unless a trial court finds that immediate action is required, it must give reasonable notice and an opportunity to comment on a proposed local court rule to the members of the bar in the affected judicial circuit, district, or county. The court shall send the rule and comments received to the Supreme Court clerk.

4. Numbering

If possible, the numbering of a local court rule supplementing an area covered by the Michigan Court Rules must correspond with the numbering of the court rules and bear the prefix LCR.

5. Facsimile Transmission and Filing of Court Documents

While most local court rules are normally submitted directly to the clerk of the Supreme Court under MCR 8.112(A), the Supreme Court has directed that a local court rule authorizing facsimile transmission and filing of court documents be approved by the State Court Administrative Office. The State Court Administrative Office also provides assistance in the implementation of the use of facsimile equipment for filing and transmission of court documents for those courts electing to participate. A local court rule established pursuant to MCR 8.112(A) for facsimile transmission and filing of court documents must comply with Mich Sup Ct AO 1994-2. (See also Section 9-09). [Mich Sup Ct AO 1994-2]

C. Local Administrative Orders

1. Authority, Scope, and Procedure

A trial court may issue an administrative order governing only internal court management. Administrative orders must be sequentially numbered during the calendar year of their issuance. Before its effective date an administrative order must be sent to the State Court Administrator. If the State Court Administrator directs, a trial court shall stay the effective date of an administrative order or shall revoke it. A trial court may submit such an order to the Supreme Court as a local court rule. [MCR 8.112(B)]

2. Required Local Administrative Orders

All trial courts are mandated to issue local administrative orders to establish court policies for regulating access to juror questionnaires, court hours, and mediation procedures.

a. Access to Juror Personal History Questionnaire

The State Court Administrator has adopted a juror personal history questionnaire. Upon completion by a prospective juror, the questionnaire is filed with the court clerk or the jury board. The only persons allowed to examine the questionnaire are the judges of the court, the court clerk and deputy clerks, parties to the actions in which the juror is called to serve and their attorneys, and persons authorized access by court rule or by court order. [MCR 2.510(A), (C)]

The State Court Administrator has developed model procedures for providing attorneys and parties reasonable access to juror questionnaires. Each court has selected and implemented one of these procedures by local administrative order adopted pursuant to MCR 8.112(B). If the State Court Administrator determined that, given the circumstances existing in an individual court, the procedure selected did not provide reasonable access, the State Court Administrator may have directed the court to implement one of the other model procedures. [MCR 2.510(C)(2)]

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm. (See also Section 12).

b. Case Evaluation Procedures

Each trial court that submits cases to mediation under MCR 2.403 shall adopt by local administrative order a plan to maintain a list of persons available to serve as mediators and to assign mediators from the list of panels. The plan must be in writing and available to the public in the mediation clerk's office. Other alternative plans must be submitted as local court rules under MCR 8.112(A) (See also Section 7-07). [MCR 2.403(A)] Guidelines for preparing local administrative orders for selecting mediators and mediation panels are located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

c. Cases Involving Children Absent from Court-Ordered Placement

Each circuit court must develop a plan for reviewing cases involving children who are absent from court-ordered placements without permission from the court. Such plans must include the establishment of a special docket or other expedited process for review of such cases, either through dispositional review hearings required by statute and court rule in all child-protective proceedings, formal status conferences, or emergency status reviews. In addition, the plans should: A) identify the judge who has responsibility for ensuring compliance with the plan; B) address the coordination of the efforts of the Family Independence Agency and the court to locate absent children; C) describe the process for reviewing such cases; D) address any special problems that the court has identified; E) describe the court's procedures for obtaining information regarding the whereabouts of absent children and for promptly scheduling hearings to determine their legal status; and F) describe the court's procedures for giving priority to cases involving children ages 15 and younger, particularly if the child may have been abducted. Each circuit court must submit a local administrative order to the State Court Administrative Office by February 1, 2003 describing its plan. [Mich Sup Ct AO 2002-48]

d. Court Closure Due to Weather Emergency

All courts must submit a local administrative order governing closure due to emergency weather conditions. In facilities containing multiple courts, the courts must adopt and submit a joint local administrative order. Courts with the same funding unit should also submit a joint local administrative order, if possible. The policy must provide that certain procedures will apply in the event of a weather emergency as outlined in the Guideline for Unscheduled Court Closing Due to Weather Emergency.

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

e. Court Hours

The chief judge shall enter an administrative order establishing the court's hours. [MCR 8.110(D)(1)]

f. Public Access to Court Records

Unless access to a file, a document, or information contained in a file or document is restricted by statute, court rule, or an order entered according to MCR 8.119(F), any person may inspect pleadings and other papers in the clerk's office and may obtain copies as provided in MCR 8.119(E)(2) and (E)(3). A court, by administrative order, may make reasonable regulations necessary to protect its public records and prevent excessive and unreasonable interference with the discharge of its functions. For access to friend of the court records, see page 1-06-04. (See also Section 8-03). [MCR 8.119(E)]

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

g. Security Policies for Court Facilities

Supreme Court Administrative Order 2001-1 states that weapons are not permitted in any courtroom, office, or other space used for official court business or by judicial employees unless the chief judge or other person designated by the chief judge has given prior approval consistent with the court's written policy. Each court is required to submit a written policy conforming with this order to the State Court Administrator for approval. Courts are encouraged to collaborate with other entities in shared facilities and, where appropriate, to work with local funding units in developing the policy, which may be a separate plan or part of a general security program.

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

3. Local Administrative Orders Required Under Certain Circumstances

In addition to the mandated local administrative orders, there are a number of local administrative orders that are required under certain circumstances. Also, a court may, but is not "required" to, delegate authority and make directions to court staff for certain functions. These functions are 1) arraignment on information in criminal cases, 2) public access to court records, 3) providing forms to litigants and lawyers, and 4) authorizing probate registers to sign for the judge. If a court opts to delegate authority or make directions regarding any of the above, a local administrative order is then required.

a. Access to Friend of the Court Records

Access to friend of the court records is governed by MCR 3.218. A court, by administrative order pursuant to MCR 8.112(B), may make reasonable regulations necessary to protect friend of the court records and to prevent excessive and unreasonable interference with the discharge of friend of the court functions. For information about access to court records generally, see h. on page 1-06-05. (See also Section 8-03 and MCR 8.119(E)). [MCR 3.218)

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

b. Assignment of Cases

All cases must be assigned by lot unless a different system has been adopted by local court administrative order under the provisions of subrule 8.112. Assignment will occur at the time the case is filed or before a contested hearing or uncontested dispositional hearing on the case, as the chief judge directs. Civil actions must be assigned within appropriate categories determined by the chief judge. The chief judge may receive fewer assignments in order to perform the duties of chief judge. Court rule requires that a local administrative order be issued defining and explaining the procedure of assigning cases other than "by lot" utilized by the particular court. (See also Sections 7-05 and 7-06). [MCR 8.111(B)]

c. Authority for Probate Register to Perform Judicial Acts

Under Michigan statute (MCL 600.834) and court rule (MCR 8.301), a chief probate judge may, through issuance of an order, grant to a probate register the authority to perform certain judicial acts. (See also Section 4-11).
[MCR 5.602(B), MCL 600.834]

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

d. Court Closure - Generally

Courts periodically find it necessary to close for brief periods of time for such matters as staff training, conducting pending inventory, and doing records destruction. This model local administrative order can be customized to meet the needs of the court.

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

e. Court Holidays

The courts are directed to observe a specific list of holidays unless they adopt modifying local administrative orders. Furthermore, courts are required to promulgate a modifying administrative order, if appropriate, to accommodate or achieve uniformity with the holiday practices of local governmental units regarding local public employees. Judges may continue a trial in progress, however, or dispose of judicial matters on any of these specifically listed holidays if he or she finds it to be necessary. (See also Section 5-12). [MCR 8.110(D)(2)]

f. Facsimile Equipment in Mental Health Proceedings

Probate courts can be authorized to use facsimile communication equipment to transmit petitions, physician's certificates and other supporting documents from state regional psychiatric hospitals or private hospitals for filing in the courts under Michigan Supreme Court Administrative Order. Participation is subject to the discretion of the chief judge of the probate court and with approval of the State Court Administrator. The State Court Administrative Office assists in implementing use of facsimile equipment in mental health proceedings for courts electing to participate.

An administrative order submitted for authorization to use facsimile communication equipment must comply with Mich Sup Ct AO 1992-3. (See also Section 9-09). [Mich Sup Ct AO 1992-3]

g. Guilty Pleas; District Judges Accepting in Felony Cases

Under Mich Sup Ct AO 1992-5, district court judges may be assigned as judges in the circuit court for the purpose of taking not guilty and guilty pleas in felony criminal cases. If a court desires approval to accept felony pleas, it must submit a local administrative order to the State Court Administrator signed by the chief judges of both the circuit and district courts. [Mich Sup Ct AO 1992-5]

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

h. Local Alternative Dispute Resolution Plans

Under MCR 2.410(B)(1) and MCR 3.216(B)(1) each trial court that submits matters to alternative dispute resolution processes under MCR 2.410 and MCR 3.216 shall adopt an ADR plan by local administrative order. The plan must be in writing and available to the public in the ADR clerk's office. [MCR 2.410(B)(1)]

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm. Guidelines for completing the local alternative dispute resolution plan is located at the website at: http://courts.michigan.gov/scao/resources/standards/odr/ADRplngls.pdf.

i. Multiple District Plan for Magistrates

MCL 600.8320 allows two or more district courts within a county or two adjoining districts of the first class to establish a multiple district plan in which a district court magistrate is authorized to conduct arraignments, set bail or recognizance, provide for the appointment of counsel, or make determinations of probable cause and issue warrants for all of the participating districts within the multiple district area.

For districts consisting of more than one county, the chief or only judge may authorize a magistrate appointed in one county to serve in another county within the district. Courts choosing to establish a multiple district plan must submit to the State Court Administrator a local administrative order signed by the chief or only judges of all participating districts. [MCL 600.8320]

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

j. Payment by Electronic Funds Transfer (EFT)

Federal law requires states to create systems that "use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments . . ." [42 USC 654b]

As a part of meeting this goal, electronic funds transfer is the preferred method for disbursing support. Payees should be educated about the benefits of using direct deposit in order to achieve the greatest voluntary participation possible. If a friend of the court office determines that requiring participation of payees is necessary, the circuit court shall issue a local administrative order authorizing and regulating that procedure.

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

k. Places of Holding Court (District - Region 1)

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

l. Places of Holding Court (Probate)

Subject to the approval of the county board of commissioners and the State Court Administrator, the chief probate judge of a county may designate 1 or more places in the county where sessions of probate court may be held. A designation made under MCL 600.816(3) shall be delivered to the county clerk.
[MCL 600.816(3)]

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

m. Providing Forms to Litigants and Lawyers

The chief judge may, by administrative order, direct the clerk of the court to provide litigants and attorneys with copies of forms approved by the State Court Administrator. The administrative order may allow the clerk to provide the forms at the cost of reproduction to the clerk. [MCR 8.110(C)(7)]

The SCAO model local administrative order regarding public access to court records includes language about providing forms to litigants and lawyers (see page 1-06-05).

n. Referrals to Domestic Relations Referee

Under MCR 3.215(B), the chief judge may issue an administrative order to refer all motions of a particular kind to a referee. Judges are free to assign other motions to a referee to the extent allowed by law. [MCR 3.215(B)]

o. Scheduling Arraignments

Unless the circuit court or Recorder's Court does the scheduling of the arraignment on the information, the district court must do so in accordance with the administrative orders of the trial court. [MCR 6.110(I)]

p. Video Proceedings

1) Circuit and District Courts

Under Michigan Supreme Court Administrative Order 2000-3 trial courts may use two-way interactive video technology in the criminal divisions of the circuit and district courts to conduct the following proceedings between a courtroom and a prison, jail, or other place of detention: initial arraignments on the warrant, arraignments on the information, pretrials, pleas, sentencing for misdemeanor offenses, show cause hearings, waivers and adjournments of extradition, referrals for forensic determination of competency, and waivers and adjournments of preliminary examinations. If a court desires to use interactive video technology, it must submit a local administrative order to the State Court Administrator describing how the program will be implemented and the administrative procedures for each type of hearing for which interactive video technology will be used. Courts that previously were authorized to use interactive video technology under Administrative Orders 1990-1, 1991-2, 1992-1, or 1993-1 may continue to do so until further order of the Supreme Court or the State Court Administrator. (See also Section 9-07). [Mich Sup Ct AO 2000-3] A model local administrative order is located at the SCAO website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

2) Family Division of Circuit Court and Probate Court

On order of the Supreme Court, the State Court Administrator is authorized until July 1, 2002 or until further order of the Supreme Court, to approve the experimental use of two-way interactive video technology to conduct proceedings between a courtroom and a hospital, mental health facility, jail, detention facility, or other placement facility, in the following circumstances: (1) hearings concerning initial involuntary treatment and continuing treatment in mental health cases in probate court in the counties of Calhoun, Chippewa, Genesee, Gogebic, Livingston, Ottawa, and Wayne. (2) Preliminary hearings and review hearings in child protective proceedings in the family division of the circuit court in the counties of Calhoun,

Chippewa, Genesee, Gogebic, Kalamazoo, Livingston, Ottawa, and Wayne. Each court seeking to participate must submit a local adminsitrative order for approval by the State Court Administrator describing how the program will be implemented and the administrative procedures for each type of hearing for which interactive video technology will be used. [Mich Sup Ct AO 2000-4] A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

q. Video Tape Record of Proceedings

Under Mich Sup Ct AO 1990-7 trial courts may apply to the State Court Administrative Office to use videotape record systems for the purpose of making the verbatim court record of proceedings in individual courtrooms. Courts desiring approval to use the videotape record system must submit application materials and a local administrative order to the State Court Administrator to implement procedures.

A Videotape Record System Users Manual is available in hard copy from the State Court Administrative Office or it can be downloaded from the SCAO website at: http://courts.michigan.gov/scao/resources/publications/manuals/Video-02-mnl.pdf. (See also Section 3-02 and 10-01). [Mich Sup Ct AO 1990-7]

r. Waiver of Jurisdiction Over Civil Infractions Committed by Juveniles

Under MCL 712A.2e and MCL 600.8379(1), the circuit court may enter into an agreement with the district court to waive jurisdiction over all or specifically named civil infractions alleged to have been committed by juvenile within the geographic jurisdiction of the district court. Courts making such an agreement must submit a joint local administrative order to the State Court Administrator.
[MCL 712A.2e, MCL 600.8379(1)]

A model local administrative order is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

4. Recommended Local Administrative Orders

Although not required by court rule, it is strongly recommended that delegation of authority for the following court staff be documented through local administrative order. Items a. through d. below apply to the Family Division of Circuit Court even though the specific statutory provisions were not amended to remove references to probate court.

a. County Agent (Family Division of Circuit Court)

The county agent is an officer of the court under the general supervision of the judges of the court and shall serve at their pleasure. The county agent shall organize, direct, and develop the juvenile welfare work of the court as authorized by the judge. With the judge's approval, the county agent or his or her assistants shall investigate and report on juveniles or families within the county as requested by the family independence agency,

the county juvenile agency, or the superintendent of any state institution regarding the welfare of any juvenile. (See also Section 4-17). [MCL 712A.8]

b. Juvenile Register - Family Division of Circuit Court

The probate judge may appoint the register of probate, a deputy probate register, or clerk of the court as register of the juvenile division of probate court (family division of circuit court). (See also Section 4-14). [MCL 712A.7]

c. Magistrate - District Court

The district judge may appoint a magistrate to serve at the pleasure of the judge(s) to exercise the jurisdiction and duties only as authorized by the chief judge, presiding judge, or only judge of the district court. (See also Section 4-09).
[MCL 600.8501 and MCL 600.8503]

Model local administrative orders are located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm.

d. Probation Officer - Family Division of Circuit Court

The probate judge in each county may appoint one or more suitable persons of good character and qualified training or experience other than the county agent or assistants to act as probation officer, who shall receive such compensation as the board of supervisors may appropriate for the purpose and who, at the discretion of the judge, may be authorized and empowered to perform county agent duties. The probate judge may also appoint other probation officers who shall receive no compensation from the county treasury for the duties performed under such appointment. (See also Section 4-15). [MCL 712A.9]

e. Referee - Family Division of Circuit Court

The probate judge may designate a probation officer or county agent to act as referee in taking the testimony of witnesses and hearing the statements of parties upon the hearing of petitions alleging that a child is within the provisisions of the juvenile code if there is no objection by parties in interest. If a child is before the court under 712A.2(a)(1), a probation officer or county agent who is not licensed to practice law in Michigan shall not be designated to act as a referee in any hearing for the child, except the preliminary inquiry or preliminary hearing, unless the probation officer or county agent was designated to act as referee by the probate judge prior to January 1, 1988 and was acting as referee as of January 1, 1988. (See also Section 4-16). [MCL 712A.10]

D. Required Plans

1. Plan for Appointment of Lawyers

All trial courts must adopt a local administrative order that describes the court's procedures for selecting, appointing, and compensating counsel who represent indigent parties in that court. [MCR 8.123(A), (B)]

Approval by State Court Administrator. The trial court must submit the local administrative order to the State Court Administrator for review pursuant to MCR 8.112(B)(3). The State Court Administrator shall approve a plan if its provisions will protect the integrity of the judiciary. [MCR 8.123(C)]

At the end of each calendar year, a trial court must compile an annual written or electronic report of: 1) the number of appointments given to each attorney by that court; 2) the number of appointments given to each attorney by each judge of that court; 3) the total public funds paid to each attorney for appointments by that court; and 4) the total public funds paid to each attorney for appointments by each judge of that court. Trial courts that contract for services to be provided by an affiliated group of attorneys may treat the group as a single entity when compiling the required records of appointments and compensation. The records required by this subrule must be retained for the period specified by the State Court Administrative Office's General Schedule 16. [MCR 8.123(D)]

The records must be available at the trial court for inspection by the public, without charge. The court may adopt reasonable access rules, and may charge a reasonable fee for providing copies of the records. [MCR 8.123(E)]

When requested by the State Court Administrator, a trial court must: 1) provide a copy of its most recent annual report; and 2) provide data on an individual attorney or judge for a period specified by the request. [MCR 8.123(F)]

2. Plan for Judicial Availability

In each county, the court with trial jurisdiction over felony cases must adopt and file with the state court administrator a plan for judicial availability. The plan shall:

a. make a judicial officer available for arraignments each day of the year, or

b. make a judicial officer available for setting bail for every person arrested for commission of a felony each day of the year conditioned upon

   1) the judicial officer being presented a proper complaint and finding probable cause pursuant to MCR 6.102(A), and
   2) the judicial officer having available information to set bail.

This portion of the plan must provide that the judicial officer shall order the arresting officials to arrange prompt transportation of any accused unable to post bond to the judicial district of the offense for arraignment not later than the next regular business day. [MCR 6.104(G)]

3. Emergency Services Plan

If a court is notified by its funding unit of a reduction of the original appropriation for the court for the current fiscal year, the court shall immediately file a copy of that notice with the State Court Administrative Office in accordance with Mich Sup Ct AO 1994-6. The court, among other things, must provide an emergency services plan which outlines what services are essential. [Mich Sup Ct AO 1994-6]

4. Caseflow Management Plan

All trial courts are required to develop and implement caseflow management plans, which include case processing goals as established under Mich Sup Ct AO 1991-4, and provide for local bench-bar justice system advisory committees, in cooperation with the State Court Administrative Office. [Mich Sup Ct AO 1991-4] See also Court Improvement Project Recommendations.

5. Implementation and Operation of Family Division

Chief circuit and probate judges were required to develop a plan for the implementation and operation of the family division of the circuit court which was created by 1996 PA 388. The plan identified the manner in which services are coordinated to provide effective and efficient services to families by the family division of the circuit court. The plans were approved and filed with the State Court Administrative Office. [Mich Sup Ct AO 1997-1] Amendments to approved plans must also be approved and filed with the State Court Administrative Office.

1-07 COURT RELATIONS - EXTERNAL AND INTERNAL

A. External Relations with Local Funding Unit, Legislature, Local Bar, Other Institutions, and General Public

A chief judge shall initiate policies concerning the court's position on external matters affecting the court. Furthermore, a chief judge shall represent the court in its relations with the Supreme Court, other courts, other agencies of government, the bar, and the general public. The chief judge also represents the court in its relations with the news media and in ceremonial functions involving the court. [MCR 8.110(C)(2), Mich Sup Ct AO 1998-5]

1. Local Court Management Councils

Structural changes and new demands create the need for new ways of doing business. The public's insistence on more efficient and user-friendly courts places a premium on creativity and interbranch cooperation. It is believed that local court management councils will be a vital, indispensable forum for collaborative government.

By Administrative Order 1998-5, issued December 28, 1998, the Supreme Court provided direction to the courts in serving on local court management councils created by funding units. In serving as a member of a council, a chief judge assists in the development of agreements on court personnel policies and budgets with local officials. A county that funds circuit, probate, and district courts may choose to create a single council that includes chief judges from all three types of courts, thus opening up new avenues of communication and coordination among them. Similarly, in the state's many multi-county circuits and districts, local court management councils hold the promise of helping to deliver more streamlined court services and cost savings to the taxpayers.

Disagreements between courts and their funding units about court financial needs can result in legal suits. Although the State Court Administrative Office mediates these funding disputes pursuant to Mich Sup Ct AO 1985-6, under Administrative Order 1998-5, representatives of funding units as well as chief judges may request the assistance of the State Court Administrative Office to mediate situations involving potential disputes at any time before differences escalate to the level of a formal funding dispute.

2. Local Intergovernmental Advisory Council: Gaining New Perspectives.

The efficient delivery of court services requires the Judiciary to forge stronger relationships with local government and to promote an environment of shared responsibility. Recognizing the need to become better informed on a systematic basis about local government concerns related to trial court operations, the Michigan Supreme Court has established a 14-member local intergovernmental advisory council. The council will advise the State Court Administrative Office on how to avoid and resolve disputes between courts and their funding units.

This council provide the perspective of local funding units concerning new court reform initiatives, and help the Judiciary identify emerging statewide issues affecting the state's trial courts and the delivery of services within the judicial system. The council will provide a mechanism for addressing such issues as budget development, court policies, and records management. It is comprised of representatives of counties, municipalities, and county clerks and will meet four times each year.

(see also Section 6-03)

B. Internal Relations of the Court

The chief judge shall initiate policies concerning the court's internal operations. The chief judge shall counsel and assist other judges in the performance of their responsibilities. [MCR 8.110(C)(2)]

Six demonstration projects were initiated by the Supreme Court in 1995 to test the merger of the circuit, probate, and district courts in a variety of jurisdictions. The six jurisdictions were given the flexibility to design their own divisions, including a family division. Preliminary evaluation results show that, while the projects encountered difficulties and revealed potential problems, many efficiencies and improvements in effectiveness have been realized, primarily through the strong central leadership provided by a system of one chief judge and one trial court administrator for each project. Benefits include:

- Greater use of judicial and quasi-judicial resources by broadening the pool of available resources and using them where they are most needed.

- Early formation of and planning for a family division prior to the legislated implementation date of January 1, 1998. This gave the pilot sites a head start on implementation of the legislation, enabling them to serve as a model for other courts.

- Greater cost-effectiveness and better information on fiscal management issues.

- Positive stakeholder perceptions. Stakeholders include attorneys, city and county officials, law enforcement agencies, state officials, the public, court staff and judges. Stakeholders believe judge time is used more productively, cases are handled more promptly, the family division provides better service to children and families, judicial councils are an effective forum for communication and decision-making, and technology has enhanced court operations.

- Improved coordination of activities with court-related agencies.

- Improved use of court technology through integrated case processing and enhanced electronic communication.

C. Gender and Racial/Ethnic Issues in the Courts

The Supreme Court is committed to assuring the fair and equal application of the rule of the law for all persons in the Michigan court system. On September 15, 1987 the Justices of the Michigan Supreme Court issued Michigan Supreme Court Administrative Order 1987-6 creating the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts. The Supreme Court directed the Task Forces "to examine the courts and to recommend revisions in rules, procedures and administration of the courts to assure equal treatment for men and women, free from race and gender bias". The Task Forces completed their final reports in December of 1989. Based on the conclusions and recommendations received from the Task Forces, the Supreme Court has directed that judges, employees of the judicial system, attorneys, and other court officers commit themselves to eliminating racial, ethnic, and gender discrimination in the Michigan judicial system. [Mich Sup Ct AO 1990-3] (see also Section 5-01, pages 5-01-02 and 5-01-03 and Section 11-08, page 11-08-01)

1-08 MANAGEMENT ASSISTANCE

In order to insure high professional standards throughout the various trial courts in the system, a variety of types of management assistance is available. The State Court Administrative Office, the National Center for State Courts, and private consultants assist chief judges and trial court administrators with improving the management and business of the court. Assistance is available, but not limited to, the areas of personnel/staffing studies, case flow management studies, pre-automation paper flow studies, court record management studies, and court facility needs studies.

A variety of professional organizations provide another avenue for keeping abreast of current advancements affecting the management of the courts. Such organizations include the National Association for Court Management and the following:

A. Circuit Court Related

Michigan Judges Association
Michigan Association of County Clerks
Michigan Association of Circuit Court Administrators
Michigan Association of Family Court Administrators
Michigan Association of Circuit Court Professionals
Michigan Association of Court Mediators
Michigan Friend of the Court Association
Michigan Probate and Juvenile Registers Association
Referees Association of Michigan

B. District/Municipal Court Related

Michigan District Judges Association
Michigan Court Administration Association
Michigan Association of District Court Magistrates
Michigan Association of District Court Probation Officers

C. Probate Court Related

Michigan Probate Judges Association
Michigan Probate and Juvenile Registers Association
Michigan Association of Juvenile Justice

D. Court Reporter and Recorder Related

Michigan Association of Professional Court Reporters
Michigan Electronic Court Reporters Association
National Shorthand Reporters Association

Supreme Court and Ancillary Agencies

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(rev. 12/02)

Supreme Court and Ancillary Agencies

2-01 CLERK OF THE SUPREME COURT

The Clerk of the Supreme Court is appointed by the Supreme Court under MCR 7.319. The Clerk's Office, by rule, must "care for and maintain custody of all records, seals, books, and papers pertaining to the Clerk's Office and filed or deposited there," and "provide for the recording of Supreme Court proceedings as the Court directs." [MCR 7.319(B)(4), (5)] Under these and other subsections of MCR 7.319, the Clerk's Office receives, files, and manages all pleadings relating to the caseload of the Supreme Court, and is responsible for management of records and information relating to administrative activities of the Supreme Court as well.

Clerk of the Supreme Court
Michigan Hall of Justice, Fourth Floor
925 West Ottawa, PO Box 30052
Lansing, MI 489109
(517) 373-0120

2-02 CLERK OF THE COURT OF APPEALS

The Clerk of the Court of Appeals is appointed by the Court under MCL 600.317 and MCR 7.201. Similar to the Clerk of the Supreme Court, the Clerk of the Court of Appeals is responsible for receiving and filing all papers relating to actions filed in the Court of Appeals. The Clerk's Office is generally responsible for management of information and records relating to the court's business, subject to supervision of the chief judge. Deputy clerks shall be appointed as necessary by the chief clerk with the approval of the Court. Duties of the chief clerk are outlined in MCL 600.317.

Clerk of the Court of Appeals
Michigan Hall of Justice, Second Floor
925 West Ottawa , PO Box 30022
Lansing, MI 48909
(517) 373-0786

2-03 MICHIGAN JUDICIAL INSTITUTE

The Michigan Judicial Institute was created by the Michigan Supreme Court to provide a range of continuing education programs and services for the Michigan judiciary and trial court administrative staff. The Michigan Judicial Institute conducts seminars on a variety of topics throughout the year. These programs are free of charge to eligible participants. Announcements of those programs are made automatically to judges and others eligible to participate. The Institute maintains an extensive audio-visual resource library of material available free of charge to court employees. In addition, the Michigan Judicial Institute is engaged in a publication program designed to provide the judiciary and trial court administrative staff with up-to-date information regarding developments in case law and judicial administration. Those publications include the Trial Court Benchguides, Benchbooks, and the Handbook of Legal Terms.

Professional excellence on the part of all those engaged in judicial service is the keystone of substantive and procedural justice. The Michigan Judicial Institute's mission is to promote professional excellence by leading and directing a comprehensive program of high quality education and training for all court personnel.

Michigan Judicial Institute
Michigan Hall of Justice, 1st Floor
925 West Ottawa, PO Box 30205
Lansing, MI 48909
(517) 334-7805

2-04 MICHIGAN JUDICIAL TENURE COMMISSION

The Michigan Judicial Tenure Commission is created pursuant to Article 6, Section 30 of the Michigan Constitution. The Judicial Tenure Commission is charged with investigating complaints regarding judicial misconduct or disability. The Tenure Commission investigates based on verified statements received from any source alleging misconduct or disability, pursuant to requests from the Attorney Grievance Commission, or on the request of the Chief Justice or State Court Administrator. As a result of the investigation, the Judicial Tenure Commission may dismiss the investigation, admonish the judge who is the subject of investigation, recommend private censure by the Supreme Court, or file a complaint to initiate formal proceedings. At the conclusion of formal proceedings, the Judicial Tenure Commission may dismiss the complaint or recommend discipline, removal, retirement, or suspension of the judge to the Supreme Court. All Commission proceedings are confidential until the time a complaint is filed, at which time proceedings are available for public inspection and are open to the public.

Michigan Judicial Tenure Commission
20234 West Grand Blvd, Suite 8-450
Detroit, MI 48202
(313) 875-5110
FAX (313) 875-5114
http://jtc.courts.mi.gov

2-05 STATE APPELLATE DEFENDERS OFFICE

The State Appellate Defenders Office is established pursuant to MCL 780.711 et seq. The Office is governed by a seven member State Appellate Defender Commission which also oversees the Michigan Appellate Assigned Counsel System (MAACS). The State Appellate Defenders Office provides appellate defense for indigent defendants. In this role, the State Appellate Defenders Office provides all defense services, including the appeal of a felony conviction or the conduct of other post conviction remedies, and including the conduct of the appropriate supportive investigatory functions. The office also operates the Legal Resources Project, which provides technical support to private criminal law practitioners on appellate defense issues, through circulation of the Criminal Defense Newsletter, the maintenance of a repository of briefs on appellate defense issues, and other publications and services.

The State Appellate Defenders Office
3300 Penobscot Building
645 Griswold
Detroit, MI 48226
(313) 256-9833
FAX (313) 965-0372

or

The State Appellate Defenders Office
340 Business & Trade Center
200 Washington Square, North
Lansing, MI 48913
(517) 334-6069

E-mail: webmaster@sado.org
http://www.sado.org

2-06 MICHIGAN APPELLATE ASSIGNED COUNSEL SYSTEM

The Michigan Assigned Appellate Counsel System (MAACS) was established by the Appellate Defender Commission under MCL 780.711 - 780.719 and Michigan Supreme Court Administrative Order 1981-7 affirmed by Michigan Supreme Court Administrative Orders 1985-3 and 1989-3. The office is charged with compiling and maintaining a statewide roster of attorneys eligible and willing to accept criminal appellate defense assignments. It provides training and reference materials to roster members and processes complaints about attorney noncompliance with minimum performance standards approved by the Supreme Court. MAACS also monitors the process trial courts use to select appellate counsel and analyzes data about assigned appeals.

Michigan Appellate Assigned Counsel System
1375 South Washington Avenue
Suite 300
Lansing, MI 48913
(517) 373-8002
FAX (517) 373-5512

2-07 OTHER RESOURCES FOR TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION

A. Institute for Court Management of the National Center for State Courts

1. Purpose

The primary purpose of the Institute is to assist courts in improving court management and the services they provide to litigants and the public.

2. Services Provided

The Institute for Court Management presents education and training programs for court administrative personnel and judges, conducts national scope court management research projects, and provides technical assistance. The Justice System Journal, a course catalog specifying content, faculty, and fees is mailed annually. The Institute for Court Management office should be contacted to be put on the mailing list.

3. Associated Organizations

The Institute for Court Management is the educational arm of the National Center for State Courts, which has headquarters in Williamsburg, Virginia.

4. Costs

There is a tuition charge for most educational programs. There is no charge to be added to the mailing list for announcement of educational programs.

Institute for Court Management of the
National Center for State Courts
300 Newport Avenue
Williamsburg, VA 23185
(800) 616-6164
FAX (757) 564-2108
http://www.ncsconline.org/d_icm/icmindex.html

B. Institute of Judicial Administration

1. Purpose

To promote coherence, uniformity and predictability in the law and its administration; to develop high-quality continuing education programs for the judiciary; to promote understanding among the various parts of the legal profession--the academy, the practicing bar, and the judiciary; and to foster research on important public issues affecting the administration of justice in our courts and administrative agencies.

2. Services Provided

The New York University School of Law is the preeminent center for integrating new developments in legal theory with the practical training of lawyers. The Institute's programs for judges are similarly based on this model of legal education -- one that combines intellectual challenge with "learning by doing."

Each year, in cooperation with the Federal Judicial Center, the Institute offers an intensive skills-based workshop for new federal and state appellate judges taught by a resident faculty of jurists and academics. Since 1993, the Institute has also held a seminar for experienced appellate judges designed to expose seasoned appellate judges to "cutting edge" developments in legal theory, jurisprudence, quantitative methods, criminology, and law and economics. Since 1998, it has developed programs for federal trial judges as well.

As a counterpart to the Law School's James Madison Lecture Series, the Institute co-sponsors the William J. Brennan, Jr. Lecture Series in State Constitutional and Civil Liberties Law, an address given each year by a leading member of the state judiciary. The Brennan Series seeks to give recognition to the important role that the state courts play in our constitutional order.

The Institute sponsors a regular research conference for the purpose of commissioning papers that make an important contribution to the empirical literature on topics affecting the administration of justice.

Institute of Judicial Administration
40 Washington Square South, Room 314
New York, NY 10012
(212) 998-6196
http://www.law.nyu.edu/ija/

C. National Association for Court Management

1. Purpose

The National Association for Court Management (NACM) is a nonprofit organization dedicated to improving the quality of judicial administration at all levels of courts nationwide.

2. Services Provided

In carrying out its purpose, the National Association of Court Management strives to provide its members professional education and to encourage the exchange of useful information among them; encourages the application of modern management techniques to courts; and, through the work of its committees, supports research and development in the field of court management, the independence of the judicial branch, and the impartial administration of the courts.

Members are kept abreast of developments in the field through The Court Manager (journal) and Court Communiqué (newsletter), NACM's official quarterly publications. Surveys are conducted on a periodic basis to monitor trends in the profession and reports are disseminated to members. An annual conference is held, usually in the summer, and includes full educational and social programs in addition to business meetings and the election of officers. A midyear conference is held in February or March and offers national education programs without the cost of extensive travel.

3. Membership

Regular members must be serving in any court management consulting, educational, or research capacity and pay annual dues. Associate, student, and sustaining memberships are also available.

4. Costs

Annual dues for regular members are $75.00.

National Association for Court Management
300 Newport Avenue
PO Box 8798
Williamsburg, VA 23187-8798
(757) 259-1841
FAX (757) 229-7899
E-mail: nacm@ncsc.dni.us; http://www.nacmnet.org

D. National Center for Juvenile Justice

1. Purpose

To encourage the progressive administration of juvenile justice and all its components by research and dissemination of pertinent data.

2. Services Provided

The National Center for Juvenile Justice provides information and technical assistance; conducts research, comparative analysis of juvenile and family codes, and program evaluations; assesses juvenile justice services; designs programs and facilities; and provides consultation on automated information and reporting systems. Annual publications include Juvenile Court Statistics, KINDEX: An Index to Legal Periodical Literature Concerning Children; and Today's Delinquent. Computerized services are also available and include a bibliographic KINDEX data base, the Juvenile Law Archive and National Juvenile Court Data Archive; and numerous research files.

3. Associated Organizations

The National Center for Juvenile Justice is the research division of the National Council of Juvenile and Family Court Judges, Inc. in Reno, Nevada.

National Center for Juvenile Justice
710 Fifth Avenue, Suite 3000
Pittsburgh, PA 15219-3000
(412) 227-6950
FAX (412) 227-6955
Email: ncjj@ncjj.org; http://ncjj.org

E. The National Center for State Courts

1. Purpose

To accomplish its primary purpose - helping state courts better serve both litigants and the public - the National Center for State Courts is active in four general areas: research on subjects relevant to courts; in-service educational programs for judicial and administrative court personnel; expert assistance to individual courts and state court systems; and the exchange of information about and among courts.

2. Services Provided

The National Center assists the state courts to fairly and efficiently administer justice in an increasingly complex society.

The research and consulting activities of the multi-disciplinary staff cover the gamut of court operations. Their studies range from trial and appellate calendar management and delay reduction to sentencing policies and civil commitment procedures, from assessing and collecting child support to courthouse security, jury selection and management, and automated management systems.

The National Center's Knowledge Management Office provides a unique resource of information on all aspects of state court structure, administration, and operation as well as useful answers to the varied questions of those involved in court improvement. Its Association Services provides staff support for ten national court organizations, including the Conference of Chief Justices.

The Institute for Court Management, the educational arm of the National Center, carries on a diverse in-service training program for court personnel, concentrating on management courses for those in key administrative positions.

National Center for State Courts
300 Newport Avenue
Williamsburg, VA 23187-8798
(757) 253-2000
(757) 220-0449
http://www.ncsconline.org

Court Services Division
National Center for State Courts
1331 Seventeenth Street, Suite 402
Denver, CO 80202-1554
(303) 293-3063
FAX (303) 296-9007
http://www.ncsconline.org

Washington D.C. Area Office
National Center for State Courts
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201
(703) 841-0200
FAX (703) 841-0206

F. National Conference of State Trial Judges

1. Purpose

The purpose of the National Conference of State Trial Judges is to gather, study, and disseminate information to state trial judges throughout the United States with respect to the problems of trial, disposition of litigation, and the organization of procedure and the business of the trial courts; to present and conduct programs on those matters; to foster and promote organizations of judges within the states; and to maintain facilities for dissemination of information to judges.

The American Bar Association Judicial Division's National Conference of State Trial Judges is the only nationwide network of state court judges of general jurisdiction through membership. Judges can speak out through this one association and be heard nationally.

Through the ABA, the Conference works to reduce court delay; provide leadership in improving judicial salaries, retirement plans, and working conditions; improve jury utilization and management; and develop and implement standards for judicial education.

2. Services Provided

The National Conference of State Trial Judges provides periodicals (including the Judges' Journal Quarterly), publications, educational programs, and meetings. It supports judicial educations, promotes court improvement projects, and provides for participation in thirty committees. There are no restrictions for users. Some publications and programs are offered at reduced cost to members.

3. Associated Organizations

The Conference founded the National Judicial College, which is related to the American Bar Association. The National Conference of State Trial Judges is a part of the ABA's Judicial Division. The Division includes four other national judicial conferences - Federal Trial Judges, Appellate Judges, Special Court Judges, and Administrative Law Judges. There is also a separate Lawyers Conference.

The organization of the Division allows all members a voice in their area of organization and their area of special concern and enables the ABA to respond to the individual and diverse interest of its membership.

4. Costs

Dues include The Judges' Journal Quarterly and The Judicial Division Record, the quarterly newsletter of the Division and its conferences.

National Conference of State Trial Judges
American Bar Association
Judicial Division 13.2
541 N. Fairbanks Court
Chicago, IL 60611
(312) 988-5742
FAX (312) 988-5709
http://www.abanet.org/jd/ncstjweb.html

G. National Council of Juvenile and Family Court Judges

1. Purpose

The National Council of Juvenile and Family Court Judges (NCJFCJ) is organized for charitable and educational purposes including: 1) to improve the standards, practices, and effectiveness of the juvenile courts and other courts exercising jurisdiction over families and children; 2) to inform or otherwise assist persons and agencies, including governmental agencies, which deal with or affect juvenile courts and other courts exercising jurisdiction over families and children; 3) to educate persons serving in or otherwise connected with juvenile courts and other courts exercising jurisdiction over families and children and other interested members of the public in developments and approved principles relating to such courts; and 4) to engage in educational and research activities to aid the Council's objectives.

2. Services Provided

NCJFCJ provides continuing education programs to judges and a multitude of others on the juvenile justice continuum, including, but not limited to, prosecutors, defense counsel, police, probation, corrections officers, aftercare workers, child protection workers, legislators, educators, and others.

NCJFCJ is also a publications house, publishing a monthly digest of case law, *Juvenile and Family Law Digest*, a quarterly journal *Juvenile and Family Court Journal*, a quarterly magazine Juvenile and Family Justice TODAY, and selected monographs on a host of topics.

The National Council provides technical assistance through telephone, written and on-site services in virtually every area related to juvenile courts, juvenile justice, and family law matters.

Research is also a major activity of NCJFCJ through its research office in Pittsburgh, Pennsylvania.

NCJFCJ operates selected projects in such areas as family violence, child support enforcement, victims, learning disabilities, foster care, etc.

3. Associated Organizations

The National Center for Juvenile Justice is the research office which operates in Pittsburgh, Pennsylvania. The National College of Juvenile and Family Law is the training operation located at the University of Nevada-Reno campus in Reno, Nevada. NCJFCJ also serves as the secretariat for the National Juvenile Court Services Association.

4. Costs

Regular Council membership includes the quarterly journal, the monthly digest, the magazine, and an annual directory for $125.00. NJCSA membership for judges, referees, and masters includes the quarterly journal, the digest, directory,
and TODAY magazine for $92.00; $77.00 for non-judges.

National Council of Juvenile and Family Court Judges
University of Nevada
PO Box 8970
Reno, NV 89507
(775) 784-6012
FAX (775) 784-6628
Email: admin@ncjfcj.unr.edu; http://www.ncjfcj.unr.edu/

H. National Institute of Corrections Information Center

1. Services Provided

The National Institute of Corrections (NIC) Information Center provides up-to-date information to practitioners and policy makers in the field of corrections. Information Center resources specialize in unpublished, unique materials needed by this clientele. Clients work directly with expert corrections specialists to discuss information needs and to identify appropriate resources targeted to clients' interests. Specialists provide information via computerized searches, document delivery, and networking with experts in the field. The Information Center can be contacted by telephone, fax, or mail, and the Center's library is open to the public.

2. Associated Organizations

The National Institute of Corrections, which operates the Information Center, is part of the U.S. Department of Justice.

3. Costs

None for professionals involved in the corrections field, including court officials.

4. Comments

The National Institute of Corrections Information Center seeks publications and documents developed by agencies documenting corrections projects.

National Institute of Corrections Information Center
1860 Industrial Circle, Suite A
Longmont, CO 80501
(800) 877-1461
FAX (303) 682-0213
Email: asknicic@nicic.org; http://www.nicic.org

I. National Institute of Justice/National Criminal Justice Reference Services

1. Purpose

The National Institute of Justice/National Criminal Justice Reference Service (NIJ/NCJRS) is an international clearinghouse of information about criminal justice, providing practitioners and policymakers with information about current research and activities of other practitioners. NCJRS fosters exchange of information among professionals in police, courts, corrections, crime prevention, and victim/witness services.

2. Services Provided

The clearinghouse offers a customer service telephone line answered by information specialists knowledgeable in various criminal justice subject areas.

The reading room is open to the public. Inter-library loans, audiovisual loans, and data base searches are offered. The NCJRS data base is available on DIALOG, and NCJRS offers access to all DIALOG and certain other data bases.

3. User Restrictions

Unrestricted. Products and services range from free to cost-recovery; some cost-recovery items are free to criminal justice agencies.

a. Court organizations may be placed on a mailing list for National Institute of Justice reports without cost.

b. A publications list is available.

c. For a fee, NCJRS will provide literature searches on criminal justice/ justice topics on its bibliographic data base of over 150,000 citations.

National Institute of Justice/
National Criminal Justice Reference Service
PO Box 6000
Rockville, MD 20849-6000
(301) 519-5500
FAX (301) 519-5212
http://www.ncjrs.org/

J. The National Judicial College

1. Purpose

The National Judicial College is a non-profit organization dedicated to improving the administration of justice in America through the education and training of its judges and other decision makers. State trial judges, administrative law judges, military, appellate, and tribal judges, both law trained and non-law trained, attend courses at the University of Nevada, Reno, campus and other satellite campuses across the country. A Master of Judicial Studies degree program is jointly sponsored by the National Judicial College, the University of Nevada, Reno, and the National Council of Juvenile and Family Court Judges. The College also offers a certificate in Judicial Development in several areas: 1) general jurisdiction trial skills; 2) special court trial skills; 3) administrative law adjudication skills; 4) court management skills; and 5) dispute resolution skills. In addition, special courses are designed for international delegations visiting the United States. The College has also done grant funded projects in Russia, Eastern Europe, and other places outside of North America.

2. Services Provided

The National Judicial College offers courses for general jurisdiction, special jurisdiction, administrative law, appellate, and tribal court judges. The curriculum includes overview courses for new judges and substantive law, skills training, court management, and enrichment courses for more experienced judges. The College also does extension courses upon request for states and government agencies. In addition, numerous foreign judges visit Reno to learn about the College's work and take courses.

3. Associated Organizations

The National Judicial College is affiliated with the American Bar Association.

4. Membership Requirements and Fees

There are no membership fees, however, tuition and conference fees, plus housing, will cost approximately $695 for a two-day course, $1,220 for a one- week course, $1,480 for a one-week mediation course, $2,130 for a two-week course, and $3,030 for a three week course. Fees are slightly higher for satellite courses and for selected courses.

The National Judicial College
Judicial College Building, M.S. 358
Reno, NV 89557
1(800) 25JUDGE or (775) 784-6747
FAX (775) 784-4234
http://www.judges.org/

K. National Juvenile Court Services Association

1. Purpose

The purpose of the National Juvenile Court Services Association (NJCSA) is to train and educate personnel in matters of improving juvenile justice systems through administration, management, and service delivery techniques; to plan and coordinate educational programs with the National Council of Juvenile and Family Court Judges which are targeted to improving juvenile court services and administration; to raise the level of professional competency in the juvenile justice system; to increase community understanding of the philosophy and activity of the juvenile justice system and seek greater community support of children's treatment programs; and to offer technical assistance to juvenile and family courts on a broad spectrum of juvenile justice issues.

2. Services Provided

The National Juvenile Court Services Association provides the opportunity to attend and become involved in conferences, seminars, and training touching all phases of the juvenile justice system.

As members of NJCSA, you are entitled to receive the following publications:

- The quarterly NJCSA Newsletter RAPPORT and RAPPORT BULLETIN, which keep members abreast of the latest training programs, new programs as they become available, certification requirements, legislation, employment opportunities, and regional activities and articles of interest;
- The NJCSA Membership Directory which lists all members' names, addresses, and telephone numbers.

For those members of NJCSA who are associate members of the National Council of Juvenile and Family Court Judges, you will also receive these publications:

- The monthly Juvenile and Family Law Digest, which reports and provides commentary on recent relevant state supreme court decisions;
- The quarterly Juvenile and Family Court Juvenile, which presents articles on topics related to the field of juvenile justice;
- The Juvenile and Family Court TODAY Magazine, which updates members on organizational news and major events in the field of juvenile and family law.

One of NJCSA's stated purposes is to improve the professional competency of personnel in the juvenile justice system. A major function of that goal is professional certification. NJCSA has taken a leadership role by establishing criteria, determining curriculum, and providing management institutes for professional certification. Establishing the criteria and determining the curriculum as well as certifying candidate review are functions of the Certification Committee of NJCSA.

3. Associated Organizations

The National Juvenile Court Services Association is an organization affiliated with the National Council of Juvenile and Family Court Judges, for which the National Council serves as secretariat.

4. Costs

NJCSA Membership and NCJFCJ Associate Membership	$92
NJCSA Membership Only	$30

National Juvenile Court Services Association
PO Box 8970
Reno, NV 89507
(775) 784-6895
FAX (775) 784-6628
Email: admin@ncjfcj.unr.edu; http://www.ncjfcj.unr.edu

L. Other

1. Bureau of Justice Assistance (BJA)

The Bureau of Justice Assistance (BJA) is a Bureau within the Office of Justice Programs that provides funding, evaluation, training, technical assistance, and information support to State and community criminal justice programs, thus effectively forming partnerships with State and local jurisdictions.

Bureau of Justice Assistance
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 616-6500 or (202) 514-6278
FAX (202) 305-1367
E-mail: askBJA@ojp.usdoj.gov; http://www.ojp.usdoj.gov/BJA

2. Drug Court Clearinghouse & Technical Assistance Project (DCCTAP)

The Drug Court Clearinghouse & Technical Assistance Project (DCCTAP) is sponsored by the Drug Court Program Office of the Office of Justice Programs and operated by American University. The DCCTAP compiles operational and evaluative information on adult, juvenile, and family drug court programs throughout the United States.

Drug Court Clearinghouse & Technical Assistance Project
American University, Justice Programs Office
4400 Massachusetts Avenue, NW
Brandywine, Suite 100
Washington, DC 20016-8159
(202) 885-2875
FAX (202) 885-2885
E-mail: justice@American.edu; http://www.american.edu/justice

3. Drug Courts Program Office (DCPO)

The Drug Courts Program Office is in the Office of Justice Programs. The Drug Courts Program Office administers the drug court grant program, which offers grants to jurisdictions to plan, implement, or enhance drug courts. The Drug Courts Program Office also provides financial and technical assistance, training, related programmatic guidance, and leadership on drug court issues.

Bureau of Justice Assistance
810 7th Street, NW - 4th Floor
Washington, DC 20531
(202) 514-6015
FAX (202) 616-0314
http://www.ojp.usdoj.gov/

4. National Association of Drug Court Professionals (NADCP)

The National Association of Drug Court Professionals (NADCP) is the principal organization of professionals involved in the development, implementation, and operation of treatment-oriented Drug Courts.

National Association of Drug Court Professionals
4900 Seminary Road
Alexandria, VA 22311
(703) 575-9400
FAX (703) 575-9402
E-Mail: NADCP1@aol.com; http://www.nadcp.org

5. National Drug Court Institute (NDCI)

The National Drug Court Institute (NDCI) is an affiliate of the National Association of Drug Court Professionals and provides comprehensive training to practitioners, supports investigative projects aimed at the development of more effective drug court policies and procedures, and disseminates important information on research, evaluations, and commentary on drug court issues.

National Drug Court Institute
901 North Pitt St., Suite 370
Alexandria, VA 22314
(703) 706-0576
FAX (703) 706-0577
E-Mail: NDCI1@aol.com; http://www.ndci.org

6. Office of Juvenile Justice and Delinquency Prevention (OJJDP)

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is a Bureau within the Office of Justice Programs and is charged with leading the fight against juvenile violence and victimization, promoting practical solutions to the problems challenging the nation's juveniles by providing research, evaluation, grant funding, and technical assistance to the juvenile justice field.

Office of Juvenile Justice and Delinquency Prevention
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, D.C. 20531
(202) 307-5911
FAX (202) 307-2093
E-Mail: askjj@ojp.usdoj.gov; http://ojjdp.ncjrs.org

State Court Administrative Office

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State Court Administrative Office

3-01 OVERVIEW OF FUNCTIONS AND ORGANIZATION

The mission of the State Court Administrative Office is to provide leadership and promote effective, efficient, equitable, uniform, and accessible court and justice system services to advance the highest quality of justice in Michigan. It's vision is to lead, manage, and actively support the Michigan state court system and to be recognized as the leading source of insight, knowledge, and technical expertise for continuous improvements and innovations in court administration.

Under the general direction of the Supreme Court, the State Court Administrative Office is responsible for assisting in the administration of justice in Michigan's trial courts (Michigan Constitution, Article VI, Section 3). The State Court Administrator is responsible for advising the Supreme Court, as well as the executive and legislative branches, on matters relating to management of the State's One Court of Justice.

A. Functions

The State Court Administrative Office:

1. Advises the Supreme Court on matters relating to the administration of the state's judicial business.

2. Provides management assistance and direction to the courts on the administration of the courts' business through such means as dissemination of relevant information; advice and direction on specific issues; and on-site management reviews.

3. Develops and analyzes statewide information regarding the work of the state's courts.

4. Conducts research on court management issues.

5. Acts as liaison between courts as well as between media, executive and legislative branch agencies, and the courts.

6. Develops guidelines for operations and certain decision making functions such as the child support formula.

7. Develops and maintains automated trial court information systems.

8. Operates court improvement programs and other specialized state level court related programs such as the Community Dispute Resolution and Foster Care Review Board Programs.

9. Analyzes administrative impact of court rules, legislation, and other administrative policy on court operations.

10. In conjunction with the Michigan Judicial Institute, provides training on court administration to judges and court support staff.

11. Develops forms and operations/reference manuals for court use.

Judges and court staff work directly with Regional Administrative Offices to receive assistance and direction from the State Court Administrative Office (see map on page 3-01-05).

B. Organization

1. Offices

a. Lansing - Michigan Hall of Justice
925 West Ottawa, PO Box 30048
Lansing, Michigan 48909
(517) 373-0130

b. Lansing - Michigan Hall of Justice
Foster Care Review Board
925 West Ottawa, PO Box 30048
Lansing, Michigan 48909
(517) 373-1956

c. Lansing - Michigan Hall of Justice
Judicial Information Systems
925 West Ottawa, PO Box 30048
Lansing, Michigan 48909
(517) 373-8777

d. Lansing - Michigan Hall of Justice
Region II
PO Box 30048
Lansing, Michigan 48909
(517) 373-9353

e. Detroit
Region I
PO Box 31-1440
Detroit, Michigan 48231
(313) 256-9124

f. Detroit
Foster Care Review Board
1616 Penobscot Building
Detroit, Michigan 48226
(313) 256-9786

g. Southfield
Judicial Information Systems
American Center Building
27777 Franklin Road
Southfield, Michigan 48034
(248) 352-8990

h. Mt. Pleasant
Region III
PO Box 750
Mt. Pleasant, Michigan 48804-0750
(517) 772-5934

i. Gaylord
Region IV
PO Box 100
Gaylord, Michigan 49734
(517) 732-3311

j. Gaylord
Foster Care Review Board
400 W. Main Street
Suite 113
PO Box 9
Gaylord, Michigan 49734
(517) 732-0494

k. Lansing
Office of Dispute Resolution
925 West Ottawa, PO Box 30048
Lansing, Michigan 48909
(517) 373-4839

2. Chart of State Court Administrative Office Organization and Functions

State Court Administrator
John D. Ferry, Jr.

Deputy State Court Administrator
Dawn A. Monk

♦ ***Administrative Services Division*** **- Dawn A. Monk**

Office Support

- Coordination of Judicial Assignments
- Directories
- Judicial Elections
- Information Access and Support
- Office Procedures

Budget and Finance

- Budget
- Drug Case Information Management Fund
- Grant Management and Technical Assistance
- Drunk Driving Caseflow Assistance Fund
- Court Equity Fund

Policy and Planning

- Strategic Planning
- Annual Report, Caseload Reports
- Judicial Conferences
- Policy Analysis and Quality Control
- Judicial Resources
- Sentencing Guidelines
- Staff Development
- Trial Court Information Analysis

♦ ***Trial Court Services Division*** **- Director: Nial Raaen**

- Research, Analysis, Standards
- Caseflow Management
- Court Improvement Projects
- Forms and Manuals
- Foster Care Review Board Program
- Friend of the Court Bureau
- Family Court Implementation
- Liaison to Trial Court Related Associations
- Management Assistance
- Access to Justice
- Court Report/Recorder Testing-Certification
- Guardianship Ombudsman Project

♦ ***Judicial Information Systems Division*** **- Director: Marcus Dobek**

- Court System Design and Development
- Data Processing Management Assistance
- State Court Administrative Office/ Supreme Court - Office Automation Unit
- Network Management
- Court Systems Development and Support Operations and Maintenance
- Liaison to State Information Offices

♦ ***Regional Administration Division*** **- Regional Administrators (see below)**

- Caseflow Management
- Communication Link between Trial Courts and State Agencies
- Judicial Assignments
- Management Assistance
- Policy Implementation in Trial Courts
- Oversight of Trial Courts
- Public Inquiries
- Resolution of Disputes between Trial Courts and Local Government

Region 1: Deborah Green
Region 2: James P. Hughes
Region 3: J. Bruce Kilmer
Region 4: James L. Covault

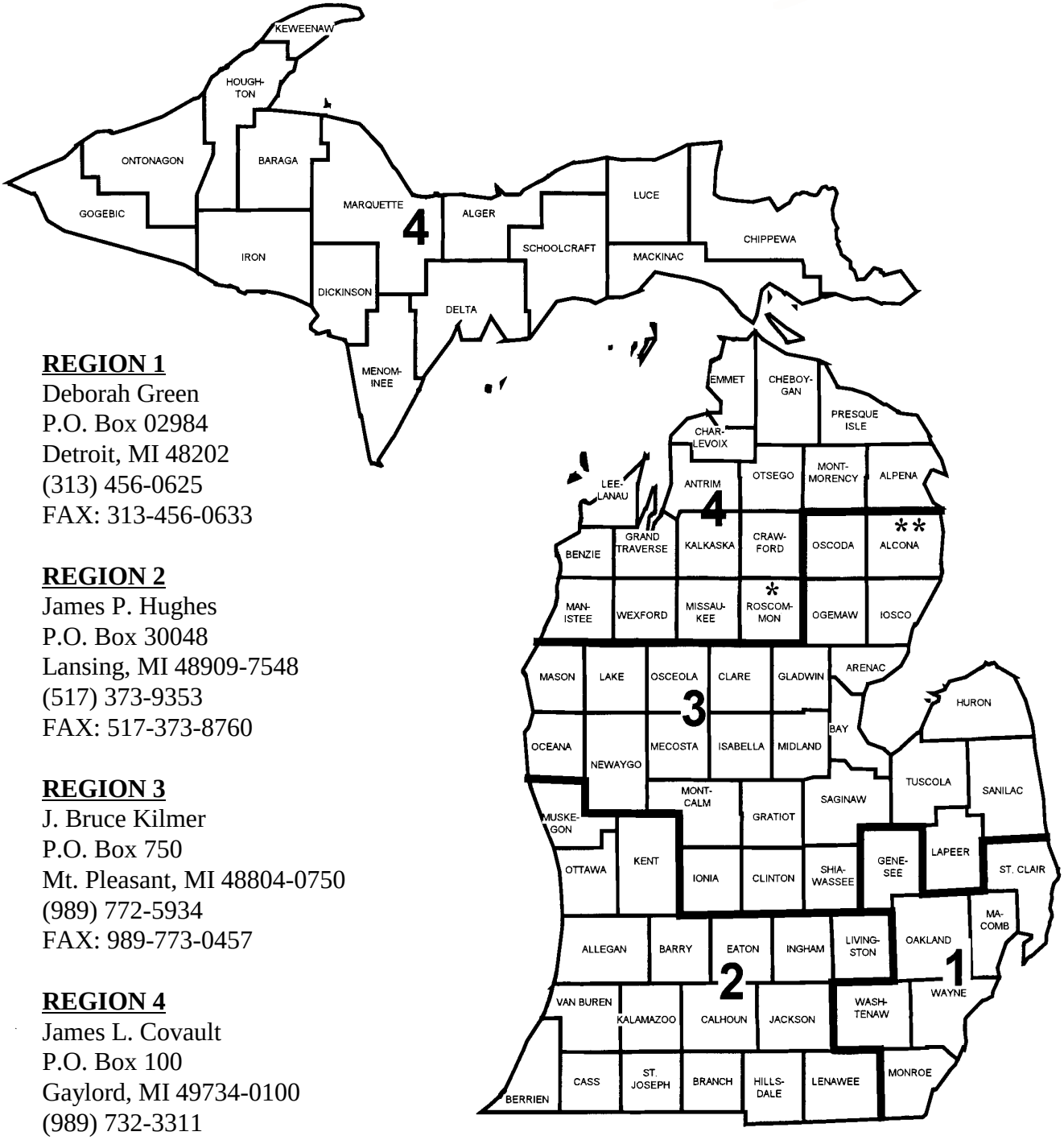
♦ ***Office of Dispute Resolution*** **- Director: Douglas A. Van Epps**

- ADR Court Rule Implementation
- Agricultural Mediation Program
- Community Dispute Resolution Program
- Permanency Planning Mediation Program
- Special Education Mediation Program

♦ ***Michigan Judicial Institute*** **- Interim Director: Dawn McCarty**

- Judicial Education Seminars
- Staff Training
- Development of Distance Learning Products
- Management Training Seminars
- Technical Assistance for Trial Court Training
- Education Standards

3. Court Administrative Regions



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* Circuit Court operations for Roscommon are covered by Region 3
** Circuit Court operations for Alcona are covered by Region 4

3-02 STANDING ADVISORY COMMITTEES

A. Purpose

As a matter of policy, the State Court Administrative Office makes extensive use of advisory committees composed of justice system professionals, attorneys, and the general public to provide advice on the conduct of court improvement projects, the development of forms, procedures, manuals and other initiatives. While most of these advisory committees are created for specific projects and, therefore, exist only for the period of time that the initiative or project is underway, some committees are established as "standing" committees and operate continuously. These "standing" committees consist of persons who are rotated with some frequency in order to maximize input from participants in the justice system.

B. Obtaining List of Current Committees

In order to obtain a list of current committees, it is suggested that contact be made with the Administrative Support Division of the State Court Administrative Office. In addition, the State Court Administrative Office annually recognizes the work of standing and project advisory committees in its annual report.

C. Description and Function of Current Standing Advisory Committees

1. Court Reporting and Recording Board of Review

The Michigan Court Reporting and Recording Board of Review is established by Michigan Court Rule 8.108(G)(2), which was revised by the Supreme Court in 1987. The Board administers certification examinations for court reporters, recorders, and electronic operators twice a year. The Board also monitors certification requirements for reporters, recorders, and operators and conducts hearings on complaints against reporters, recorders, and operators relating to violation of rules of procedure. By court rule, the Board is composed of one Court of Appeals judge, three trial judges, two court reporters, two court recorders, one attorney, and a Board secretary assigned from the staff of the State Court Administrative Office.

The Court Reporting and Recording Board of Review is staffed by Trial Court Services staff.

2. Michigan Court Forms Committee

The Michigan Court Forms Committee is an advisory committee established to assist the State Court Administrative Office in creating and revising forms for use in the trial courts. Committee members are selected from trial court judges, trial court administrators and staff, attorneys, prosecutors, and representatives of key executive branch agencies.

The Michigan Court Forms Committee is staffed by Trial Court Services staff.

3. Foster Care Review Board Advisory Committee

The Foster Care Review Board Program Advisory Committee consists of a representative elected from each of the 30 local boards, with others appointed by the State Court Administrator pursuant to MCL 722.133(m) to consult with State Court Administrative Office staff regarding policies and procedures affecting the foster care system.

4. Foster Care Review Boards

The Citizen's Foster Care Review Board Program was established by the legislature to improve children's foster care programs throughout the state. The Program creates citizen review boards to review individual neglect/abuse cases within the foster care system to assist the court and children's services agencies in assuring prompt and permanent child placement. The program was continued and expanded by MCL 722.131 et seq. in 1998 and included 30 review boards covering all 83 counties.

The boards are staffed by Foster Care Review Board Program staff in Lansing, Detroit, and Gaylord within the State Court Administrative Office.

5. Friend of the Court Advisory Committee

A nine person Friend of the Court Advisory Committee is established by MCL 552.501 et seq., which provides that the Committee shall have three public members, three attorneys, and three human services professionals. Two local friends of the court have been appointed by the State Court Administrative Office to serve as non-voting members. The Committee advises the State Court Administrative Office regarding policies and procedures for friend of the court offices. The Committee has established a standing subcommittee on the Child Support Formula.

The Committee is staffed by the Friend of the Court Bureau, Trial Court Services staff.

6. Judicial Information Systems

The Judicial Information Systems (JIS) operates on-line systems for probate and district courts and develops and maintains software for distributed systems for all trial courts. System user committees have been established to provide advice to the State Court Administrative Office data processing staff regarding development of systems and maintenance and revision of those systems. Committee membership includes trial court judges, administrators, and staff of the JIS users, as well as key executive staff personnel from agencies with whom trial courts typically exchange information such as the State Police, Secretary of State, and Family Independence Agency.

There are four principal system user committees: the Probate Court System User Committee, the Juvenile Court System User Committee, the Circuit Court System User Committee, and the District Court System User Committee. Each of these primary committees establishes task specific or subsystem subcommittees as appropriate.

Staff support for system user committees is provided by Judicial Information Systems and Trial Court Services.

7. Manual Revision Committees

Committees have been created by the State Court Administrative Office to provide assistance in updating procedure manuals provided by the State Court Administrative Office for reference by trial court judges and staff. Each of these manuals focuses on a specific functional area of trial court operations, and the manual revision committees' membership is composed of trial court judges, court administrators, and other trial court and executive branch staff as appropriate to the content of the manual. Since the manuals must be updated on a periodic basis, depending on the frequency of change in the rules or the law, the committees are convened from time to time as necessary to ensure that the substance of the manuals are current. Currently the committees include the Michigan Court Administration Reference Guide Revision Committee, the Court Reporters and Recorders Manual Revision Committee, the Probation Officers Manual Revision Committee, the District Court Magistrates Manual Revision Committee, and the Friend of the Court Manual Revision Committee.

These committees are staffed by Trial Court Services staff.

8. Video Tape Record Users Committee

The Video Tape Records Users Committee is an advisory committee established to assist the State Court Administrative Office in addressing issues relative to video tape record proceedings.

The Committee had developed a handbook/ reference manual for video tape record use in the State of Michigan. The Committee meets twice annually to discuss issues of concern regarding video tape record. Committee membershsip includes judges and administrators from video tape record courtrooms.

The Committee is staffed by Trial Court Services staff. (see also Sections 1-06 and 10-01).

3-03 MANUALS

The following is a list of most of the manuals prepared and distributed by the State Court Administrative Office. Manuals updated on an annual basis are designated as such. Most of these manuals and handbooks are designed for a specific audience or for a specific purpose and are distributed to those appropriate court staff.

Caseflow Management: A Practitioner's Guide
(one manual distributed to each judge, court clerk/administrator, county clerk, probate register, and juvenile officer)

Caseload of Michigan Trial Courts: Reporting Forms and Instructions
(available to anyone through the web)

Circuit and District Court Forms Handbook - Volumes 1, 2, and 3 (updated annually)
(one set distributed to each circuit and district court forms contact person)

Circuit Court System Quarterly Briefs
(one brief distributed to each user of the system)

Circuit Court System Users Manual
(one manual distributed to each user of the system)

Community Dispute Resolution Polices and Procedures Manual
(one manual distributed to community dispute resolution program centers - also available to anyone upon request for $50.00)

Conducting the Mediator Skill-Building Training Program
(one manual distributed to each mediator who has attended training)

Court Security Manual (including standards)
(one manual distributed to each court officer; available to anyone through the web)

Custody and Parenting Time Investigation Manual
(available to anyone through the web)

Distributed District Court System Administration User Guide
(one manual distributed to each user of the system)

Distributed District Court System Cash Module User Guide
(one manual distributed to each user of the system)

Distributed District Court System Civil Module User Guide
(one manual distributed to each user of the system)

Distributed District Court System Probation Module User Guide
(one manual distributed to each user of the system)

Distributed District Court System Traffic/Criminal Module User Guide
(one manual distributed to each user of the system)

Friend of the Court Forms Handbook (updated annually)
(one manual distributed to each friend of the court forms contact person)

Guidelines for Court Ordered Reimburesment and Procedures for Reimbursement Program Operations
(one copy distributed to each probate court - also published in the Michigan Court Administration Reference Guide - also available to anyone upon request for $12.00)

Handbook of Policies and Procedures for the Citizen's Foster Care Review Board Program in Michigan
(one handbook distributed to each Foster Care Review Board member)

Judicial Assignment Guidelines
(one copy distributed to each court - also published in the Michigan Court Administration Reference Guide)

Juvenile Court Docketing and Indexing System User Manual
(one manual distributed to each user of the system)

LEIN and Secretary of State User Manual
(one brief distributed to each user of the system)

Manual for Court Reporters and Recorders (updated annually)
(available to anyone for purchase; available to anyone through the web)

Manual for District Court Magistrates (updated annually)

Manual for District Court Probation Officers (updated annually)
(one manual distributed to each probation officer)

Michigan Child Support Formula (generally updated annually)
(available to anyone for purchase; available to anyone through the web)

Michigan Court Administration Reference Guide - Volumes 1 and 2 (updated at least every 2 years)
(one set distributed to each judge, court clerk/administrator, county clerk, probate register, juvenile officer, and friend of the court)

Michigan Custody Guideline
(available to anyone through the web)

Michigan Juvenile Law Sourcebook (updated annually)
(one manual distributed to each juvenile register; available to anyone through the web)

Michigan Pretrial Services Procedural Manual
(one manual distributed to each chief circuit and district judge and each pretrial program - also available to anyone upon request)

Model Friend of the Court Handbook (model on disk)
(copies distributed to each friend of the court office upon request; available to anyone through the web)

Parenting Time Guidelines
(available to anyone through the web)

Probate Court Docketing and Indexing System User Manual
(one manual distributed to each user of the system)

Probate Court System Quarterly Briefs
(one brief distributed to each user of the system)

Probate/Juvenile Financial System User Manual
(one manual distributed to each user of the system)

Sentencing Guidelines Manual
(available to anyone for purchase)

The Michigan Court Study - Volumes 1 - 7
(not available for distribution)

Trial Court Standards of the State Court Administrative Office (a series of manuals)
(one set distributed to each judge, court clerk/administrator, county clerk, and probate register; available to anyone through the web)

Video Record System Implementation Manual
(one manual distributed to each user of the system; available to anyone through the web)

Of the above listed manuals, the following are distributed by other organizations.

1. Michigan Child Support Formula
   Distributed by:

   Department of Management and Budget
   Office Services Division
   Attention: Publications
   7461 Crowner Drive
   PO Box 30026
   Lansing, MI 48909

   West Publishing Company
   PO Box 64526
   St. Paul, MN 55164-0526
   (800) 328-9352

2. Michigan Sentencing Guidelines Manual
   Distributed by:

   West Publishing Company
   PO Box 64526
   St. Paul, MN 55164-0526
   (800) 328-9352

3-04 REQUIRED REPORTING TO THE SCAO

The following is a list of reports that must be prepared by the courts and submitted to the State Court Administrative Office, their due dates, the form number (if one), who should submit the report, and where to submit the report. Included in the list are some orders which must be submitted upon entry.

Report and Due Date	Form Number	Submitted By	Send To
Annual Report of Appointed Counsel **see below	none	All Courts	Central Office
Annual Statutory Review Due 8/15	FOC 17	Chief Circuit Judges	Central Office
Child Support Deviation Survey Due first full business week of October and November	SCAO 42a, SCAO 42b	Family Division Judges Domestic Relations Referees and FOC staff	Central Office
Circuit Court Caseload Due 1/30, 4/30, 7/30, 10/30	SCAO 31	Circuit Courts	*
Delinquency Fiduciary Report Due first business day of January and July	SCAO 23	Chief Probate Judges	Regional Office
District Court Caseload Due 1/30, 4/30, 7/30, 10/30	SCAO 18	District and Municipal Courts	*
Fiduciary Status Due within 60 days of taking office	SCAO 29	All Judges	Central Office
Financial Report Due 4/15	SCAO 17	All Judges	Regional Office
FOC Grievance Records Due 1/15 and 7/15	SCAO 28	Chief Circuit Judges	Central Office
FOC Statistical Report Due 2/15	SCAO 41	Friends of the Court	Central Office
Judges Salary Supplement and Fringe Benefit Survey Due annually	SCAO 52	All Judges	Central Office
Michigan Supreme Court Employee Compensation Survey Due annually	SCAO 51a, 51b, 51c, 51d	All Courts	Central Office

Report and Due Date	Form Number	Submitted By	Send To
Michigan Trial Court Employee Demographics Survey Questionnaire Due mid February	PER 1	Chief Circuit, District, and Probate Judges	Central Office
Monthly Activity Report for Family Division/Circuit Court Due 1/30, 4/30, 7/30, 10/30	SCAO 40b	Circuit Courts/ Family Division	*
Prisoner Condition Lawsuit Dismissal Orders Due upon entry of order	CC 78	Circuit Judges	Central Office
Probate Court Caseload Due 1/30, 4/30, 7/30, 10/30	SCAO 22	Probate Courts	*
Sealed Court Records Due upon entry of order	n/a	All Judges	Central Office
Sentencing Information Report and Departure Evaluation Due 15th of each month	SIR 88-1, SIR 88-2	All Judges	Central Office
Speedy Trial Report Due 1st of each month	SCAO 13, SCAO 14	Chief Circuit and District Judges	Regional Office
Statement of Matters Undecided Due first business day of January, May, and September	SCAO 27, SCAO 27a	Circuit, District, Municipal and Probate Courts	Regional Office
Summary of Drunk Driving and Drug Cases Due date determined annually; courts will be notified	SCAO 24	Circuit, District, and Municipal Courts	Central Office
Transfer Orders (Sup Ct AO 1998-01) Due upon entry of order	n/a	All Judges	Central Office

*Caseload reports are submitted electronically through a web-based application called the Caseload Reporting System (CRS).

**When requested by the State Court Administrator, a trial court must provide a copy of its most recent annual report regarding appointment of counsel pursuant to MCR 8.123(F)(1).

3-05 STATE COURT ADMINISTRATOR ADMINISTRATIVE MEMOS

The State Court Administrative Office regularly provides guidance to chief judges and trial courts regarding administration of trial court business, implementation of Supreme Court policies, and implementation of legislation and court rules. The State Court Administrative Office has inaugurated a formal process for articulating administrative policies and procedures through use of a numbered "SCAO Administrative Memorandum" series. The scope includes policy and procedure for administrative subject matter, including the manner of implementing Supreme Court policy, court rules, and statutes.

SCAO Administrative Memoranda are distributed to chief judges via e-mail and are available on the SCAO website at: http://courts.michigan.gov/scao/resources/other/proc.htm. A list of the current memoranda and subject matter is located below.

Most standards for the trial courts are distributed through administrative memoranda and are located in the Trial Court Standards of the State Court Administrative Office, a series of manuals being developed for all standards for trial courts issued by the State Court Administrative Office.

Administrative Memo #	**Description**
1997-01	Data Standards
1998-01	SCAO Judicial Assignment Guidelines
1998-02	SCAO Guidelines for Accommodations for Persons with Disabilities
1998-03	Family Division Fees
1998-04	Local Uniform Chart of Accounts
1998-05	Family Division Policy 1998-02 Unemployed Non-Custodial Parent Program
1998-06	Abstracting of Convictions to Secretary of State
1998-07	PPO Violation and Enforcement Issues
1998-08 ch1	Percent of Closed Dispositions by County as of 5/1/98
1998-08 ch2	Percent of Closed Dispositions by County/Year as of 5/1/98
1998-08	Criminal Disposition Reporting to Michigan State Police Central Records
1998-09	Family Division Policy 1998-FD-03 Surcharge on Support Arrears
1998-10	Filing of Transfer Orders With SCAO Pursuant to Supreme Court Administrative Order 1998-01
1998-11	New Treasury Transmittal Forms
1999-01	Batterer Intervention Standards Application
1999-02	Administrative Order 1998-5, Guidelines for Unscheduled Court Closing Due to Weather Emergency and Guideline for Court Staff Hours Local Administrative Orders (LAO) - 2/19/99 Memo re AO 1998-5 - Guidelines-Staff Hours - Guidelines-Weather

Administrative Memo #	Description
1999-03	Judicial Leave Recordkeeping
1999-04	Personal Protection Actions Against Minors and Designated Juvenile Cases Caseload Reporting
1999-05	Abstracting of Convictions to Secretary of State - Timeliness Memo - Convictions Chart
1999-06	Drunk Driving Caseflow Assistance Fund - 7/23/99 Dept of Treasury Letter #99-4
1999-07	District Court Magistrate Jurisdictional Increase - Model LAO3a - Model LAO3b
1999-08	Records Retention and Disposal Schedule #16 Schedule
1999-09	License Suspension for Violation of Support and/or Parenting Time - License Suspension Decisional Aid - State Department Information - License Name/Division Name - Secretary of State Codes by County
1999-10	Protective Conditions of Probation for Names Persons - Entry Into LEIN
1999-11	Statewide School Safety Information Policy - Guide - HB 4240 - Policy - Agreement
1999-12	Drunk Driving Caseflow Assistance Fund - Reporting Change - Form SCAO 24
2000-01	Prison Condition Lawsuits - Form CC 78 - 99 PA 147 - 99 PA 148
2000-02	Reporting of Involuntary Hospitalization, Legal Incapacitation, and Not Guilty by Reason of Insanity Orders - Reporting Procedure; Orders for Involuntary Hospitalization - Form PCM 214 - Reporting Procedure; Order Appointing Guardian - Form PC 631 - Reporting Procedure; Not Guilty by Reason of Insanity - Form MC 207 - Form MC 239 - Performance Audit
2000-03	Implementing Michigan Trial Court Case File Management Standards - Compliance Checklist - Model LAO

2000-04	Revised Probate Fee and Distribution Schedule
2000-05	Digital Audio Recording Systems
2000-06	Amendment of Case File Management Standards; Classification Codes
2000-07	Trial Court Communications Policies and Procedures
2000-08	Allocation and Distribution of Support Accounts
2000-09	Petition for Testing of Infectious Disease
2000-10	Prison Condition Lawsuits (1999 Public Acts 147 and 148)
2000-11	Administrative Liens for Past Due Support
2001-01	Interim Mediation Training Standards and Procedures; Standards of Conduct for Mediators
2001-02	FOC Administrative Case Closure Criteria
2001-03	Approval of Digital Video Recording Systems
2001-04	Non-Custodial Parent Work First Program
2001-05	Citizen Advisory Committee Access to Friend of the Court Records
2001-06	Abstract Timeliness
2001-07	Public Act 503 of 2000 - Amendments to the Crime Victim's Rights Act
2001-08	Guidelines for Procedures Regarding Payee Retention of Private Collection Agencies on Friend of the Court Cases
2001-09	Friend of the Court Support Case Administrative Closure Criteria
2001-10	Public Acts 84-91 - DNA Sampling and Assessment
2002-01	Public Acts 187-188 and 203-204, Fingerprinting and Reporting to Criminal Justice Information Center
2002-02	Seatbelt Violations; Fines, Costs and Other Assessments
2002-03	Orders for DNA Sample
2002-04	Appointment of Court Officers
	Supplement to 2002-04
	Implementation Questions Re: 2002-04
2002-05	Court Collections Standards Implementation Tools
2002-06	Court Security Standards
2002-07	Authority for Probate Register to Perform Judicial Acts
2002-08	SCAO Guidelines for Reivew of Fiduciary Accounts
2002-09	Consular Notification and Access
2002-10	Converting Support Orders to Monthly Amounts
2002-11	Guidelines for Enforcement of Custody and Parenting Time Violations
2002-12	Guidelines for Development of Plans Involving Children who are Absent Without Legal Permission
2002-13	Increases to Juror Compensation - Court Fee Increases
2003-01	Increases to Juror Compensation - Court Fee Increases (updates 2002-13)
2003-02	Implementation of New Michigan Court Rule on Incarcerated Parties
2003-03	Friend of the Court Complaint and Grievance Procedure
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Trial Court Services and

Attendant Departments

4-01 TRIAL COURT ADMINISTRATORS

A. Authority

Authority for establishing the position of trial court administrator is provided by MCR 8.110(C)(6), "A chief judge may delegate administrative duties to a trial court administrator or others."

B. Duties and Functions

The trial court administrator performs administrative duties delegated by the chief judge. The National Association of Court Management and the American Bar Association Commission on Standards of Judicial Administration provide information regarding the role of an administrator, suggested duties, and qualifications.

A trial court administrator relieves the time demands on the chief judge for administrative matters and brings professional management knowledge and experience to the court.

An administrator will typically coordinate activities of the various agencies providing services to the court; administer the workload of the court; administer the personnel functions of the court; prepare and administer the court budgets; analyze and evaluate caseflow management; and manage the court information systems.

For more detailed information, the following references may be helpful:

1. Standards Relating to Trial Courts, American Bar Association, 1976, pp. 61-67.

2. Standards Relating to Court Organization, American Bar Association, 1974, pp. 86-97.

(see also Section 1-05, page 1-05-01)

C. Recommended Responsibilities

The Gender Bias Task Force recommends that all court administrators should:

a. direct that all forms, manuals, bench books, and correspondence employ gender-neutral language;

b. establish a policy prohibiting gender-biased conduct by all judges and court personnel;

c. conduct regular training for court employees on the issue of gender bias and its relation to the proper function of the court as a service provider; and

d. when undertaking improvements to court facilities, take into account the special needs of parents by providing for child care areas and facilities.

4-02 CIRCUIT COURT CLERK (COUNTY CLERK)

A. Authority

1. The county clerk has the constitutional responsibility to be the clerk of the circuit court in every county organized for judicial purposes except those counties in which a county charter provides otherwise. [Const. 1963, Art. 6, Sec. 14]

2. The county clerk of each county shall be the clerk of the circuit court for the county. [MCL 600.571(a)]

B. Appointment of Deputy Circuit Court Clerk (Deputy County Clerk)

1. Each county clerk shall appoint one or more deputies, to be approved by the circuit judge, one of whom shall be designated in the appointment as the successor of the clerk in the case of vacancy from any cause and may revoke the appointment at his/her pleasure. The appointment and revocation shall be in writing and filed in the office of the county treasurer. The deputy(ies) may perform the duties of the county clerk. [MCL 50.63]

2. The county clerk shall appoint, in counties with more than one circuit judge or having more than 100,000 population but less than 1,000,000, a deputy for each judge, approved by the judge, to attend court sessions. [MCL 600.571(c)]

3. In counties having a population of more than 1,000,000, special provisions apply. [MCL 600.579]

C. Bonding of County Clerk

1. As determined by the county board of commissioners, the county clerk either shall be covered by a blanket bond or shall give a bond to the people of the state, in the penal sum of $2,000, to be approved by the circuit judge, for the faithful discharge of the duties of the county clerk's office. (see also Section 13-02, pages 13-02-01 and 13-02-02) [MCL 50.61]

   The substance of an individual bond for the county clerk is specified by MCL 50.62.

2. The circuit judge may, at his/her discretion, require the county clerk to file a bond with the county treasurer conditioned that the clerk shall, in all respects, comply with the requirements of law and the court rules in the handling and management of funds deposited with the court pursuant to court order. [MCL 600.572]

D. Removal of County Clerk

The judge of the circuit court has authority to remove the county clerk from office under certain circumstances. [MCL 168.208]

E. Filling Vacancy in County Clerk's Office

The judge of the circuit court may fill a vacancy in the office of county clerk. (see also Section 15-01, page 15-01-02) [Const. 1963, Art. 6, Sec. 14, MCL 168.209]

F. Duties and Responsibilities

1. Attend Sessions of Courts [MCL 600.571]

2. Maintain Office Hours

The office of the circuit court clerk must be open, and the clerk or deputy clerk must be in attendance, during business hours and at other times that the court is in session. [MCR 8.105(A)] The hours of the court are determined by the administrative order issued by the chief judge. [MCR 8.110(D)(1)]

3. Record Maintenance

In maintaining case files, indexes, and other records and permitting access to records, the clerk of the court shall comply with the records standards prescribed by statute and court rule and as otherwise prescribed by the Michigan Supreme Court. (see also Section 8-02, page 8-02-01) [MCR 8.119, Michigan Trial Court Case File Management Standards]

4. Money Paid into Court

The clerk is responsible to receive, deposit, disburse, and keep records of money paid into court. (see also Section 6) [MCL 50.101 et seq., MCL 600.572 et seq., MCR 8.106]

5. Maintain Records of Court Reporter/Recorder

If the court reporter/recorder dies, resigns, is removed from office, or leaves the state, his/her records in each case must be transferred to the clerk of the court. (see also Section 8-02, page 8-02-02) [MCR 8.108(D)]

6. Jury System

The county clerk must perform certain duties for the jury system. (see also Section 12-04, pages 12-04-01 through 12-04-07)

7. Reports to Other Agencies

The county clerk must submit reports about the court's business to other local and state government entities. (see also Section 6-05, G, page 6-05-13; H, page 6-05-14; and E.5., page 6-06-06; Section 7-04, pages 7-04-01 through 7-04-04; and Section 8-05, page 8-05-01) [MCR 8.119(G)]

8. Admission of Person to Bar

The clerk of the Supreme Court and of each circuit court shall, when a person is admitted to the bar by that court, administer to the person the oath prescribed by the Supreme Court for members of the bar, and upon payment of the sum of $25.00 issue to that person a certificate of admission, and keep a record of the admission in the roll of attorneys and the journal of the court, and transmit promptly to the clerk of the Supreme Court and to the State Bar of Michigan without charge certified copies of the orders of admission. When a member of the Bar is suspended or disbarred, or is held in contempt, and when a person is reinstated as a member of the Bar, the clerk of the court so doing shall transmit to the clerk of the Supreme Court and to the State Bar of Michgian without charge certified copies of those orders. [MCL 600.913]

9. Other

Provide assistance to pro se litigants as required by statute.
[MCL 600.2950, MCL 600.2950a]

4-03 CIRCUIT COURT PROBATION/PAROLE

A. Probation

1. Appointment of Officers

The Michigan State Department of Corrections, which is administered by the Michigan Corrections Commission of which six members are appointed by the governor, shall appoint, supervise, and remove probation officers for the circuit court in a manner provided by the laws of the State of Michigan. [MCL 791.222, MCL 600.9931]

2. Establishment, Supervision, and Regulation of Bureau

Within the Michigan State Department of Corrections a department or bureau of probation was established. This bureau shall be under the direction and supervision of the assistant director in charge of probation. [MCL 791.221]

The assistant director shall endeavor to unify probation procedures throughout the state and shall regulate the procedure for the administration of probation including investigation, supervision, casework, record keeping, and accounting. [MCL 791.223]

3. Duties of Officer

A circuit court probation officer, under the general direction of a supervisor and under the auspices of the circuit court judge or judges shall conduct investigations and prepare informational reports to assist the court in determining appropriate sentences of individuals brought before the court. A circuit court probation officer shall supervise the probationer during his/her term of probation and may recommend relevant programs for rehabilitation.

4. Facilities

Counties are responsible for rent, contractual services, supplies, materials, and equipment costs supporting probation officers and personnel in the county, including any increases in such costs arising from an increase in probation services staffing. [MCL 791.223(a), OAG 1987-1988, No. 6448, p 136 (June 29, 1987)]

B. Parole

1. Definition

Parole is the act of releasing or the status of being released from a state penal institution in which a convicted felon has served a part of a maximum sentence, on condition of maintaining good behavior and remaining in the custody of a state agency, until a final discharge is granted.

2. Establishment, Supervision, and Regulation of Bureau

Within the Department of Corrections of the State of Michigan a bureau of pardons and paroles is established, which is administered by an assistant director within the state civil service. S/he shall be responsible to direct and supervise the bureau and shall formulate methods of investigation and supervision and develop various processes in the technique of the casework of the parole staff including interviewing, consultation of records, analysis of information, diagnosis, plan of treatment, correlation of effort by individuals and agencies, and methods of influencing human behavior. S/he shall employ parole officers and assistants, within a geographic parole district, as may be necessary, subject to the approval of the commission. [MCL 791.231(31)]

3. Duties of Officer

A parole officer, under the general direction of the district supervisor of each parole district shall supervise the parolee during his/her term of parole. A parole officer may offer guidance and assistance to the offender and may recommend relevant programs for rehabilitation. (see also MCL 791.231 -.245)

4-04 FRIEND OF THE COURT

A. Function

The friend of the court is an administrative arm of the circuit court. This office is generally responsible for the ongoing review and supervision of matters relating to children involved in domestic relations cases heard by the family division of the circuit court. The office conducts investigations, makes reports, mediates disputed cases, and utilizes a variety of statutory remedies to enforce the orders of the court pertaining to custody, parenting time, and support.

The office and facilities of the friend of the court shall provide assistance to the family division of circuit court in accordance with the court's jurisdiction. [MCL 600.1043]

B. Authority

The friend of the court was created by the legislature in 1919. The enabling statutes were substantially amended in 1982 and continue to be modified on a regular basis. The principal statute is the Friend of the Court Act. [MCL 552.501 et seq.]

Other statutes setting forth duties of the office include:

Divorce Act
[MCL 552.1 et seq.]
Family Support Act
[MCL 552.451 et seq.]
Support and Parenting Time Enforcement Act
[MCL 552.601 et seq.]
Interstate Income Withholding Act
[MCL 552.671 et seq.]
Uniform Child Custody Jurisdiction Enforcement Act
[MCL 722.1101 et seq.]
Fees
[MCL 600.2538]
Status of Minors Act
[MCL 722.1 et seq.]
Child Custody Act of 1970
[MCL 722.21 et seq.]
Paternity Act
[MCL 722.711 et seq.]
Revised Uniform Reciprocal Enforcement of Support Act (RURESA)
[MCL 780.151 et seq.]
Uniform Interstate Family Support Act (UIFSA)
[MCL 552.1101 et seq.]

C. Funding

The Friend of the Court Act provides that the chief judge shall set the salaries and expenses of the friend of the court and they shall be paid from the county general fund and the friend of the court fund. [MCL 552.527]

1. County General Fund

The county general fund receives revenue which may be used to offset the expenses of the friend of the court from a number of sources.

a. Statutory fees, which currently amount to $2.00 per month per case in which a support order is in effect. The fee is collected in a variety of ways by the state disbursement unit or the friend of the court and deposited with the county treasurer. It is becoming more common for the fees to be paid monthly or weekly through income withholding orders. [MCL 552.457, MCL 722.729, MCL 780.173]

   Another statutory fee of $1.25 is collected by the state disbursement unit or friend of the court every month from every person required to make payments of support or maintenance. Of this fee, $.25 is transmitted to the county treasurer (general fund) and $1.00 is transmitted to the state treasurer for deposit in the State Court Fund. [MCL 600.2538]

b. Cooperative Reimbursement Contract payments. A percentage of office expenses are reimbursed to the county. (see also Section 6-09, pages 6-09-01 and 6-09-02)

c. State and federal incentives are paid to the county based upon a formula adopted and revised periodically by the Michigan Family Independence Agency. [45 CF 303.52]

2. Friend of the Court Fund

The friend of the court fund was established by the legislature to provide funding for those new services and expenses created by the adoption of the Friend of the Court Act in 1982. [MCL 600.2530]

Revenue for the fund comes from two sources:

a. The state pays the fund 3% of the collections of the office attributable to reimbursement for FIP received by friend of the court payees.
   [MCL 400.18a]

b. Judgment fees assessed in each divorce case involving children based upon the level of services provided by the office prior to judgment. The minimum fee is $30.00. This is increased to $50.00 if mediation services are provided and to $70.00 if an investigation is conducted. [MCL 600.2529(1)(d)]

D. Duties of the Chief Judge Regarding Friend of the Court

In addition to the responsibility of the chief judge to establish the budget of the office, the Friend of the Court Act provides that all of the duties of the office shall be performed under the direction and supervision of the chief judge.

1. Filling Friend of the Court Vacancies

a. If the position of friend of the court becomes vacant for any reason, the chief judge shall appoint a person to the position of friend of the court not later than six months after the vacancy occurs. An appointment under this subsection is not effective until approved by a majority of the circuit, probate, and district court judges serving in all districts that have any area in common with the geographic area served by that friend of the court. [MCL 552.523(1)]

If necessary, the chief judge may appoint an interim friend of the court to serve for not longer than six months until a friend of the court is appointed. [MCL 552.523(2)]

b. In a multi-county circuit, the chief judge may merge friend of the court offices when a vacancy occurs. [MCL 552.503(2)]

2. Naming Referees for Friend of the Court Office

The chief judge names persons to serve as a referee for the friend of the court office. The chief judge may designate an employee of the office of the friend of the court who is a member of the State Bar of Michigan or, if no employee of the office is a lawyer, may designate a member of the State Bar of Michigan. A friend of the court who is not a lawyer, but who is serving as a referee at the time of adoption of this rule, may continue to serve. [MCL 552.507, MCR 3.215(A)]

3. Legal Assistance for Friend of the Court Office

Where neither the friend of the court nor any member of the staff is an attorney, the chief judge may appoint an attorney who is a member of the State Bar of Michigan to assist the friend of the court when legal assistance is needed in order to carry out the office's statutory duties. [MCL 552.522]

4. Annual Review of Friend of the Court Office

The chief judge conducts the annual review of the performance of the friend of the court office and submits a report of that review to the State Court Administrative Office (SCAO Approved Form FOC 17). [MCL 552.524]

5. Grievances Against Friend of the Court

a. The chief judge shall cause grievances against the friend of the court, filed with the chief judge, to be investigated and decided as soon as practicable. [MCL 552.526(1)(b)]

b. The chief judge submits to the State Court Administrative Office bi-annually a report of the grievances filed with the chief judge and their disposition (SCAO Approved Form SCAO 28). [MCL 552.526(2)]

c. A party to a domestic relations matter may file at any time a grievance against friend of the court operations with the appropriate citizen advisory committee, who shall at its discretion, conduct a review. [MCL 552.526(2)]

6. Removal of Friend of the Court from Office

A friend of the court is an at-will employee. [MCL 552.523(3)] The chief judge may remove the friend of the court. A removal under this section is not effective until approved by a majority of the circuit, probate, and district court judges serving in all districts that have an area in common with the geographic area served by that friend of the court. [MCL 552.525]

E. Duties of the Friend of the Court Office

The chief judge is responsible for directing and supervising the operations of the friend of the court office. Those responsibilities are detailed in the statutes cited on page 4-04-01 and in the Michigan Court Rules. Briefly these responsibilities are:

1. Providing Information to Parties

a. Informational Pamphlet

An informational pamphlet shall be provided to the parties explaining the role and functions of the office. (see also Section 11-04, page 11-04-01)

b. Mediation Services

The parties shall be informed of the availability of mediation services to assist them in resolving custody and parenting time disputes.

c. Joint Custody

The parties shall be informed of the option for joint custody.

d. Annual Statement

Upon their request, the parties shall be provided an annual statement of account.

2. Performing Investigations

At any stage of the proceedings, the friend of the court must investigate a custody, support, or parenting time matter when court ordered to do so. After the investigation, the friend of the court must provide a written report and recommendation to the court, the parties, and their attorneys giving a solution the office believes to be in the best interests of the minor child(ren). Prior to adjudication and without necessity of a court order, the friend of the court also must conduct an investigation, and provide a report and recommendation, in all disputed custody or parenting time matters where domestic relations mediation is refused or unsuccessful. [MCL 552.505(d)]

3. Providing Mediation Services

In an effort to resolve contested custody or parenting time matters outside the court setting, the friend of the court shall provide mediation services either by contract or with friend of the court office staff.

4. Conducting Referee Hearings

The referee shall conduct hearings on those matters referred by the court and recommend an order on those issues. In many courts, the court has designated the types of cases which are automatically referred to the referee such as all show cause petitions where incarceration is not intended as a possible sanction, all petitions to modify child support, etc. In other courts, referral is made on a case by case basis.

5. Support Payments

The state disbursement unit or friend of the court shall receive, record, and disburse all payments of support and service fees. [MCL 552.509(2)]. A surcharge at an 8% annual rate shall be added to support payments that are past due as of January 1 and July 1. The amount due on January 1 and July 1 of each year shall be reduced by an amount equal to 2 weeks' support for purposes of assessing the surcharge. [MCL 552.603a(1)]

6. Enforcing Orders

The friend of the court shall enforce all orders regarding custody, parenting time, and support pursuant to the Friend of the Court Act, Support and Parenting Time Enforcement Act, and the Michigan Court Rules.

7. Reviewing Support Orders

The friend of the court shall review support orders in FIP (Family Independence Program) cases or medical assistance cases once every 24 months. In all other cases, the friend of the court shall review support upon the request of either party made at least 24 months after that party's last request.

In addition to these investigation responsibilities, the friend of the court shall investigate support if it has reasonable grounds to believe that the amount of child support should be modified. If any of these types of review determines that support should be modified, the friend of the court shall petition the court for the appropriate modification.
[MCL 552.517]

8. Surety Bond Requirements

The friend of the court surety bond requirements are covered in the Code of Federal Regulations. The Office of Child Support, in the Family Independence Agency, must have and use written procedures for compliance with 45 CFR 302.19. Within these procedures are regulations requiring that every person who has access to child support collections is covered by a bond against loss resulting from employee dishonesty. This provision applies to state and local IV-D agency employees. Individual counties can have self-bonding/insuring provisions. (see also Section 13-02, page 13-02-02) [45 CFR 302.19]

F. Citizen Advisory Committee

A citizen advisory committee is established in each county and is composed of 9 members. The county board shall appoint the citizen advisory committee members except for the following members: the county sheriff, the prosecuting attorney, and the director of the Family Independence Agency. The members shall serve a renewable 3-year term. The citizen advisory committee is advisory only and shall do all of the following: meet not less than 6 times annually; review and investigate grievances; advise the court and county board on the community's needs relating to the friend of the court services; and submit an annual report on its activities to the county board, court, state court administrative office, and the governor's office. A citizen advisory committee meeting shall be open to the public unless the committee is investigating a grievance. [MCR 552.504]

4-05 CIRCUIT COURT FAMILY COUNSELING SERVICES

A. Authority

The circuit court family counseling service was created by the legislature in 1964. The statutes were substantially amended in 1980. [MCL 551.331 et seq.]

B. Function

The family counseling service is an arm of the circuit court and may either be operated separately or be combined with other court services. In most circuits, the service is combined with the friend of the court office. [MCL 551.333]

C. Funding

The Act provides that the board of commissioners shall appropriate $15.00 of each marriage license fee and all income derived from fees for family counseling services. In addition, the board(s) may appropriate additional funds to maintain the service. The circuit court may not spend more than the amount appropriated by the board. [MCL 551.332]

D. General Provisions

The Act provides that the service offer family counseling including counseling for domestic violence and child abuse. The service may also be utilized to evaluate cases where custody or parenting time are in dispute. In a multi-judge circuit, decisions regarding the service including the hiring of staff must be made by a majority of the bench.

4-06 BAIL INFORMATION SERVICES

A. Authority

There are no statutes which address establishing or operating a bail information service program.

B. Establishment

Bail information service programs are a product of the bail reform movement, an attempt to eliminate the perceived injustices of the commercial bail system. More recently, they have been used to control jail overcrowding since pretrial detainees comprise a significant percentage of county jail populations.

C. Implementation

The delivery of bail information services, also known as pretrial services, varies from county to county depending upon a number of factors. These factors include:

1. the laws which define the circumstances under which some or all defendants may be released pending adjudication;

2. the organizational placement within the community (i.e., court, probation, or jail); and

3. the specific needs of the jurisdiction.

D. Function

1. Information Gathering for Setting Bail

Despite their individual differences, the purposes of most bail information service programs is to provide judicial officers with information about defendants pertinent to the setting of bail. Typically, each program has investigators who interview defendants and immediately verify the information with members of the community by phone. Shortly thereafter, the findings are presented to the judicial officer responsible for setting bail. Frequently, a detailed report of the defendant's criminal record (if there is one) accompanies the information.

2. Release Recommendations

Additionally, the bail information service programs may make release recommendations to the judicial officer.

3. Supervision of Defendants on Release

Many programs supervise defendants released on bail or their own recognizance, requiring them to check in on a regular basis, reminding them of future court dates, and monitoring bond conditions imposed by the judicial officer.

4. Expediting Criminal Process

Some bail information service programs operate as a tracking unit, following each defendant step by step through the system and acting as a liaison between the jail, the courts, the police, and the public. In this capacity, a unit deals with problems such as docket delays, appointment of counsel, and other institutional difficulties in processing criminal cases.

5. Electronic Surveillance and Drug Screening

A current trend in bail information service programs is supervision over tethering (electronic digital surveillance) and drug screening programs.

Overall, bail information services have increased the options available to the courts in effecting release while assuring community safety and the integrity of the court process.

(see also Section 15-05, pages 15-05-01 through 15-05-03 and Section 15-06, page 15-06-01)

4-07 DISTRICT COURT CLERK

A. Authority

In each county within a district of the first class, in each district of the second class, and in each political subdivision where the court sits within a district of the third class, the district judge or judges of the district shall appoint a clerk of the court. In districts of the first class the judge or judges may appoint the county clerk to act as clerk of the court.
[MCL 600.8281(1)]

B. Appointment of Deputy Clerks

The clerk of the court shall appoint deputy clerks of the court subject to the approval of the judges. In the thirty-sixth district the chief judge of the district shall appoint the clerk of the court and deputy clerks. [MCL 600.8281(2),(4)]

C. Term of Office

The clerk of the court, including a county clerk to the extent s/he is serving as clerk of the court, shall serve at the pleasure of the district judge or judges of the district.
[MCL 600.8281(3); MSA 27A.8281(3)]

D. Bonding of Clerk

All clerks, deputy clerks, magistrates, and official process servers of the district court must file with the chief judge a bond approved by the chief judge in a penal sum determined by the State Court Administrator, conditioned that the officer will

1. perform the duties as clerk, deputy clerk, magistrate, or process server of that court; and

2. account for and pay over all money which may be received by the officer to the person or persons lawfully entitled.

[MCR 8.204] (see also Section 13-02, pages 13-02-01 and 13-02-02)

E. Duties and Responsibilities

1. General Duties

a. Maintain Office Hours

The office of the clerk must be open and the clerk or deputy clerk must be in attendance during business hours. [MCR 8.105(A)] Hours of the court are determined by administrative order issued by the chief judge. [MCR 8.110(D)(1)]

b. Record Maintenance

In maintaining case files, indexes, and other records and permitting access to records, the clerk of the court shall comply with the records standards prescribed by statute and court rule and as otherwise prescribed by the Michigan Supreme Court. (see also Section 8-02, page 8-02-01) [MCR 8.119, Michigan Trial Court Case File Management Standards]

c. Money Paid into Court

The clerk is responsible for handling money paid into court, including deposit of money, recordkeeping, and disbursement. (see also Section 6) [MCR 8.106]

d. Maintaining Records of Court Reporter/Recorder

If a court reporter/recorder dies, resigns, is removed from office, or leaves the state, his or her records in each case must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records subject to the direction of the court. (see also Section 8-02, page 8-02-02) [MCR 8.108(D)]

e. Jury System

The district court clerk must perform duties for the jury system. (see also Section 12-04, pages 12-04-01 through 12-04-07)

f. Preparing Documents

Unless specifically required by statute or court rule, it is recommended that court clerks **not** prepare pleadings, complaints, subpoenas, or any other document for any plaintiff including the prosecutor. This practice will ensure that the court remains a neutral party.

2. Allocation of Costs in Third-Class Districts

In third-class districts, the clerk of the court shall collect data regarding the number of cases and the costs of operating the court; determine the proper share of costs to be borne by each political subdivision; and certify those figures to the treasurers of the political subdivisions. [MCR 8.201(A)]

4-08 DISTRICT COURT PROBATION

A. Establishment of Probation Department

In each district of the district court in the State of Michigan, other than the 36th District, the judge or judges of that district may establish a probation department within a district control unit. The 36th District Court shall have a probation department. Except as provided in MCL 600.8272, which provides for funding the 36th District Court employees by the State Judicial Council, the necessary and reasonable expense of a probation department shall be borne by the district control unit. [MCL 600.8314]

B. Duties of Officer

A district court probation officer, under the general direction of the chief judge, judge, or court administrator, conducts investigations and prepares informational reports in order to assist the district court judge in determining appropriate sentences of individuals brought before the court. The district court probation officer shall supervise the probationer during his or her term of probation and may recommend relevant programs for rehabilitation.

4-09 DISTRICT COURT MAGISTRATE

A. Authority

The office of district court magistrate was created by the District Court Act, 1968 PA 154, Chapter 85. In a county which elects by itself fewer than two district court judges, the county board of commissioners shall provide for one district court magistrate. In all other counties in districts of the first and second class, the county boards of commissioners shall provide for at least one magistrate when recommended by the judges of the district court. Additional magistrates may be provided by the board upon recommendation of the judges and the appointments shall be subject to approval by the county board of commissioners before the person assumes the office of magistrate.

In each district of the third class, the judge or judges of the district may appoint one or more district court magistrates. Before a person assumes the office of magistrate in a district of the third class, the appointment of that person shall be subject to approval by the governing body(ies) of the district control unit(s) which, individually or in the aggregate, contain more than 50% of the population of the district. This section does not apply to the 36th District Court.

The 36th District Court shall have not more than six district court magistrates. The chief judge of that 36th District may appoint 1 or more magistrates. If a vacancy occurs, the chief judge may appoint a successor.

[MCL 600.8501(1),(2),(3)]

B. Appointment of Magistrate

Before being appointed to the office of magistrate in a first or second class district, a person must be a registered elector in the appointed county under MCL 600.8507(1). A person being appointed to the office of magistrate in a third class district must be a registered elector in the appointed district under MCL 600.8501(2). Before assuming office, a person appointed as a magistrate shall take the constitutional oath of office and file a bond with the county treasurer in an amount determined by the State Court Administrator. [MCL 600.8507(1), MCR 8.204] The bond shall also apply to temporary service in another county under MCL 600.8507(2). (see also Section 13-02, pages 13-02-01 and 13-02-02)

C. Appointment of Deputy Clerk as Magistrate

Subject to the provisions of MCL 600.8501, judges of the district court within a district of the first or second class may appoint a clerk or deputy clerk as a magistrate to perform the duties and exercise the powers of a magistrate in addition to his/her duties as clerk or deputy clerk of the district court. [MCL 600.8503]

D. Term of Office

All magistrates appointed shall serve at the pleasure of the judge(s) of the district court. [MCL 600.8507(1)]

E. Duties

A district court magistrate has the following jurisdiction and duties:

1. Arraignments

a. To arraign and sentence upon pleas of guilty or nolo contendere for violations of the following acts or parts of acts, or a local ordinance substantially corresponding to these acts or parts of acts, when authorized by the chief judge of the district court and if the maximum permissible punishment does not exceed 90 days in jail or a fine, or both:

i. SPORT FISHING SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.48701 to 324.48740 of the Michigan Compiled laws;

ii. WILDLIFE CONSERVATION SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws;

iii. MARINE SAFETY SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.80101 to 324.80199, except for violations of section 81076(1) and (3) of the Michigan Compiled Laws;

iv. THE MOTOR CARRIER ACT, Act No. 254 of the Public Acts of 1933, as amended, being sections 475.1 to 479.43 of the Michigan Compiled Laws;

v. MOTOR CARRIER SAFETY ACT of 1963, Act No. 181 of the Public Acts of 1963, as amended, being sections 480.11 to 480.22 of the Michigan Compiled Laws;

vi. DOG LAW OF 1919, Act No. 339 of the Public Acts of 1919, as amended, being sections 287.261 to 287.290 of the Michigan Compiled Laws;

vii. MICHIGAN LIQUOR CONTROL CODE of the Public Acts of 1998, as amended, being sections 436.1703 and 436.1915. Possession of an alcoholic beverage by a person under 21 years of age. Consumption of an alcoholic beverage in public parks or places of amusement not licensed to sell for consumption on the premises;

viii. GENERAL POWERS AND DUTIES SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.501 to 324.511 of the Michigan Compiled Laws;

ix. LITTERING SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.8901 to 324.8907 of the Michigan Compiled Laws;

x. HUNTING AND FISHING LICENSES SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.43501 to 324.43561 of the Michigan Compiled Laws;

xi. RECREATIONAL TRESPASS ACT, Act No. 451 of the Public Acts of 1994, being sections 324.73101 to 324.73111 of the Michigan Compiled Laws; and

xii. Chapter LXXXV of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.546 to 750.552b of the Michigan Compiled Laws. Include prohibitions on illegal dumping of garbage or trash.

b. To arraign and sentence upon pleas of guilty or nolo contendere for violations of the MICHIGAN VEHICLE CODE, Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Michigan Compiled Laws or a local ordinance substantially corresponding to a provision of the Michigan Vehicle Code except for violations of MCL 257.625 and 257.625m or a local ordinance substantially corresponding to a provision of MCL 257.625 and 257.625m when authorized by the chief judge of the district court and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of MCL 257.625 and 257.625m or a local ordinance substantially corresponding to MCL 257.625 and 257.625m.

c. To arraign and sentence upon pleas of guilty or nolo contendere for violations of the following acts or a local ordinance substantially corresponding to a provision of the following acts except for violations of MCL 324.81134, 324.81135, 324.82128, and 324.82129 or a local ordinance substantially corresponding to MCL 324.81134, 324.81135, 324.82128, and 324.82129 when authorized by the chief judge of the district court and if the maximum permissible punishment does not exceed 93 days in jail or a fine, or both. However, the magistrate may have the jurisdiction to arraign defendants and set bond with regard to violations of MCL 324.81134, 324.81135, 324.82128, and 324.82129:

i. SNOWMOBILE SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82160 of the Michigan Compiled Laws; and

ii. OFF-ROAD RECREATION VEHICLES SECTION OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, Act No. 451 1994, being sections 324.81101 to 324.81150 of the Michigan Compiled Laws. (OFF ROAD RECREATIONAL VEHICLES).

d. If authorized by chief judge of the district, a district court magistrate may:

i. conduct the first appearance of a defendant in all criminal and ordinance violation cases; [MCL 600.8513(1)]

ii. accept an admission of responsibility and order civil sanctions for a civil infraction and order an appropriate civil sanction permitted by the statute or ordinance defining the act or omission; [MCL 600.8512a];

iii. accept a plea of guilty or nolo contendere and impose sentence for a misdemeanor or ordinance violation punishable by a fine and which is not punishable by imprisonment by the terms of the statute or ordinance creating the offense; [MCL 600.8512a]

iv. approve and grant petitions for the appointment of an attorney for an indigent defendant accused of any misdemeanor punishable by up to one year or ordinance punishable by imprisonment; [MCL 600.8513(2)(a)]

v. suspend payment of court fees by an indigent party in any civil, small claims, or summary proceedings action until after judgment is rendered; [MCL 600.8513(2)(b)]

vi. upon written authorization of the prosecuting or city attorney, sign a nolle prosequi, dismissing any criminal or ordinance violation case over which the district court has jurisdiction and release any bail bond or bail bond deposit to whom it is entitled, unless a preliminary examination or trial has been commenced or the judge has accepted a plea of guilty or no contest. [MCL 600.8513(2)(c)]

vii. execute and issue process to carry into effect authority expressly granted by law to district court magistrates. [MCL 600.8513(2)(d)]

2. Warrants

a. To issue warrants for arrest upon written authorization of the prosecutor or municipal attorney. Authorization is not required for a vehicle law or ordinance violation within the magistrate's jurisdiction if a police officer issued a traffic citation under MCL 257.728, and the defendant failed to appear. [MCL 600.8511(d)]

Authorization is not required for violations of the motor carrier act if the warrant is requested by agents of the state transportation department, county road commission, or the public service commission. Authorization is not required for a violation of a law protecting wild game or fish if the warrant is requested by the director, special assistant, or conservation officer of the department of natural resources. [MCL 764.1(2)]

b. To issue search warrants (when authorized to do so by a district judge). Authorization may be either broad (blanket) or narrow (on a case by case basis). [MCL 600.8511(f)]

3. Bail

To set bail and accept bond in all cases including those where defendant is held in a county jail for arraignment and setting bail. [MCL 600.8511(e)]

To set bail and accept bond and order an individual to appear before the circuit court of the county for hearing on the charge of violating a personal protection order when the circuit court judge may not be present or available within 24 hours after arrest of the individual. [MCL 764.15b, MCR 3.708(C)]

4. Civil Infractions

To the extent expressly authorized by the chief judge, presiding judge, or only judge of the district, a magistrate may hear and preside over admissions, conduct informal hearings, and impose civil sanctions authorized by MCL 257.904, 600.8727, or 600.8827. [MCL 600.8512(1), MCL 600.8512a]

A district court magistrate shall not conduct an informal hearing involving a traffic or parking violation governed by the Michigan Vehicle Code until he or she has successfully completed a special training course given by the State Court Administrator in traffic law adjudication and sanctions. [MCL 600.8512(2)]

The magistrate may not handle municipal and state non-traffic civil infractions for juveniles under 17 unless the District Court has entered into an agreement with the Circuit Court for the county in which the District Court is located to waive jurisdiction over any or all state or municipal non-traffic civil infractions alleged to have been committed by juveniles. The agreement must specify for which civil infractions jurisdiction has been waived. For a civil infraction waived the district or municipal court has jurisdiction over the juvenile in the same manner as if an adult had committed the civil infraction.
[MCL 712A.2 and MCL 712A.2(e)(1)]

5. Miscellaneous

The magistrate shall act in accordance with provisions of MCL 600.8513(2)(a),(b),(c).

6. Small Claims

A district court magistrate who is an attorney licensed to practice law in Michigan, if authorized by the chief judge of the district, in cases in the small claims division, may administer oaths, examine witnesses, make findings of fact and conclusions of law, and recommend a judgment in the case. In doing so, the magistrate shall perform all functions which a district judge could perform in trying a case.
[MCL 600.8427 and MCL 600.8514]

7. Marriage Ceremonies

District court magistrates are authorized by statute to perform marriage ceremonies only in the district in which the magistrate serves. (see also Section 7-04, page 7-04-03 and Section 15-07, page 15-07-01) [MCL 551.7(1)(b)] In addition, the magistrate must keep a record of all marriages performed by the magistrate in a book used expressly for that purpose. [MCL 551.104]

8. Appeals

Every determination that a magistrate makes regarding responsibility is appealable to the district court judge as a matter of right. [MCR 4.401(D)]

9. Contempt and Show Cause

Magistrates do not have the specific authority to hold an individual in contempt including contempts within his or her presence. A magistrate may schedule a show cause hearing, however, the magistrate does not have the authority conduct a show cause hearing or to issue a contempt order. A magistrate does not have the authority to issue a bench warrant.

10. Other Duties

The magistrate provides nonlegal advice and assistance to both the public and the court staff. The magistrate is routinely asked to resolve questions that frequently require discussion with other authorities such as law enforcement officers, prosecuting officials, judicial officers, etc.

Other duties or activities the magistrate may perform are:

- Collecting and recording payment for fines and costs. Except as provided in MCL 600.8535(2), district court magistrates shall pay all fines and costs received by them to the clerk of the district court on or before the last day of the month following receipt of those funds, which shall be allocated as provided in section 8379. [MCL 600.8535(1)] In the 36th District Court, each district court magistrate shall cause all fines and costs received by the magistrate to be paid immediately to the clerk of the district court for the 36th District. [MCL 600.8535(2)]

  NOTE: While a magistrate may collect and record payment for fines and costs in courts where there are limited human resources, it is highly discouraged if resources are available. If a magistrate is collecting and recording payments, the magistrate must follow the fiscal management guidelines with regard to receipting and depositing money published in the Michigan Court Administration Reference Guide, Volume 1, Section 6-05.

- Recording, indexing, filing, and posting the disposition of all cases processed.
- Notifying arresting agencies and Secretary of State of notices for failure to appear in court.
- Answering correspondence and complaints regarding cases processed.
- Administering oaths and affirmations.
- Taking acknowledgments.
- Issuing bond forfeiture notices and taking other actions associated with bond forfeiture.

11. Immunity

A district court magistrate, for acts done within his or her jurisdiction as provided by law, shall have judicial immunity to the extent accorded a district court judge.
[MCL 600.8513(3)]

(see also MJI's "Magistrates Traffic Adjudication Manual" and "Magistrates Self-Instructional Training Package")

4-10 LAW CLERKS FOR CIRCUIT AND DISTRICT COURT

A. Authority

Each circuit and district court may employ law clerks for the court and each judge of the court.
[MCL 600.1471(1); MSA 27A.1471(1)]

B. Requirement for Employment

A law clerk must be a resident of the State of Michigan and either licensed to practice law in this State or be a graduate or student of a reputable and qualified law school.
[MCL 600.1471(2); MSA 27A.1471(2)]

C. Compensation

The compensation of law clerks is set by statute.
[MCL 600.1471(3); MSA 27A.1471(3)]

D. Period of Employment and Discharge

The period of employment for a law clerk is one year, subject to renewal for a similar period. The court may discharge a law clerk at any time.
[MCL 600.1471(4); MSA 27A.1471(4)]

E. Function

The function of a law clerk is to conduct legal research, prepare memoranda, and perform other duties prescribed by the court under the direction of the judges of the court and pursuant to the general supervisory control of the chief judge of the court.
[MCL 600.1471(5); MSA 27A.1471(5)]

4-11 PROBATE REGISTER

Note: References to the "clerk" in the Michigan Court Rules also apply to the register in probate court proceedings.

A. Appointment

1. Probate Register

In each county the probate judge of the county or probate court district, or the chief probate judge in a county having 2 or more probate judges, may appoint a probate register at a reasonable salary fixed by the county board of commissioners. The probate court register so appointed shall take and subscribe the oath of office prescribed by the state constitution of 1963 and give bond to the probate judge or chief judge in the penal sum of $1,000.00 to be approved by that judge, which bond and oath shall be filed in the office of the county clerk of the county. The probate register shall hold office until the appointment is terminated by the probate or chief judge. (see also Section 13-02, page 13-02-01 and Section 15-01, page 15-01-01) [MCL 600.833(1)]

2. Deputy Probate Register

If a county has a probate register, the probate judge or the chief probate judge may appoint 1 or more deputy probate registers who shall have such compensation as is fixed by the county board of commissioners. The term of office of the deputy probate registers and their powers shall be the same as those prescribed by law for probate registers. They shall take and subscribe the constitutional oath of office, which shall be filed with the county clerk. [MCL 600.833(2)]

B. Judicial Responsibility

The judges of probate shall be responsible for the direction and supervision of the registers of probate, deputy registers of probate, probate clerks, and other personnel employed by the court to assist in the work of the court. [MCR 8.301(A)]

C. Entry of Order Specifying Authority

1. To the extent authorized by the presiding probate judge or a probate court by an administrative order, the probate register, deputy probate register, the clerks of the probate court, and other employees designated in the order have the authority, until further order of the court, to do all acts required by the probate judge except judicial acts in a contested matter and acts forbidden by law to be performed by the probate register. [MCR 8.301(B)(1)]

2. The order of the chief judge may refer to the power:

   a. to determine whether the petitioner has complied with requirements of law and court rule, set the time and place for hearings in all matters; take acknowledgements; administer oaths; sign notices, citations and subpoenas; conduct conferences with fiduciaries required to ensure prompt administration of estates; and take testimony as provided by law or court rule;

   b. to sign the signature of the probate judge on orders and letters of authority. (see also Section 1-06, page 1-06-05) [MCR 5.162(B), MCR 8.301(B)(2), MCL 600.834]

D. Other Authority

In addition to the powers which may be granted by order of the presiding judge, the probate registers and deputy registers have the authority granted by statute and may take acknowledgements to the same extent as a notary public.
[MCL 600.834, MCR 8.301(C)]

E. Duties and Responsibilities

1. General Duties

a. Maintain Office Hours

The office of the clerk must be open and the clerk or deputy clerk must be in attendance during business hours. [MCR 8.105(A)] The hours of the court are determined by the administrative order issued by the chief judge.
[MCR 8.110(D)(1)]

b. Record Maintenance

In maintaining case files, indexes, and other records and permitting access to records, the clerk of the court shall comply with the records standards prescribed by statute and court rule and as otherwise prescribed by the Michigan Supreme Court. (see also Section 8-02, page 8-02-01) [MCR 8.119, Michigan Trial Court Case File Management Standards]

c. Money Paid into Court

The clerk is responsible for handling money paid into court, including the deposit of money, recordkeeping, and disbursement. (see also Section 6)
[MCR 8.106]

d. Maintaining Records of Court Reporter/Recorder

If a court reporter/recorder dies, resigns, is removed from office, or leaves the state, his or her records in each case must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records subject to the direction of the court. (see also Section 8-02, page 8-02-02) [MCR 8.108(D)]

e. Jury System

The court clerk must perform duties for the jury system. (see also Section 12-04, pages 12-04-01 through 12-04-07)

(see also MJI's Probate Benchbooks)

4-12 PUBLIC GUARDIAN OF PROBATE COURT

A. Authority

There are no statutes or case law which specifically address the position of public guardian. A public guardian is subject to the same standards as any other guardian, conservator, or fiduciary.

B. Funding

The public guardian/conservator position has been funded by a combination of county money and payments from estates which the public guardian/conservator is handling. Payments to a public guardian/conservator are generally made monthly, based on a written contract and/or subject to court approval on a case by case basis.

C. Appointment and Function

A public guardian/conservator is a person appointed by the court as guardian/ conservator for a ward and/or a ward's estate when there is no other responsible person able or willing to act. The position of public guardian/conservator has been created by certain probate courts in response to the need to have a person available to make personal or financial decisions for someone unable to handle their own affairs.

D. Proposed Standards for Individuals and Guardianship Programs

The Center for Social Gerontology, under a subcontract from the Michigan Office of Services to the Aging, developed proposed standards for individuals and programs in Michigan providing guardianship and representative payee services. The Center also prepared a report on current programs providing guardianship and representative payee services in the State of Michigan. Both the standards and the report are available from the Center of Social Gerontology, Inc., 117 North First Street, Suite 204, Ann Arbor, MI 48104 (313) 665-1126.

Other organizations such as the National Guardianship Association at 1604 N. Country Club Road, Tucson Arizona 85716, (520) 881-6561, have also developed proposed standards for persons or organizations acting as guardians.

4-13 PUBLIC ADMINISTRATOR

The state public administrator, or the county public administrator appointed by the state public administrator, may be appointed as personal representative or independent personal representative of a decedent's estate subject to the provisions of MCL 700.3203(1).
[MCL 700.3(7), MCL 700.3203(1)(g)]

4-14 JUVENILE REGISTER

Note: References to the "clerk" in the Michigan Court Rules also apply to the register in probate court proceedings.

A. Authority

The judge of probate may appoint either the probate register, deputy probate register, or clerk of the court to the position of juvenile register. **With implementation of family division of the circuit court still in the early stages, it is uncertain yet how the position of juvenile register relates to circuit court.** [MCL 712A.7]

B. Duties and Responsibilities

The duties of the juvenile register include preparing petitions for investigation; preparing summonses, writs, or other necessary papers; and performing such duties as required. The juvenile register must be competent to do all acts required of the probate judges except judicial acts. The juvenile register may, by administrative order, sign or by device indicate the name of a judge to all orders and letters of authority of the court. [MCL 712A.7]

1. General Duties

a. Maintain Office Hours

The office of the clerk must be open and the clerk or deputy clerk must be in attendance during business hours. [MCR 8.105(A)] The hours of the court are determined by the administrative order issued by the chief judge.
[MCR 8.110(D)(1)]

b. Record Maintenance

In maintaining case files, indexes, and other records and permitting access to records, the clerk of the court shall comply with the records standards prescribed by statute and court rule and as otherwise prescribed by the Michigan Supreme Court. (see also Section 8-02, page 8-02-01) [MCR 8.119, Michigan Trial Court Case File Management Standards]

c. Money Paid into Court

The clerk is responsible for handling money paid into court, including deposit of money, recordkeeping, and disbursement. (see also Section 6) [MCR 8.106]

d. Maintaining Records of Court Reporter/Recorder

If a court reporter/recorder dies, resigns, is removed from office, or leaves the state, his or her records in each case must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records subject to the direction of the court. (see also Section 8-02, page 8-02-02) [MCR 8.108(D)]

e. Jury System

The court clerk must perform duties for the jury system. (see also Section 12-04, pages 12-04-01 through 12-04-07)

4-15 JUVENILE PROBATION OFFICER

A. Authority

The probate judge in each county may appoint one or more suitable persons of good character and qualified training or experience, other than the county agent or assistants, to act as probation officer. The judge may also appoint 'volunteer' probation officers who receive no compensation. **Local implementation of family division of the circuit court has resulted in various plans for the position of juvenile probation.** [MCL 712A.9]

B. Duties

The juvenile probation officer serves at the pleasure of the court and shall report to the court on all cases under their care. [MCL 712A.9]

Qualifications for hiring are outlined in Michigan Supreme Court Administrative Order 1985-5 as amended by Michigan Supreme Court Administrative Order 1988-3.

4-16 JUVENILE COURT REFEREE

A. Authority

The probate judge may designate a probation officer or county agent (county juvenile officer) to act as a juvenile court referee. As specified in statute and court rule, referees must be licensed to practice law in Michigan except those who were designated to act as a referee by the probate judge prior to January 1, 1988 and who were acting as a referee as of January 1, 1988. **Local implementation of family division of the circuit court has resulted in various plans for the position of juvenile court referee.** [MCL 712A.10(1),(2)]

B. Duties

The duties of the referee include taking testimony of witnesses, taking statements from the parties, hearing petitions, administering oaths, and making recommendations as to findings and disposition. [MCL 712A.10(1)(a),(b),(c)]

C. Additional Qualifications

Under statute and Michigan Court Rule a referee must be an attorney in order to perform certain functions.

1. Delinquency Proceedings

Except as otherwise provided by MCL 712A.10, only a person licensed to practice law in Michigan may serve as a referee at a delinquency proceeding other than a preliminary inquiry or preliminary hearing, if the juvenile is before the court under MCL 712A.2(a)(1). [MCR 5.913(A)(2)]

2. Child Protective Proceedings

Only a person licensed to practice law in Michigan may serve as a referee at a child protective proceeding other than a preliminary inquiry, preliminary hearing, or a progress review under MCR 5.973(D). [MCR 5.913(A)(3)]

4-17 COUNTY JUVENILE OFFICER

The probate judge or judges in each county shall appoint a suitable person who shall serve as the county juvenile officer of the county. The county juvenile officer shall not be subject to or governed by civil service law of this state. Each juvenile officer shall hold office at the pleasure of the probate judge or judges of the county and shall perform the various duties required by law. **Local implementation of family division of the circuit court has resulted in various plans for the position of county juvenile officer.** (see also Section 6-11, pages 6-11-01 and 6-11-02)
[MCL 400.251(2)]

The county juvenile officers and assistant county juvenile officers appointed under MCL 400.251 to 400.254 shall provide assistance to the family division of circuit court in accordance with that court's jurisdiction. [MCL 600.1043]

4-18 COUNTY AGENT

A. Authority

The county agent is an officer of the court under the general supervision of the judges of the family division of the circuit court and under the general supervision of the judge or judges. [MCL 712A.8]

B. Duties and Responsibilities

The county agent serves at the pleasure of the judge or judges. The county agent shall organize, direct, and develop the juvenile welfare work of the court as authorized by the judge. The agent shall, when requested by the superintendent or director, supervise juveniles when released from public institutions or agencies and may perform other juvenile welfare work as requested and with the approval of the judge, including services to school-age children of the various school districts within the county, after consultation and agreement with the county school commissioner and the superintendents of schools in a county. With the judge's approval, the county agent or his or her assistants shall investigate and report on juveniles or families within the county as requested by the family independence agency, the county juvenile agency, or the superintendent of any state institution regarding the welfare of any juvenile. (see also Section 1-06, page 1-06-07) [MCL 712A.8]

C. Assistant County Agents

Assistant county agents shall perform duties as assigned to them by the county agent. [MCL 712A.8]

4-19 CHILD CARE HOMES/DETENTION FACILITIES

A. Child/Foster Care Homes

1. Authority and Licensing

Provision may be made by the county board of commissioners in each county or of counties contracting together for the diagnosis, treatment, care, training, and detention of juveniles in a child care home or facility conducted as an agency of the county if the home or facility meets licensing standards established by the state family independence agency. The court or a court approved agency may arrange for the boarding of juveniles in any of the following:

a. Foster Care Homes

1) If a juvenile is within the court's jurisdiction under MCL 712A.2(a) or under MCL 712A.2(h) for a supplemental petition, a suitable foster care home subject to the court's supervision. [MCL 712A.16(2)(a), MCL 712A.18(1)(c)]

2) If a juvenile is within the court's jurisdiction under MCL 712A.2(b), the court shall <u>not</u> place a juvenile in a foster care home subject to the court's supervision. [MCL 712A.16(2)(a), MCL 712A.18)(1)(c)]

b. Child Care Institution or Child Placing Agency

The court may place juveniles within the court’s jurisdiction in a child caring institution or child placing agency licensed by the department of consumer and industry services. [MCL 712A.16(2)(b), MCL 712A.18(1)(d),(e)]

c. County Jail for Juveniles Over 17 Years of Age

Juveniles within the court’s jurisdiction who are over 17 years of age may be placed in a room or ward, separate and apart from adult criminals, in a county jail. [MCL 712A.16(2)(c)]

B. Detention Homes

If a detention home or facility is established as an agency of the county, the judge may appoint a superintendent and other necessary employees for the home or facility who shall receive compensation as provided by the county board of commissioners of the county. This section does not alter or diminish the legal responsibility of the state family independence agency or a county juvenile agency to receive juveniles committed by the court. [MCL 712A.16(3)]

C. Costs

If the court arranges for the board of juveniles temporarily detained in private homes or in a child caring institution or child placing agency, a reasonable sum fixed by the court for their board shall be paid by the county treasurer as provided in MCL 712A.25.
[MCL 712A.16(4), MCL 712A.18(2)]

An order of disposition placing a juvenile in or committing a juvenile to care outside of the juvenile's own home and under state, county juvenile agency, or court supervision shall contain a provision for the reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service. [MCL 712A.18(2)]

An order of disposition placing a juvenile in the juvenile's own home under subsection (1)(b) may contain a provision for the reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of service. [MCL 712A.18(3)]

D. Michigan Family Independence Agency

Further information regarding child/foster care can be obtained from the Michigan Family Independence Agency.

Michigan Family Independence Agency
Child and Family Services
Grand Tower Building
235 South Grand Avenue
PO Box 30037
Lansing, Michigan 48909
(517) 373-0093

4-20 DELINQUENCY PREVENTION PROGRAMS

A. Establishment

The family division of the circuit court has the authority to establish or to assist in the development of a program or programs within the county to prevent delinquency and provide services to act upon reports submitted to the court related to the behavior of children, who do not require formal court jurisdiction but otherwise fall within the jurisdiction of the court under MCL 712A.2(a). These services shall be used only if they are voluntarily accepted by the child and his/her parents, guardian, or custodian. [MCL 712A.2(e)]

B. Funding

Unless the program is approved as an in-home care project or as an activity for which basic grant money is used, funding must come from the county general fund or a grant from other public or private resources.

4-21 JUDICIAL ASSISTANT

A. Authority

All Michigan state courts having at least 10 judges, except the Michigan Supreme Court, are eligible to appoint a judicial assistant. [MCL 600.1481(1)]

B. Requirement for Employment

A judicial assistant must be a licensed attorney in the State of Michigan, in good standing, and capable of practicing law in all courts in the State of Michigan and the United States Supreme Court. The judicial assistant must also have five years of active practice, including appellate experience, and preferably shall have had government experience in a legal capacity. [MCL 600.1481(1)]

C. Duties

The judicial assistant conducts research, studies pending legislation, recommends and drafts remedial legislation, acts as a legal advisor to the court, and represents the court when the prosecuting attorney or attorney general must be disqualified. [MCL 600.1481(2)]

D. Compensation and Term of Office

The judicial assistant's compensation is fixed by the recommending judges within the sum appropriated therefor by the legislative body of the governmental unit, other than the State of Michigan, which pays the compensation of such judges. The term of office for the judicial assistant is concurrent with the term of the recommending judges and is subject to reappointment for like terms. [MCL 600.1481(3), (5)]

E. Compensation in Thirty-Sixth District and Third Circuit

The compensation of the judicial assistant shall be paid by the state and fixed as provided in statute. [MCL 600.592, MCL 600.8272, MCL 725.34]

4-22 SHERIFF'S DEPARTMENT

A. Authority

Article VII, section 4 of the Michigan Constitution of 1963 creates the office of sheriff for each county. The sheriff's duties are prescribed by statute and court rule.

B. Duties

The sheriff's court duties relate generally to security matters and execution of process.

1. Attendance at Sessions of Court

A sheriff or his/her deputy is required to attend sessions of the circuit, probate, and district courts when requested by the court. The judge requiring attendance determines and regulates the attendance and duties of the sheriff and/or his/her deputies. Practice in the several courts varies as to the frequency of attendance and duties, which generally relate to security of the court, court personnel, public, and jurors.
[MCL 600.581]

2. Executing Process

The sheriff and his/her deputies are officers of the court for the purposes of executing process issued by the court. [MCL 600.582]

3. Summoning a Jury

The court may direct the sheriff to summon a jury. (see also Section 12-04, page 12-04-01) [MCL 600.587 et seq., MCR 2.510(D)]

4. Order for Arrest in Civil Matters

Process in civil proceedings which require the arrest of a person may be served only by a sheriff, deputy sheriff, police officer, or a court officer appointed by the court for the purpose. In issuing an order for arrest in a civil matter, the court should consider matters relating to proper training of personnel who will effect the arrest and liability for any actions which may arise from the arrest. (see also MCL 600.1811) [MCR 2.103(D)]

C. Statutory and Court Rule References

Authority and duties of the sheriff relating to the courts are more fully set forth in MCL 600.581 et seq., MCL 600.8321, MCR 2.103, MCR 2.510(D), MCR 3.103(E), and MCR 3.105(F), (G), and (J).

4-23 JURY BOARD

A. Authority

All Michigan trial courts are served by a jury board whose primary duty is to provide a list of qualified citizens to serve as jurors. Michigan's jury system and the jury board's responsibilities are governed by statute. (see also Section 12) [MCL 600.1301 et seq.]

B. Rules Governing Work of Jury Board

The judges of each circuit may establish rules, not inconsistent with the jury statute, necessary to implement the statute and to insure the proper conduct of the work of the jury board. [MCL 600.1353]

(see also Sections 12-03 and 12-04)

4-24 COURT REPORTER/RECORDER

A. Authority

1. Circuit Court

Each circuit court in this state shall have as many court reporters or certified court recorders as it has judges. [MCL 600.1101]

2. Probate Court

The probate judge or chief probate judge of any county or probate court district may appoint, and in counties having a population of 50,000 or more shall appoint, 1 or more official court reporters or certified recorders of the probate court. [MCL 600.835(1)]

3. District Court

There shall be not less than 1 district court certified court recorder or court reporter for each judge of the district court. [MCL 600.8601]

Under Supreme Court rule, the chief or only judge of the district may appoint additional certified recorders and reporters. [MCL 600.8602(2)]

B. Appointment

1. Generally

Chief judges, collectively, are the employers of all the official reporters and recorders in this state. The authority and responsibility to "supervise the performance of all court personnel, with authority to hire, discipline, or discharge such personnel, with the exception of a judge's secretary and law clerk, if any" is vested in the chief judge (or single judge) by the provisions of MCR 8.110(C)(3)(d).

2. Circuit Court

Every reporter or recorder in the circuit court shall be appointed by the governor after having first been recommended by the judge or judges of the court to which s/he is appointed and s/he is an officer of that court. [MCL 600.1104]

3. Probate Court

The probate judge or chief probate judge of any county or probate court district appoints official court reporters and certified court recorders of the probate court.
[MCL 600.835(1)]

4. District Court

Each judge of the district court shall appoint his or her own reporter or recorder. [MCL 600.8602(1)]

The Court of Appeals has held that a district court judge has the right and the responsibility of selecting a court recorder at the beginning of the judge's tenure in office under MCL 600.8601 et seq. The court expressly declined to consider the subsequent removal of the court recorder by the judge who appointed him or her. [Irons v 61st Judicial District Court Employees, 139 Mich App 313 (1984)]

C. Qualifications

Only reporters or recorders certified under MCR 8.108 may record or file transcripts at proceedings held in Michigan courts. [MCR 8.108(G)]

D. Term of Office

1. Circuit Court

Every reporter or recorder shall hold office at the pleasure of the governor unless suspended for incompetency or misconduct, by the court to which s/he is appointed. In the case of a suspension, the reporter or recorder shall cease to hold the office of reporter or recorder unless by order of the court his or her suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension, the office shall become vacant. [MCL 600.1105]

E. Oath of Office

1. Circuit Court

Before entering upon the duties of his or her office, the court reporter or recorder shall take and subscribe the constitutional oath of office which shall be filed in the office of the secretary of state. [MCL 600.1104]

2. Probate Court

Upon appointment, probate court reporters and recorders shall take and subscribe the constitutional oath of office which shall be filed with the court clerk. [MCL 600.835(1]

F. Management of Court Reporter/Recorder Services

The chief or only judge of the court is charged with overall administrative responsibility for the employees of the court. This responsibility extends to effective management of the court's shorthand reporters or certified electronic recorders. The court should consider adopting written policies covering the following areas:

1. Transcript Production/Exhibits

a. Responsibility for Supervision of Court Reporters/Recorders

It is primarily the responsibility of every trial judge to make certain that the court reporter/recorder timely prepare and file transcripts and maintain exhibits. Ultimately, it is the responsibility of the chief judge pursuant to MCR 8.110 to make certain that trial judges and court reporters or recorders comply with the requirements for preparing and filing transcripts and maintaining and filing exhibits.

b. Responsibility of Court Reporter/Recorder

The court reporter's/recorder's responsibility for preparing and furnishing the transcript is set forth in MCR 8.108. (see also Section 8-02, page 8-02-02)

c. Priority of Transcript Production/Exhibits

Transcripts should be prepared in order of being ordered. Transcripts should be filed within the time limits prescribed by the Michigan Court Rules. [MCR 7.101(F) and MCR 7.210(B)] In the rare case in which the time limit cannot be met, the reporter or recorder shall file a motion for an extension of time in the appellate court. A copy of any motion for extension of time shall be provided to the chief judge and the court administrator if one (see SCAO Approved form, MC 503).

d. Show Causes

If a reporter/recorder is ordered by an appellate court to show cause why s/he should not be held in contempt of court for failing to file transcripts on a timely basis, the reporter/recorder shall immediately provide the chief judge and court administrator with a copy of the order.

e. Pending Transcript Report

Reporters and recorders should be required to file a monthly pending transcript report with the chief judge or court administrator. This report should contain at least the following information:

1) name of case;

2) file number;

3) date ordered;

4) date reporter's certificate was filed;

5) due date;

6) estimated length of transcript;

7) "type" of case;

8) estimated completion date; and

9) show cause date (if applicable).

2. Suppressed Transcripts

There appears to be no statute, court rule, or case law for suppressing transcripts. Procedures for sealing records is prescribed by MCR 8.119(F) (see also Section 8-03, page 8-03-03).

3. Videotape Record Transcripts

The requirements for transcripts produced from videotape records are set forth in Michigan Supreme Court Administrative Order 1990-7 Videotape Record of Court Proceedings. The order authorizes exceptions to MCR 8.108, which requires that certified court reporters and recorders furnishing transcripts of proceedings be in attendance at those proceedings.

4. Exhibit Maintenance

Exhibit maintenance is regulated by MCR 2.518 and the Michigan Trial Court Case File Management Standards . As a general rule, exhibits are maintained by the court reporter while court is in session. During recesses and at the conclusion of a trial or hearing where exhibits have been offered into evidence, the parties are responsible for maintaining and removing exhibits, except for drugs, guns, and other contraband. If an appeal is taken, the court reporter or recorder should either file the exhibits with the clerk of the court so that the clerk can comply with MCR 7.210(C) or file the exhibits with the appellate court.

5. Equipment and Supplies

The court may supply certain basic supplies and equipment to each reporter or recorder. Examples include: transcript paper, stenograph paper, transcript covers, ink, ribbons, exhibit stickers, miscellaneous office supplies, typewriter, dictating machine, and cassettes.

G. Manual for Court Reporters and Recorders

The State Court Administrative Office publishes a Manual for Court Reporters and Recorders which addresses:

1. Overview
2. Certification
3. Transcript Format
4. Fees, Ordering/Filing Transcripts
5. Appellate Procedures
6. Reference Materials
7. Selected Michigan Court Rules
8. Selected Michigan Compiled Laws
9. Audio Recording Procedures

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5-01 CHIEF JUDGE/TRIAL JUDGE RELATIONSHIP (INTRA-COURT)/ COURT EMPLOYEES

A. Authority

The relationship between the chief judge and other judges on a multi-judge bench are based on the provisions of MCR 8.110, the Chief Judge Rule. Several of the more pertinent sections of the rule follow. MCR 8.110(C)(3) specifically gives the chief judge "administrative superintending power and control over the judges of the court and all court personnel with authority and responsibility to:

(c) determine the hours of the court and the judges; coordinate the number of judges and court personnel required to be present at any one time to perform necessary judicial and administrative work of the court; and require their presence to perform that work;

(e) coordinate judicial and personnel vacations and absences, subject to the provision of subrule (D);"

B. Duties and Responsibilities

1. Requirement to Report to State Court Administrator

The chief judge is required to report to the State Court Administrator if a judge does not timely dispose of his or her assigned judicial work or fails or refuses to comply with an order or directive of the chief judge. [MCR 8.110(C)(4)]

2. Monitoring of Other Judges

A judge may not be absent from the court without the chief judge's prior approval, except for personal illness. In making the decision on a request to approve vacation or other absence, the chief judge may consider, among other factors, the pending caseload of the judge involved, including the judge's latest report under MCR 8.107; the number of cases ready for trial and awaiting trial; and the length of time the cases have been pending. The chief judge shall maintain records of absences to be available at the request of the Supreme Court. [MCR 8.110(D)(4)]

These provisions clearly establish the principle that the chief judge is accountable for the hours of work, attendance, productivity, and vacations of his/her fellow judges.

C. Court Staff

The chief judge has authority and responsibility to supervise the performance of all court personnel with the exception of a judge's secretary and law clerk. [MCR 8.110(C)(3)()d, Mich Sup Ct AO 1997-6]

D. Gender and Racial/Ethnic Issues

The Michigan Supreme Court has directed the courts to commit themselves to eliminating racial, ethnic, and gender bias in the areas of administration, staffing, and behavior or treatment of employees within the courts. Court employees should familiarize themselves with the conclusions and recommendations of the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts and adopt measures to implement these recommendations.

1. Recommendations to Reduce Racial/Ethnic Bias in the Administration, Staffing, and Behavior of the Court

"The lack of equal opportunity for minority participation in business, corporate, and professional affairs, is a grave societal problem that will not be solved by legislation and judicial decrees alone. Full and equal opportunities for racial and ethnic minorities will exist only after an informed society rejects discrimination and racism, not only because they may be unlawful, but also because they violate the moral and human values upon which our Nation was founded." [The Michigan Supreme Court Task Force on Racial Ethnic Issues in the Courts: Conclusions and Recommendations, p. 1]

a. The Michigan Supreme Court should direct each chief judge and administrator to attend training regarding the role and significance of the executive component to court administration. This training should include, at a minimum, the following:

   1. The roles and responsibility of the chief judge and court administrator in personnel matters, including equal opportunity and bias-free treatment of the public.

   2. Treatment of staff, prohibition of racial or ethnic harassment, propriety of special service, intimidation, and stereotyping on racial or cultural basis.

b. Each court should develop written personnel policies and procedures which include, but are not limited to, equal opportunity, recruitment, promotional procedures, and disciplinary actions. Of particular importance is the fact that employee grievances must be disposed of expeditiously and fairly.

c. Each court should provide for the training of its supervisors and managers in human resource management issues, including the importance of fair and equitable practices in promotion, discipline, and job assignments.

[The Michigan Supreme Court Task Force on Racial/Ethnic Issues in the Court: Conclusions and Recommendations, pp. 6 and 7]

2. Recommendations to Improve Treatment of Court Personnel

"A fundamental principle of our constitutional government is that discriminatory treatment on the basis of race, gender, economic class, religion, or physical condition cannot and will not be tolerated. Bias damages a court in its fundamental role as dispenser of justice."

"The Task Force Bias defined gender bias as: . . . the tendency to think about and behave toward others primarily on the basis of their sex. It is reflected in attitudes and behavior toward women and men which are based on stereotypical beliefs about the "true nature", "proper role", and other "attributes" of the gender."

[The Michigan Supreme Court Task Force on Gender Issues in the Courts: Conclusions and Recommendations, p. 1]

a. Standardized employment policies and procedures should be adopted by the Supreme Court for the administration of Michigan courts with particular emphasis on:

   1) equal employment goals;

   2) sexual harassment;

   3) disability and parental leave; and

   4) flexible work schedules.

   All courts should be required to promulgate written policies which accord with these standards.

b. Training programs should be developed for the executive component of the courts to teach administrative topics which impact disparately upon male and female court employees.

c. Education programs should be developed for all judicial and court support personnel addressing issues of gender bias and sexual harassment in the administrative environment.

[The Michigan Supreme Court Task Force on Gender Issues in the Courts: Conclusion and Recommendations, pp. 16 and 17]

5-02 HUMAN RESOURCE PROGRAMS IN THE TRIAL COURT

A. Authority

Based principally on the case law established in the labor relations area, trial courts have been firmly established as the legal employer of trial court employees. Consequently, external enforcement agencies will hold the court itself accountable for violation of employee rights created by the State Legislature and Congress. [See also 1996 PA 374 and Mich Sup Ct AO 1997-6]

B. Purpose

There are several reasons for a personnel administration program in the trial court. First, a good management of the public's courts requires that trained, qualified personnel be recruited to handle the court's business and that they be hired, retained, promoted, disciplined, or removed according to their abilities and job performance. Staff are the most important resource to be found in a court and constitute the major portion of a court's annual budget.

Secondly, sound personnel policies, procedures, and work rules define the expectations of management and the obligations of employees. Compensation based on prevailing conditions found in comparable settings has been adopted as a policy by most Michigan courts. Pay practices should be in writing to guide managerial decision making and to avoid charges of favoritism or discrimination.

C. Scope

Three common terms which are sometimes confused are "work rules", "procedures", and "policies". Work rules are written or unwritten rules concerning how employees are to conduct themselves in the performance of work duties. Procedures are administrative or technical instructions for performing a specific task. An expectation that employees follow established procedures could itself be a work rule, but the procedures themselves are not work rules. Policies are broad guidelines intended to guide decision-making and are used where rigid procedures or rules are not practical.

1. Personnel Policies

The management responsibilities listed in the Chief Judge Rule combined with the duties imposed by law can be best carried out where formal personnel policies have been adopted by the court. Topics that should be included are:

a. establishment of the classification and pay system,

b. hours of work and overtime,

c. sick leave and vacation policies,

d. discipline and grievance procedures,

e. holidays,

f. conflict of interest and ethics,

g. equal employment opportunity, and

h. political activities.

The court may wish to write its own policies or modify those of the funding unit or the State Court Administrative Office. In any event, policies should be adopted consciously by the court.

2. Work Rules

Several considerations should be kept in mind in the development of work rules:

a. Work rules must be reasonable under the circumstances. They must be related to the attainment of organizational goals or designed to protect the welfare of the organization's members.

b. Never establish a rule that can't or won't be enforced.

c. Rules must be communicated to those affected by them - communicated in person so that employees have an opportunity to ask questions.

5-03 INFORMATION ON PERSONNEL LABOR RELATIONS

Michigan trial courts as public employers are subject to both state and federal laws applicable to employers generally, as follows:

A. Equal Employment Laws

1. Title VII of the Civil Rights Act of 1964

This Act was amended by the Equal Employment Opportunity Act of 1972 and outlaws discrimination on the basis of race, color, religion, sex, or national origin. Its provisions are enforced by the Equal Employment Opportunity Commission. The EEOC delegated investigation and enforcement responsibilities to the Michigan Civil Rights Commission. [42 USC 2000 et seq.]

2. Elliot-Larsen Act

This Michigan statute parallels Title VII of the Civil Rights Act of 1964. In addition to prohibiting discrimination based on the categories listed in Title VII of the Civil Rights Acts of 1964 (race, color, religion, sex, or national origin), Michigan law bans discrimination based on marital status, height, weight, or age. [MCL 37.2101 et seq.]

3. Handicappers' Civil Rights Act

Michigan employers are also subject to the provisions of the Handicappers' Civil Rights Act which bars discrimination based on handicapping condition and requires employers to make reasonable accommodations for handicapped employees.
[MCL 37.1101 et seq.]

4. Rehabilitation Act of 1976

Section 504 of the Rehabilitation Act of 1976, as amended, prohibits all recipients of federal funding from discriminating against handicapped individuals. [29 USC 706]

5. Equal Pay Act of 1963

This Act is an amendment to the Fair Labor Standards Act and outlaws sex-based discrimination in rates of pay paid to employees. In 1985 the United State Supreme Court upheld application of the Fair Labor Standards Act to state and local governmental employers. The Equal Pay Act is enforced by the EEOC.
[29 USC 206(d)]

6. Age Discrimination in Employment Act of 1967

As amended in 1978, this Act prohibits discrimination in employment against individuals who are at least age 40 but less than 70 years of age. The Age Discrimination Act is enforced by the EEOC. [29 USC 621-634]

7. Civil Rights Act of 1971

The Civil Rights Act prohibits discriminatory practices on the part of state and local governmental employers. Actions arising under Section 1981 and 1983 may properly be brought in either the federal district court or the appropriate state court of general jurisdiction. [42 USC 1983]

8. Polygraph Protection Act of 1981

Michigan employers are prohibited from requiring that applicants for employment or employees submit to polygraph examination as a condition of employment.
[MCL 37.202 et seq.]

9. Americans With Disabilities Act of 1990 (ADA)

The Americans With Disabilities Act requires equal employment opportunities for qualified individuals with disabilities. Title I of the Act prohibits employers from discriminating against individuals with disabilities in any aspect of employment and requires them to provide reasonable accommodations to enable workers with disabilities to perform their jobs. Title I was effective on July 26, 1994 for employers of 15 or more employees. Subpart A of Title II prohibits discrimination by public entities. Title III of the Act deals with public accommodations. [42 USC 12101 et seq.]

10. Family and Medical Leave Act of 1993 (FMLA)

The FMLA was effective August 5, 1993 for most employers (for employers covered by collective bargaining agreements; effective upon expiration of collective bargaining agreement or February 5, 1994, whichever is earlier). Eligible employees (who have worked for the employer for a total of at least 12 months and have worked at least 1,250 hours over the 12 months prior to the leave) are entitled to up to 12 work weeks of unpaid leave for: the birth/care of a newborn, adopted, or newly placed foster child; care of a spouse, child, or parent with a serious illness; or an illness rendering the employee unable to work. An employer must maintain group health insurance coverage and the employee's original or an equivalent position for the the employee during FMLA leave.
[29 CFR Part 825]

11. Civil Rights Act of 1991

The purposes of this Act are to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace, to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 USC 2000e et seq.), and expand the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination. Under this Act a complainant may recover punitive and compensatory damages not previously provided by law. [29 CFR Part 825]

B. Wages and Hours of Work

1. Fair Labor Standards Act of 1938 (FLSA)

This Act sets minimum wage, overtime, equal pay, recordkeeping, and child labor standards for employees who are covered by the Act and are not exempt from specific provisions. The Act is supplemented by numerous regulations issued by the U.S. Department of Labor. [Title 29 USC Chapter 8, 29 CFR et seq.]

Adopted by Congress in 1938, initially the Act only applied to private employers. In 1974 Congress amended the Act to extend its provisions to most state and local governmental employers. In 1976 the U.S. Supreme Court held that the 10th Amendment to the U.S. Constitution rendered the application of the minimum wage and overtime provisions of the FLSA to state and local governments unconstitutional.
[National League of Cities v Usery, 426 US 833 (1976)]

From 1976 until 1985 state trial court employees were covered by virtually identical minimum wage and overtime provisions of state law (MCL 408.381 et seq.; MSA 17.255(1)) by virtue of an Attorney General opinion issued in 1976. [1976 OAG 5115]

In April, 1985 the U.S. Supreme Court overturned Usery, placing state trial court employees once more under the jurisdiction of the U.S. Department of Labor for enforcement of the Fair Labor Standards Act's requirements.
[Garcia v San Antonio Metropolitan Transit Authority, 469 US 528 (1985)]

2. Hittle Juvenile Employment Act

Employment of minors is governed by the Hittle Juvenile Employment Act.
[MCL 409.1 et seq.; MSA 17.701 et seq.]

3. Wages and Fringe Benefits

Prompt payment of wages and limitations on involuntary deductions from wages are governed by the provisions of this statute. [MCL 408.471 et seq.]

C. General Labor Legislation

1. Employment Security Act

Unemployment benefits for court employees are provided by the Employment Security Act. Care should be exercised in reviewing unemployment claims submitted by former court employees. Under certain circumstances findings of fact made by the Michigan Employment Security Commission regarding the reasons for employee's separation from employment may be held to be controlling for other purposes. [MCL 421.1 et seq.]

2. Worker's Disability Compensation Act

The compensation of employees injured or disabled as a result of their employment is governed by this statute. [MCL 418.101 et seq.]

3. Michigan Occupational Safety and Health Act

The prevention of on-the-job injuries through the elimination of hazardous or unsafe working conditions is under the jurisdiction of the Michigan Department of Labor by virtue of this Act. [MCL 408.10 et seq.]

4. Veteran's Reemployment Rights Act

Federal law provides reemployment rights for employees who leave their employment to perform training or other military service in the armed forces.
[Title 38 USC Part III]

5. Bullard-Plawecki Employee Right to Know Act

State law protects the right of employees to review the employer's personnel records. [MCL 423.501 et seq.]

6. Immigration Reform and Control Act

In 1986 Congress passed the Immigration Reform and Control Act. This law requires all employers to check certain documents when employing any person in order to assure the employee is legally able to work in the United States. Information on the requirements of the act may be obtained from Immigration and Naturalization Service (hotline 1-800-777-7700).

7. Consolidated Omnibus Budget and Reconciliation Act (COBRA)

Congress enacted the Consolidated Omnibus Budget and Reconciliation Act (COBRA) which requires all employers having group health plans to offer employees, their spouses, and eligible dependents the opportunity for a temporary extension of health care benefits (medical, dental, and optical) at group rates in certain instances where coverage under the group would otherwise end. [P.L. 99-272]

Employees must be given the opportunity to elect to continue group coverage (at the employee's expense) at group rates (plus a 2% administrative fee) under the employer's health, dental, or optical plans, if any, if employment is terminated or if a reduction in work hours would result in exclusion from the plan. Extended eligibility for group coverage in these two circumstances is for a period of 18 months. In addition, if spouses and certain dependents of employees are covered by the employer's plan, they also must be given the right to elect to continue coverage for themselves if group coverage under the employer's plan ends for any of the following reasons:

a. divorce or legal separation from a spouse or of parents;

b. death of a parent or spouse;

c. the spouse or parent become eligible for Medicare; or

d. no longer a "dependent child" eligible for coverage under the terms of the employer's plan.

Extended eligibility for group coverage shall be available if one of these four qualifying events occurs and is for a total maximum period of 36 months. A former employee or qualified beneficiary who is determined to have been disabled for Social Security purposes at the time of the termination of employment or reduction in hours and who gives the plan administrator notice of such determination within 60 days and before the end of the 18-month continuation period may extend the continuation coverage to 29 months. The disability extension provision is effective regardless of when the qualifying event occurred. In all other cases, the qualified beneficiary must be allowed to continue for at least 36 months. Employees and other eligible persons must provide written notice to their employer within 60 days if they desire to retain coverage under COBRA. Employers are required by this federal law to give written notice of these provisions to all new employees upon being hired and in all other circumstances if the employer is aware of the potentially qualifying event.

Additional information may be obtained from the State Court Administrative Office Trial Court Services Division.

D. Labor-Management Relations

Public Employment Relations Act (PERA)

The trial courts are governed by the provisions of the Public Employment Relations Act. Collective bargaining can be found in more than half of the trial courts. This statute is enforced by the Michigan Employment Relations Commission (MERC) in the Michigan Department of Labor. An extensive body of case law has been developed over the past fifty years since the initial federal legislation mandating collective bargaining with employees' representatives in the private sector was enacted. Labor counsel should be consulted if the court is facing a representation election or collective bargaining for the first time. [MCL 423.1 et seq.]

5-04 EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

A. Authority and Scope

Since 1972, virtually all state and local governments are subject to the anti-job discrimination rules established by Title VII of the Civil Rights Act of 1964, enforced by the U.S. Equal Employment Opportunity Commission (EEOC). In Michigan enforcement is also handled by the Michigan Civil Rights Commission.

1. Federal Law

Title VII prohibits discrimination on the basis of race, color, religion, sex, or national origin, as does state law, but the state goes further and also prohibits discrimination because of age, ancestry, handicap, marital status, height, and weight. Under federal law, the personal staff of publicly elected officials is exempted from the protection of the Act. (This is not the case with state law).
[Equal Opportunity Act of 1972 (Public Law 92-261) and Title VII of the Civil Rights Act of 1964 (78 State 253; 42 USC 2000e et seq.) as amended by the Equal Opportunity Act of 1972]

2. State Law

Michigan law exempts only publicly elected officials themselves and <u>not</u> their personal staffs. It is therefore important that accepted personnel practices and procedures be utilized in the recruitment and selection of personal staff. [1955 PA 251, as amended by 1965 PA 344, 1966 PA 349, 1972 PA 267 - MCL 37.2101]

3. Administrative Order

The Michigan Supreme Court is committed to assuring the fair and equal application of the rule of law for all persons in the Michigan court system. [Mich Sup Ct AO 1990-3]

B. Purpose

These acts and orders are intended to promote and protect the welfare of the people by prevention and elimination of discriminatory employment practices and policies.

Since the passage of these laws, it has become apparent to many government employers that merely enforcing a policy of "non-discrimination" does not result in instant equal job opportunity for all persons. Old attitudes and methods need review and modification. The effects of generations of discrimination and under-employment of minorities and women by many public and private employers still exist. Many minorities and women are locked in "dead-end" jobs.

Some members of minority groups, disadvantaged by an inferior educational system in their areas, lack the necessary skills and training to perform in well-paying public jobs. Many other minorities are fully qualified for public employment but are blocked by artificial barriers such as non job-related written tests, arbitrary educational requirements, and invalid background examinations.

C. Court as an Employer

Each court, as the recognized employer of court employees, should develop and administer their own equal opportunity employment program. In some instances it may be feasible for the court to adopt the program of the local funding unit by reference. [Wayne Circuit Judges v Wayne County, 386 Mich 1 (1971); Livingston County v Livingston Circuit Judge, 393 Mich 265 (1975); Judges of 74th Judicial District v Bay County, 385 Mich 710 (1971)] (See also 1996 PA 374 and Mich Sup Ct AO 1998-5)

D. Functions

Across the country, local governmental units have realized that discriminatory employment practices and policies demand not just "non-discrimination" but an affirmative effort to correct present effects of past discrimination; a commitment to undertake a strong "affirmative action program."

1. Working Definition of Affirmative Action

In its simplest terms, affirmative action is a comprehensive effort by an employer to:

a. identify all barriers in the human resource management system which limit the ability of applicants and employees to reach their full employment potential, without regard to race, sex, religion, national origin, or other factors.

b. eliminate all such barriers in a timely, coordinated manner.

c. undertake whatever special programs are needed to accelerate the process.

2. Affirmative Action Program

An affirmative action program should include not just some but all of the following:

a. commitment from the chief judge.

b. designation of an affirmative action coordinator and assignment of specific responsibilities. The affirmative action coordinator should be the court administrator or other court staff person responsible for recruitment and hiring.

c. outreach recruitment, which refers to the initiation of new recruitment techniques and an attempt to be more thorough in reaching minority neighborhood schools, newspapers, etc.

d. job analysis and, where needed, job restructuring. Job analysis is a systematic procedure for gathering information about jobs which would identify the duties and responsibilities of the job as well as qualifications necessary to perform it.

e. validation and revision of examinations, educational requirements, and all other screening criteria. Test validation is ensuring that selection devices predict job performance of job applicants. This has become necessary because formerly many tests worked to the exclusion of women and minorities for no valid reason.

f. upgrading and training programs. These are necessary for upward mobility at all levels of employment.

g. internal complaint procedure. An internal complaint procedure is an important morale factor and allows employees to air their grievances.

h. supervisory training. Supervisory training is invaluable because it allows people to move up in the ranks and receive additional training at the first line supervisory level.

i. employment census and progress report system. This is important in order to keep internal records of up-to-date area population ratios, counts of minorities, and women at the various job levels and promotion from within at all levels of employment. (see pages 5-04-04 and 5-04-05)

j. staff planning. Staff planning is an organized, practical way to prepare in advance for future employment needs.

E. Federal Grant Compliance

Those courts receiving any federal money in the form of grant funding should make sure that they comply with the necessary requirements that exist in terms of affirmative action compliance, submission of a written report annually, etc. Failure to do so could result in a cutoff of funding.

F. Penalties for Noncompliance

The penalties for noncompliance are harsh. Back pay settlements have ranged from a few hundred dollars to tens and hundreds of thousands. In addition, the enforcing agencies can require reinstatement of complainants, preferential hiring for identified victims of unlawful discrimination, costly validation of employment tests, and crash affirmative action programs.

G. Equal Employment Opportunity (EEO) Complaints

A job applicant or an employee who feels that s/he suffered discrimination on the basis of race, color, religion, national origin, sex, or age has the right to file a complaint.
Complaints may be filed with either:

1. U.S. Equal Employment Opportunity Commission (EEOC)

2. Michigan Civil Rights Commission (MCRC)

Groups who feel they are being discriminated against may also file a complaint with the above agencies.

H. Equal Employment Opportunity Staffing Plan Report

1. Employment Comparison With Population

The following is an example of a brief chart that can be used to indicate percentages of actual employment in your area as compared to population according to 1990 census figures.

Actual Employment

Minority	___%	White	___%
Males	___%	Females	___%

1990 Census Figures

Minority	___%	White	___%
Males	___%	Females	___%

Population information and a variety of other statistical data may be obtained by writing to the U.S. Department of Commerce, Bureau of the Census, Washington, D.C. 20233 or from the Michigan Employment Security Commission, Lansing, Michigan or from your local library.

2. Work Force Alignment

The following chart is suggested as a way to illustrate the alignment of minorities and women at the various levels using the suggested Equal Employment Opportunity Commission Job Categories. Following are some definitions:

a. Definitions for Job Categories

1) Office and Clerical Workers

Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paper work required in an office. Includes bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, assignment clerks, court registers, judicial secretaries, court reporters/recorders, cashiers, and kindred workers.

2) Officials and Administrators

Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the agency's operations or provide specialized consultation on a regional, district or area basis. Includes court administrators, deputy court administrators, clerks of the court, friend of the court and deputy friend of the court, department directors, deputy directors, bureau chiefs, and deputies, division chiefs, controllers, wardens, superintendents, administrative officers, and kindred workers.

3) Para-professionals

Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which require less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion under a "New Careers' concept". Includes mediation clerks, library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, and kindred workers. Positions are generally in the human services area.

4) Professionals

Occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. Includes middle and lower level managers, administrators, and specialists, personnel and labor relations workers, social workers, magistrates, law clerks, family counselors, mediators, referees, probation officers, doctors, psychologists, registered nurses, economists, dieticians, lawyers, system analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, police and fire captains and lieutenants, and kindred workers.

5) Protective Service Workers

Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes police officers, fire fighters, guards, corrections officers, detectives, bailiffs/court officers, and kindred workers.

6) Service/Maintenance Workers

Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds or public property. Workers in this group may operate machinery. Includes vehicle drivers, laundry and dry cleaning operatives, garage laborers, custodial personnel, gardeners and groundskeepers, refuse collectors, construction laborers, and domestic service workers such as cooks, bakers and institution workers.

7) Skilled Craft Workers

Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes mechanics and repairmen, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, and kindred workers.

8) Technicians

Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes computer programmers and operators, drafters, surveyors, licensed practical nurses, photographers, radio operators, technical illustrators, technicians (medical, dental, electronic, physical sciences), inspectors, investigators, police and fire sergeants and kindred workers. Positions frequently provide support in the sciences and engineering.

b. Definitions of Persons

1) White (not of Hispanic Origin)

Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

2) Black (not of Hispanic Origin)

Persons having origins in any of the Black racial groups of Africa.

3) American Indian or Alaskan Native

Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

4) Hispanic

Persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

5) Asian or Pacific Islander

Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

6) Handicapper

Any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

7) Multi-racial

Persons having parents from more than one of the broad racial categories listed above in 1) through 5).

Work Force Alignment

	Female	Male	Total
a. Office and Clerical Workers			
White	___	___	___
Black	___	___	___
American Indian/Alaskan Native	___	___	___
Hispanic	___	___	___
Asian/Pacific Islander	___	___	___
Handicapper	___	___	___
Multi-racial	___	___	___
b. Officials and Administrators			
White	___	___	___
Black	___	___	___
American Indian/Alaskan Native	___	___	___
Hispanic	___	___	___
Asian/Pacific Islander	___	___	___
Handicapper	___	___	___
Multi-racial	___	___	___
c. Para-Professionals			
White	___	___	___
Black	___	___	___
American Indian/Alaskan Native	___	___	___
Hispanic	___	___	___
Asian/Pacific Islander	___	___	___
Handicapper	___	___	___
Multi-racial	___	___	___
d. Professionals			
White	___	___	___
Black	___	___	___
American Indian/Alaskan Native	___	___	___
Hispanic	___	___	___
Asian/Pacific Islander	___	___	___
Handicapper	___	___	___
Multi-racial	___	___	___

Work Force Alignment

	Female	Male	Total
e. Protective Service Workers			
White	___	___	___
Black	___	___	___
American Indian/Alaskan Native	___	___	___
Hispanic	___	___	___
Asian/Pacific Islander	___	___	___
Handicapper	___	___	___
Multi-racial	___	___	___
f. Service/Maintenance Workers			
White	___	___	___
Black	___	___	___
American Indian/Alaskan Native	___	___	___
Hispanic	___	___	___
Asian/Pacific Islander	___	___	___
Handicapper	___	___	___
Multi-racial	___	___	___
g. Skilled Craft Workers			
White	___	___	___
Black	___	___	___
American Indian/Alaskan Native	___	___	___
Hispanic	___	___	___
Asian/Pacific Islander	___	___	___
Handicapper	___	___	___
Multi-racial	___	___	___
h. Technicians			
White	___	___	___
Black	___	___	___
American Indian/Alaskan Native	___	___	___
Hispanic	___	___	___
Asian/Pacific Islander	___	___	___
Handicapper	___	___	___
Multi-racial	___	___	___

I. Sources of Information

Some sources of information regarding affirmative action programs and equal opportunity employment are:

1. U.S. Equal Employment Opportunity Commission
   "Affirmative Action and Equal Employment"
   Volumes I and II
   Washington, D.C. 20506

2. Michigan Civil Rights Commission
   State of Michigan Plaza Building
   1200 Sixth Avenue
   Detroit, MI 48226
   or
   Michigan Civil Rights Commission
   303 West Kalamazoo Street
   4th Floor
   Lansing, MI 48913

3. Detroit District EEOC Office
   Michigan Building, Suite 600
   220 Bagley Avenue
   Detroit, MI 48226

4. State Court Administrative Office
   Trial Court Services Division
   PO Box 30048
   Lansing, MI 48909

J. Sample Equal Employment Opportunity Policy/Program

1. Policy Statement

This court is committed to the concept of equal employment opportunity as a necessary element in its basic personnel and administrative policy. This commitment will be supported by positive, practical efforts to work continually toward improving recruitment, selection, employment, development, and promotional opportunities for all employees.

2. General Objectives

a. To establish and maintain employment levels for females and minorities commensurate with their respective population ratios.

b. To distribute these employment levels proportionately throughout the various job classifications whenever possible.

c. To make a continuous effort to eliminate and prevent occurrences of arbitrary or discriminatory hiring and promotional practices.

d. Sexual harassment is a form of unlawful discrimination. No court employee shall be subjected to sexual harassment by another employee during the course of his or her employment. For the purpose of this policy, sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

1) submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment; public accommodations; or public services, education, or housing.

2) submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment; public accommodations; or public services, education, or housing.

3) such conduct or communication has the purpose or effect of substantially interfering with an individual's employment; public accommodations; or public services, education, or housing; or creating an intimidating, hostile, or offensive employment; public accommodations; public services, educational, or housing environment.

The Michigan Civil Rights Commission has stated that compliance with the Michigan Civil Rights Act "requires employers to maintain a working environment free from verbal or physical sexual harassment and to take affirmative measures to eliminate such harassment when made aware of its existence." Sexual harassment will not be tolerated by the court.

e. To establish on-the-job training programs and to encourage and compensate for outside educational activities as a means of upward mobility.

3. Implementation

The responsibility for continued implementation of the Equal Employment Opportunity Program rests jointly with the judge/designees and the court administrator. It will be the duty of the judge/designee to effectively communicate the intent and requirements of this program to the various supervisors. All employees of the court work force (administrators, directors, supervisors, and all other members) are committed to support the Equal Employment Opportunity Program as a matter of policy. Final responsibility for success of the program rests jointly with the judge/designee and the court administrator. The court must continue to actively recruit appropriate numbers of minority and female applicants at all levels of employment. Those individuals responsible for approving new employees to work in their departments or areas must exhibit a willingness to employ such applicants, as well as to encourage them to take advantage of whatever educational opportunities are available.

4. Training

Employees at all levels are encouraged to participate in conferences, training programs, and seminars for the improvement of current and new skills needed for present and/or other jobs.

5. Transfer, Promotions, Terminations, and Grievances

Charts at the end of the EEO Report will give figures regarding transfers and promotions.

K. Pre-Employment Inquiry Guide

1. Purpose and Outline of Guide

A pre-employment inquiry guide, available from the Michigan Department of Civil Rights, provides guidelines in the development and implementation of selection procedures. A list of both lawful and unlawful questions which can be asked of applicants is also provided. The guide is based on the provisions of Public Acts 220 and 453 of 1976 and can be used as an effective tool in minimizing the number of employment discrimination complaints. This benefits employers because of the financial savings of not having to defend such complaints.

2. Review of Applications by Michigan Department of Civil Rights

Courts who wish to have their employment applications reviewed may do so by forwarding a request and a copy of the application form to the:

Director of Enforcement
Michigan Department of Civil Rights
1200 Sixth Street
Detroit, MI 48226

3. Where to Send for Copies

Michigan Department of Civil Rights
State of Michigan Plaza Building
303 West Kalamazoo
1200 Sixth Avenue
Fourth Floor
Detroit, MI 48226
Lansing, MI 48913
(313) 256-2663
(517) 334-6079

In Northern Michigan call toll free 1-800-482-3604.

5-05 LABOR RELATIONS

A. Authority

Whether or not a court's employees have elected an exclusive representative through the mechanism provided for by law, the trial courts are governed by the provisions of the Public Employment Relations Act (PERA). Collective bargaining can be found in more than half of the trial courts. This statute is enforced by the Michigan Employment Relations Commission in the Michigan Department of Labor. [MCL 423.1 et seq.]

1. Unionized Court

An extensive body of case law has been developed over the past fifty years since the initial federal legislation mandating collective bargaining with employees' representatives in the private sector was enacted. Labor counsel should be consulted if the court is facing a representation election or collective bargaining for the first time.

2. Non-unionized Court

Where no recognized bargaining agent has been chosen by the employees to serve as their exclusive representative regarding their "wages, hours, and other terms and conditions of employment", the chief judge may exercise the authority provided in the chief judge rule without the obligation to negotiate with the court's employees. Factors to be considered in attempting to determine levels of compensation are addressed in Section 5-09, Compensation. "Management rights" remain with the chief judge along with the authority to establish personnel policies and, so-called work rules. Section 5-02, Personnel Programs in the Trial Court, addresses the typical topics found in formal personnel policies. Assistance in either area may be obtained from the State Court Administrative Office, private consultants, and (depending on local circumstances) from the funding unit(s).

B. Caselaw

Several Michigan Supreme Court decisions interpreting PERA as it applies to trial courts which should be reviewed include:

1. Judges of the 74th Judicial District v Bay County, 385 Mich 710 (1971)

   In this case the court held that employees of the district court are employees of the judicial district, an administrative unit of the state's one district court, which in turn is a subdivision of Michigan's one court of justice; they are not employees of the county, city, or other district control unit even though they are paid by the district control unit. A collective bargaining agreement, executed by a county board of commissioners, as an employer, cannot and does not bind a judicial district.

2. Livingston County v Livingston Circuit Judge, 393 Mich 265, 272 (1975)

   In this case the Supreme Court's opinion suggested that: "the best practice, in general, especially at initial bargaining sessions, is for the local judiciary to invite a representative of the commissioners to appear personally at such sessions. The commissioners' representative cannot actively bargain, of course, but such representative may present relevant data as to other county employees, e.g., wage levels for comparable jobs, provisions in other labor contracts, general county benefits, and county budget information."

3. Clare and Gladwin Probate Courts v Clare and Gladwin County Boards of Commissioners, 155 Mich App 433 (1986)

   These consolidated cases stand for the proposition that a probate court has the authority to set salaries of its employees which, if reasonable and within the appropriations of the local funding unit, must be paid by the unit. In addition, where the probate court and the funding unit are unable to agree on such expenditures, the court may institute suit and shall bear the burden of proving that the appropriation it seeks is necessary to the performance of its statutorily mandated function.

4. Ottawa County Controller v Ottawa Probate Judge, 156 Mich App 595 (1986)

   In this case, the court held that despite statutory language which might be construed as empowering a county board of commissioners to set the salaries of certain probate court employees, it is the probate judge who has the authority to set salaries of probate court employees so long as the court's total budget remains within the total budget appropriation set by the county board.

   These last two cases involved non-union situations in which the court had determined the appropriate salary levels it wanted to pay to certain employees. In cases likely to result in litigation, consultants are useful in establishing the foundation required to prove that the court's proposed salary levels are reasonable and necessary. Again, private consultations are available as are the staff of the State Court Administrative Office Trial Court Servcies Division.

C. Duty to Negotiate

Under PERA, if a union wins a secret ballot election supervised by the MERC, management (the court) is legally obligated to bargain "in good faith" with the elected representative of its employees concerning "wages, hours, and other terms and conditions of employment."

D. Relationship with Funding Unit

1. Coordinating Labor Contracts

Many courts have discovered that a close working relationship between funding unit administration and the court can be achieved so that labor contracts can be negotiated in a coordinated fashion, often with the funding unit and the court using the same negotiating team. Such an arrangement is helpful in avoiding "whipsawing" in which the union might be able to play the court off against the funding unit to achieve greater benefits or compensation than could otherwise be achieved.

2. Budget Request

If a negotiated contract is reached requiring funding to implement, the court will present a budget request to its funding unit. In the event that a dispute appears possible concerning funding, the Regional Administrator of the State Court Administrative Office should be brought into the situation.

3. Appropriations

In 1985 the Michigan Supreme Court held that a court has the authority to set the salaries of its employees which, if not unreasonable and within the appropriations of the local funding unit, must be paid by the unit. A court does not, however, have authority to compel expenditures by local funding units in excess of appropriations through administrative orders. Where a court and the local funding unit are unable to agree on such expenditures, the court may institute suit and must bear the burden of proving that the appropriation it seeks is needed to fulfill the performance of a statutorily mandated function or functions. [2nd District Court v Hillsdale County, 423 Mich 705 (1985)]

4. Funding Disputes

In an Appendix to the Hillsdale decision, the court announced the issuance of Michigan Supreme Court Administrative Order 1985-6 setting forth the required pre-conditions to the initiation of a lawsuit by a trial court seeking to compel a local funding unit to appropriate funding for the court. One prerequisite is a written notice to the State Court Administrator not less than 30 days prior to the commencement of legal action. During this waiting period, the State Court Administrator shall attempt to aid the court and the involved local funding unit or units to resolve the dispute. Mediation is one method used to resolve funding disputes. (See also Section 6-07, page 6-07-03)

(see also Section 6-07, Funding Unit Disputes, pages 6-07-01 through 6-07-05, 1996 PA 374, and Mich Sup Ct 1997-6)

5-06 QUALIFICATIONS OF COURT STAFF

A. Source of Qualifications

For many trial court jobs the establishment of minimum qualifications will be the responsibility of the chief judge. The setting of minimum experience and education standards that can be defended if challenged is an important process. These qualification standards must be directly "job related" and should not exceed the minimum level required to perform the duties and responsibilities of the position.

For other jobs found in the trial courts, specific qualifications have been established externally. These are found in either the Michigan Court Rules or in the statutes. For many of these jobs, the source of specific minimum employment qualifications follow, grouped by source of the requirement.

B. Michigan Court Rules and Supreme Court Administrative Orders

1. Certification Requirement for Shorthand Reporters and Electronic Recorders [MCR 8.108(G)(3)] (see also Manual for Court Reporters/Recorders)

2. Various Positions in Family Division of Circuit Court [Mich Sup Ct AO 1985-5, amended by Mich Sup Ct AO 1988-3]

3. Referees in Family Division of Circuit Court [MCR 5.913]

C. Michigan Statutes

Numerous positions reviewed in Section 4 of this manual have employment qualifications prescribed by law. These include:

1. Circuit Court Clerk [Const. 1963, Art. 6, Sec. 14, MCL 600.571(a)]

2. Friend of the Court [MCL 552.523(3)]

3. Friend of the Court Referee [MCL 552.507(1)]

4. Domestic Relations Mediator [MCL 552.513(4)]

5. District Court Magistrate [MCL 600.8507, MCL 600.8512]

6. Circuit and District Court Law Clerks [MCL 600.1471(2)]

7. Judicial Assistant [MCL 600.1481(1)]

8. Juvenile Court Referee [MCL 712A.10]

(see also pages 5-16-01 through 5-16-11, Court Employees Citations on Duties and Employment)

5-07 EFFECTIVE PERFORMANCE APPRAISAL AND EMPLOYEE DISCIPLINE

A. Authority

The American Bar Association's Commission of Standards of Judicial Administration recommends the adoption of "[u]niform procedures for making periodic evaluation of employee performance and decisions concerning retention and promotion.

B. Establishing a Program

Performance criteria are the basis upon which an effective performance evaluation program depends. In courts there are many jobs which cannot be easily measured, and there are many other jobs in which the quality of work is more important than the quantity. There is no simple method for determining the kind of performance evaluation plan to be used by courts.

Ideally, a plan would involve the development of realistic measurable goals, development and implementation of individual performance plans, and the discussion of these plans with affected staff. Periodic feedback and review sessions followed by year-end evaluation and communication of results to employees are also involved. The cycle is then repeated with the new performance plan being developed after the year-end review has taken place. Counseling, coaching, and motivation techniques should be designed to augment the performance evaluation system.

C. Employee Discipline

1. Concept of "Good Cause"

Effective employee discipline is essential in defending against grievances, litigation, and administrative investigation (civil rights, unjust termination, unemployment claims, etc.). Through the years courts, administrative agencies, and arbitrators have developed the concept of "good cause" for discipline and will frequently impute such a requirement regardless of written personnel policy statements to the contrary.

2. Applying "Good Cause" Concept

"Good cause" for discipline requires several steps. The court should ask itself these questions prior to imposing discipline:

a. Was the employee warned of the consequences of the conduct? Some conduct is so unacceptable that no prior warning is required (e.g. theft, fraud, work-related criminal conduct).

b. Was the work rule or order directly related to efficient and safe operations?

c. Was a timely investigation conducted before discipline was administered?

d. Was the investigation fair and objective?

e. Did the investigation produce substantial evidence of misconduct?

f. Have the rules, orders, and penalties been applied evenhandedly and without discrimination?

g. Was the penalty reasonably related to the seriousness of the offense and the employee's past record?

5-08 ETHICAL CONSIDERATIONS

A. Introduction

Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges and other court personnel. All those working within the judiciary must avoid all impropriety and appearance of impropriety. They must expect to be the subject of constant public scrutiny. As a result, they must accept restrictions on their conduct that might be viewed as burdensome by the ordinary citizen.

B. Code of Judicial Conduct, Applications to Judges and Staff

Judges and court staff should respect and observe the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judicial system. They should not allow family, social, or other relationships to influence their conduct or judgment as they carry out official duties. These general principles are based on Canon 2 of the Code of Judicial Conduct (based upon the ABA Model Codes and available in the Michigan Rules of Court). Most of the Code can be used as a general guide for ethical conduct.

The Judicial Tenure Commission is responsible for disciplinary action based upon judicial misconduct. For the purposes of the Tenure Commission's authority, MCR 9.201(2) defines a "judge" as follows:

> "(2) 'judge' means a judge of an appellate or trial court or a magistrate or referee appointed or elected under the laws of this state;"

Consequently, the body of case law interpreting the Code of Judicial Conduct arising out of determinations of the Judicial Tenure Commission and the State Bar Subcommittee on Judicial Ethics should be referred to by court staff occupying these quasi-judicial positions.

In addition, several sections of the Code of Judicial Conduct refer to court staff.

1. Canon 3, A(10)

Without regard to a person's race, gender, or other protected personal characteristic, a judge should treat every person fairly, with courtesy and respect. To the extent possible, a judge should require staff, court officials, and others who are subject to the judge's direction and control to provide such fair, courteous, and respectful treatment to persons who have contact with the court.

2. Canon 3, B(2)

A judge should direct his staff and court officials subject to his control to observe high standards of fidelity, diligence, and courtesy to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacity.

3. Canon 7, B(1)

A candidate, including an incumbent judge, for a judicial office should prohibit public employees subject to his/her direction or control from doing for him/her what s/he is prohibited from doing under this Canon.

4. Canon 7, B(3)

No judge should himself/herself sell or permit any court or public employee working for or assigned to any court to sell fund raising tickets or accept contributions of any kind on his/her behalf or on behalf of any other judicial candidate.

C. Rules of Professional Conduct

Beyond the provisions of the Code of Judicial Conduct, judges and court staff who are members of the State Bar of Michigan are also subject to the requirements of the Rules of Professional Conduct. The Supreme Court delegated authority to the State Bar Subcommittee on Professional Ethics to provide written opinions interpreting the Michigan Rules of Professional Conduct. The Michigan Rules of Professional Conduct are based upon the ABA Model Codes and are available in the Michigan Rules of Court.

D. Personnel Policies

A court should consider including, in its personnel policies, a section specifying the expectation that staff conform to ethical standards and avoid conflicts of interest or the appearance of conflict of interest. Assistance may be sought from the State Court Administrative Office Trial Court Services Division.

A model code of conduct for court employees has also been developed by the Michigan Judicial Institute (see http://courts.michigan.gov/scao/resources/other/codewithguidelines.pdf). A training module using the code is available from MJI in both CD-i and CD-ROM format. A trial court desiring to implement the model code of conduct, should consult with their local labor counsel or human resources department to determine whether these personnel rule provisions need to be included in or conflict with existing collective bargaining agreements.

E. Guidance for Determining Ethical Actions

Circumstances change or situations develop to the extent that ethical guidance is warranted. A judge or attorney on the court's staff can obtain advice on contemplated conduct from the State Bar of Michigan. The Supreme Court has directed the State Bar to split its Ethics Committee, creating a subcommittee with more judges on the judicial branch. The Committee is now the source of advisory opinions regarding ethical questions.

A judge or attorney may request a written advisory opinion on the inquirer's own proposed conduct by sending a written request to the State Bar Committee on Professional and Judicial Ethics, and setting forth a complete statement of the facts, issues, and legal authorities consulted on the question. Since the Committee is not a fact-finding body and will resolve the inquiry based upon the facts presented, it is important for the inquirer to provide as much relevant information as is available. The Committee does not address questions of law, but only questions regarding the application of the ethics codes. The Committee is not authorized to render an opinion concerning the conduct of someone other than the inquirer or concerning conduct that has already occurred. Although State Bar ethics opinions do not have the force and effect of law and may not be relied upon as an absolute defense to a charge of ethical misconduct, the opinions do provide reasoning, citations, and guidance regarding application of ethics rules.

Questions regarding ethics may be addressed to:

State Bar of Michigan
306 Townsend Street
Lansing, MI 48933-2083
(517) 486-ETHX

The State Bar of Michigan publishes all of its ethics resources, including codes, opinions, and bibliography of other ethics resources on its website at http://www.michbar.org under the “ethics opinions” tab. Telephone inquiries on ethics matters are directed to ethics counsel.

Additional research tools on judicial ethic topics are:

1. Reporter's Notes to Code of Judicial Conduct, by E. Wayne Thode, ABA/ABF, 1973, a publication concerning the ABA Model Codes of Judicial Conduct.

2. Judicial Conduct and Ethics, Shaman, Lubet & Alfini, The Michie Company, a work particularly helpful in understanding the reasons for the regulatory restrictions placed on sitting judges. It examines ethical restrictions on judges, examines the scope of the ABA Model Code of Judicial Conduct, and includes footnotes to judicial discipline cases.

5-09 COMPENSATION

A. Objectives

A trial court should have these objectives for its compensation program:

1. to attract qualified employees;

2. to retain those employees;

3. to motivate those employees to perform their duties and tasks in the most effective manner.

B. Goals

1. Internal Equity

Employees with more important, difficult, or responsible jobs should receive more compensation than those with less important, difficult, or responsible jobs. The State Court Administrative Office has available a Point Factor plan, initially used in the three state-funded courts under the jurisdiction of the State Judicial Council, which was designed specifically to measure the relative ranking of jobs in Michigan trial courts.

2. External Equity

The court should maintain a competitive posture with comparable employers in similar labor markets. The selection of comparable employers (often other courts) is frequently the most important decision the court will make in terms of designing a pay structure to meet the court's goals while maintaining a defensible pay structure.

3. Conservation of Limited Resources

The court must be cognizant of the fact that its financial resources are limited. The compensation program should be designed to assure management that compensation dollars are well spent and that compensation not justified by objective factors will be avoided.

4. Compliance with Government Regulations

The compensation program must assure that state and federal laws dealing with compensation of individuals are complied with. Such laws as the Equal Pay Act, the Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964, and the Fair Labor Standards Act have a significant impact on how jobs are paid.

C. Development and Implementation of Compensation Program

The development and implementation of a technically sound, practical, and defensible compensation program designed to meet these goals and objectives can be achieved in several ways. Often courts avail themselves of existing classification and pay plans used by their funding units. Other courts contract with private management consulting firms to design and propose a compensation program for the court. In addition, the State Court Administrative Office's Trial Court Services Division may be available to carry out a study for the court if resources permit. Requests should be made to the appropriate Regional Administrator of the State Court Administrative Office.

D. Accepting Gratuities for Performing Marriages

Fees which may be collected by a judge or magistrate for performing marriages are set by statute and are charged by the court to be paid into funding units as specified in the Department of Treasury's Local Audit Bulletins. The authority for charging a fee in probate court is MCL 600.874, and the authority for charging a fee in district court is MCL 600.8316.

Performing marriages is not a quasi-judicial or extra-judicial activity as defined by Canon 6 of the Code of Judicial Conduct (see also Canon 5C) but is a judicial activity performed according to statute [MCL 551.7]. Therefore, any fee collected is **not** considered personal compensation to the judge or magistrate for performing the marriage and may not be personally retained. Neither may a judge or magistrate accept a gratuity in addition to the fee specified in statute. Collecting any fees in excess of those set by statute is a misdemeanor and is cause for forfeiture of office [MCL 600.2519].

(see also Section 6-01, page 6-01-01)

5-10 RETIREMENT

A. State Employees Retirement System

While the 3rd Circuit and 36th District Courts are no longer state funded, there are employees within those courts, and certain county juvenile officers, who remain members of the State Employees Retirement System administered by the Department of Management and Budget. [MCL 38.1 et seq.]

All new employees hired after March 30, 1997 participate in the Defined Contribution Retirement Plan which is a 401(k) plan designed as a primary retirement plan. The employee makes all investment decisions with a wide range of options available. The benefit at retirement is based upon the employee's investment account balance. The Plan is administered by the Michigan Department of Treasury.

B. Municipal Employees Retirement System

Many trial court employees are members of the Municipal Employees Retirement System. Amendments to the Municipal Employees Retirement Act in 1988 permit the chief judge of a trial court, with the concurrence of the governing body of the funding unit(s), to elect membership and select benefit options under the Act. This system is also administered by the Department of Management and Budget. [MCL 38.1501 et seq.]

C. City and County Retirement

Some trial court employees are presently covered by retirement plans made available by the funding unit.

D. Reciprocal Retirement Act

The Reciprocal Retirement Act provides for continuity of retirement system service credits for certain public employees who transfer their employment between different units of government. [MCL 38.1101 et seq.]

E. Judges Retirement System

The Michigan judges retirement system is created for judges and state officials. [MCL 38.2201]

1. Each of the following is a member of the retirement system:

    a. A person who is duly elected or appointed as a judge or state official on or after the effective date of this act, unless within 30 days from taking office the judge or state official files a written notice not to participate in the retirement system with the retirement system.

b. A person who was a member of the former judges retirement system or former probate judges retirement system on the day before the effective date of this act and who remains a judge or state official on and after the effective date of this act.

c. A person, other than a retirant, who is authorized by the supreme court to perform judicial duties for a limited period or a specific assignment pursuant to section 23 of article VI of the state constitution of 1963 and who performs at least 20 days of service in a 30-consecutive day period.

2. A judge or state official who becomes a member under subsection 1a shall complete a membership form furnished by the retirement system and shall forward the form to the retirement system within 30 days of taking office. A judge or state official upon becomeing a member, is considered to have agreed that in the event of adjudication of the member's mental incompetency, a guardian, if appointed, has the power and authority to complete and execute the necessary application forms to retire the member as provided in section 507. In all cases of doubt, the retirement board shall decide the membership status of a judge or state official.

3. The membership of a judge or state official in the retirement system ceases when the member retires, when the member forfeits his or her membership under the provision of section 507, at the end of the judicial term in which the member who is a judge attains age 70, or upon ceasing to be a judge or state official unless the person is a vested former member.

[MCL 38.2401 et seq.]

Unless there is prior State service, all new judges elected or appointed after March 30, 1997 participate in the Defined Contribution Retirement Plan which is a 401(k) plan designed as a primary retirement plan. The employee makes all investment decisions with a wide range of options available. The benefit at retirement is based upon the employee's investment account balance. The Plan is administered by the Michigan Department of Treasury.
[MCL 38.2110]

The Department of Management and Budget is responsible for budgeting, procurement, and related management functions of the retirement system. [MCL 38.2205]

[For more details, see the Judges Retirement Act of 1992, MCL 38.2101 et seq.]

F. Further Information

Information on these retirement systems can be obtained by writing to the Michigan Department of Management and Budget at:

State of Michigan
Office of Retirement Services
PO Box 30171
Lansing, MI 48909
(517) 322-5103 (inside Lansing) or (800) 381-5111 (outside Lansing)
http://www.mi.gov/dmb/ors/

5-11 VACATIONS AND OTHER LEAVE

A. Authority

Under the Chief Judge Rule, the chief judge has the authority and responsibility to coordinate judicial and personnel vacations and other absences. [MCR 8.110(C)(3)(e)]

A judge may not be absent from the court without the chief judge's prior approval except for personal illness. In making the decision on a request to approve a vacation or other absence, the chief judge shall consider, among other factors, the pending caseload of the judge involved. The chief judge shall withhold approval of vacation, judicial education, or judicial professional leave that conforms to these standards only if withholding approval is necessary to ensure the orderly conduct of judicial business. The chief judge shall maintain records of absences to be available at the request of the Supreme Court. [MCR 8.110(D)(6)]

B. Judicial Vacations

A judge is expected to take an annual vacation leave of 20 days with the approval of the chief judge to ensure docket coordination and coverage. A judge may take an additional 10 days of annual vacation leave with the approval of the chief judge. A maximum of 30 days of annual vacation unused due to workload constraints may be carried from one calendar year into the first quarter of the next calendar year and used during that quarter, if approved by the chief judge. Vacation days do not include:

1. attendance at Michigan judicial conferences;

2. attendance, with the chief judge’s approval, at educational meetings or seminars;

3. attendance, with the chief judge’s approval, at meetings of judicial committees or committees substantially related to judicial administration of justice;

4. absence due to illness; or

5. administrative leave with the chief judge’s approval.

[MCR 8.110(D)(3)]

C. Personnel Vacations

As with holidays, personnel vacation policies usually have a very strong resemblance to the personnel vacation policy of the local governmental unit which provides personnel funding for the trial court. The vacation policy is usually documented in a personnel policy or union contract.

D. Judicial Education Leave

A judge is expected to take judicial education leave of 2 weeks every 3 years to participate in continuing legal education and training at Michigan judicial training programs and nationally recognized judicial education program, including graduate and refresher courses. Judicial education leave does not include judicial conferences for which attendance is required. The use of judicial education leave approved by the chief judge does not affect a judge's annual leave. [MCR 8.110(D)(4)]

E. Judicial Professional Leave

Judges are encouraged, as part of their regular judicial responsibilities, to participate in professional meetings and conferences that advance the administration of justice or the public's understanding of the judicial system; to serve on commissions and committees of state and national organizations that contribute to the improvement of the law or that advance the interests of the judicial system; and to serve on Supreme Court-appointed or in-house assignments or committees. The use of judicial professional leave approved by the chief judge does not affect a judge's annual leave or education leave. [MCR 8.110(D)(5)]

5-12 HOLIDAYS

A. Statutory Authority

Michigan has a Legal Holidays Act which designates the holidays to be observed in the holding of courts and the continuance of suits and by the banking industry. After setting forth the holidays, the act provides:

"This act shall not prevent or invalidate the entry, issuance, service, or execution of a writ, summons, or confession of judgment, or other legal process, the holding of court . . ." [MCL 435.101]

Since holidays are a negotiable item between employer and employee and since the Legal Holidays Act allows courts to conduct business on legal holidays, many trial courts have established a holiday schedule which varies from the Legal Holidays Act.

B. Uniformity with Local Government Practices Through Administrative Order

Courts are encouraged to adopt an administrative order if appropriate to accommodate or achieve uniformity with the holiday practices of local government units regarding local public employees. The court rule addresses a practical reality; it is easier for the local government unit operating a public building and for the public using government services if a public building is either open or closed for all services provided within the building. [MCR 8.110(D)(2)(c)]

C. Courts Without Administrative Orders

The chief judge rule provides a list of holidays to be observed by all state courts except those who have adopted a holiday schedule by administrative order. This holiday schedule is consistent with the holiday schedule adopted by the state civil service and, therefore, conforms to the days state office buildings in Lansing are closed for business. [MCR 8.110(D)(2)]

D. Exceptions

A judge may continue a trial in progress or dispose of judicial matters on any of the listed holidays if s/he finds it to be necessary. [MCR 8.110(D)(2)(d)]

Any action taken by a court on February 12, Lincoln's birthday, or on the second Monday in October, Columbus Day, shall be valid. [MCR 8.110(D)(2)(e)]

5-13 TRAVEL EXPENSE REIMBURSEMENT GUIDELINES

A. Authority to Determine and Authorize Travel Expense Reimbursement Rates

As the employer of court employees, the chief judge has the authority to establish travel expense reimbursement rates. In a unionized court this is a negotiable item.

B. Adoption of Guidelines

As with holidays, vacations, and other personnel matters, deference should be made to the travel expense reimbursement rates of the local funding unit for reimbursement of local public employees.

C. Travel Reimbursement Rates Authorized by the State Court Administrator

Annually, in conjunction with the state fiscal year, the State Court Administrator establishes travel reimbursement rates for travel authorized and reimbursed by the State Court Administrative Office. See the rates at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/intrate.htm.

5-14 STAFFING PROBLEMS FOR MULTI-LOCATION COURTS

Multi-county circuit, district, and probate courts experience unique personnel problems because they have groups of employees at each court location. Usually the employees share a facility with local government employees and the personnel policies are usually more like the policies of local government employees than like the policies for other court employees in single location counties.

Since compensation for the court employees is provided by local funding units, the chief judge must recognize the effect the local political reality has for each group of employees. Often, personnel issues must be carefully negotiated with the local funding unit of each location.

Regional state court administrators are available to assist chief judges and court administrators with the difficult problems created by multi-location courts.

5-15 CONTRACTING OR PURCHASING SERVICES FOR THE COURT

An increasing number of courts are now purchasing services and/or contracting for services with agencies and organizations outside of the court system. Many courts are utilizing this practice in order to cope with increasing demands for services in specialized areas. While contracting for services may be the answer in some areas where courts have limited resources to meet increased demands, a cautionary note should be injected into any discussion of courts purchasing or contracting for services.

Any contractual proposal or procedure should be carefully reviewed prior to implementation. Care should be taken to ensure that any and all statutory restrictions or requirements are met for the provision of service. This would include appropriate licensing, accreditation, and proper credentials on the part of individuals or organizations providing service. Additionally, contractual procedures are most beneficial if proper planning and deliberation take place to ensure that contractual services fit appropriately into the overall system of court services being provided.

One form of contracting for services that warrants special mention is the hiring of individuals as independent contractors. Courts sometimes hire individuals as independent contractors to perform various services and functions. Because social security, income and state taxes are not withheld from independent contractors and they typically do not receive fringe benefits, there are perceived tax benefits and lower fringe benefit costs. However, it is extremely important to ensure that individuals hired as independent contracts are bona fide independent contractors. The Internal Revenue Service utilizes approximately twenty factors designed to assess the degree of control an employer exercises over a worker. Affirmative answers to the IRS criteria illustrates a degree of control which indicates that the worker is an employee, not an independent contractor. Employers who improperly classify workers as independent contractors are required to pay taxes that should have been withheld from a worker's wages. There are criminal sanctions for employers who wilfully misclassify workers.

In addition to statutory requirements and credentials for contractors, consideration should be given to overall use of court revenues and the impact of contractual services upon a particular court budget. Time, convenience, and organizational structure are important factors to be considered also. How efficient, available, and satisfactory a contractual service proves to be is determined, in part, by realistic assessment of resources and organizational structure. Adequate time and planning by a court prior to purchasing services does help ensure the success of contractual court programs.

5-16 COURT EMPLOYEES CITATIONS ON DUTIES AND EMPLOYMENT

The following statutes, court rules, and other authority pertaining to various court employees are not a complete listing. Most of the statutes which have been cited refer only to general authority, appointment, qualifications and duties. While some of the statutes pertaining to specific functions have been cited below, keep in mind that there are many more which have not been cited because of the limitations of space in the manual. The Michigan Court Rules provide a general basis for procedural duties and correspond to the more specific descriptions in statutes.

A. Circuit Court

1. Court Administrator

MCR 2.403(F) - Designation as ADR Clerk
MCR 2.510(D) - Summoning Jurors for Court Attendance
MCR 3.211(D) - Payment of Support
MCR 8.110(C)(6) - Delegation of Administrative Duties by Chief Judge

2. Court Clerk and Deputy

Const. 1963, Art. 6, Sec. 14 - County clerks duties
MCL 45.41 - Appointment of deputies
MCL 45.401 et seq. - County officers; compensation
Chapter 50 of the Michigan Compiled Laws - County clerk
MCL 168.191 et seq. - County officers; eligibility
MCL 168.224 - Nominating petitions
MCL 168.233 - Certificate of election
MCL 168.263 - Certificate of election
MCL 201.15 through MCL 201.17 - Vacancies in office
MCL 201.35 - Vacancy in county office
MCL 600.565 through MCL 600.579 - Circuit courts
MCL 600.1340 - County clerk’s certificate; jurors
MCL 722.719 - Filing of paternity bond
MCL 780.163(1) - Support enforcement; duties of responding court
MCL 780.167 - Support enforcement; duties of responding court
MCL 780.168 - Support enforcement; duties of initiating court
MCL 780.178 - Registration of foreign support orders
MCL 780.180 - Registration of foreign support orders
MCR 2.102 - Summons
MCR 2.107(G) - Filing Defined
MCR 2.109(A) - Security for Costs
MCR 2.119(E)(4)(b) and (G)(2) - Motion Fees and Costs
MCR 2.222(D)(2) - Change of Venue - Jury Fee
MCR 2.223(B)(3) - Change of Venue - Costs

MCR 2.225(C) Joinder of Party - Jury Fee
MCR 2.227(A)(3), (4) and (B)(3) - Transfer of Actions
MCR 2.403 - Mediation
MCR 2.502(B)(1) - Dismissal for Lack of Progress
MCR 2.506(B) and (I)(2), (3) - Subpeona
MCR 2.507(G) - Deposit of Fees
MCR 2.510 - Juror Personal History Questionnaire
MCR 2.511(G) - Oath of Jurors
MCR 2.517(A)(5) - Notification of Findings
MCR 2.602(B)(3) and (D) - Entry of Judgments/Orders
MCR 2.603(A)(1), (2)(a) and (B)(2), (4) - Default and Default Judgment
MCR 2.611(G) - Notice of Decision on Motion for New trial
MCR 2.620 - Satisfaction of Judgment
MCR 2.625(F) - Taxation of Costs
MCR 3.101(D), (I), (K)(4), and (L)(1) and (2) - Garnishment
MCR 3.103(G)(2) - Attachment
MCR 3.203 - Domestic Relations Process
MCR 3.205(B) and (C) - Notice to Prior Court
MCR 3.210(B)(3) - Judgment Fee
MCR 3.211(D) - Payment of Support
MCR 3.213 - Postjudgment Motions
MCR 3.403 - Sale of Premises
MCR 3.605(E) - Collection of Penalties, Fines, Forfeitures, and Recognizances
MCR 6.101(B) - Signature and Oath on Criminal Complaint
MCR 6.102(A) - Issuance of Warrant
MCR 6.103(A) - Issuance of Summons
MCR 6.304(D) - Report of Plea
MCR 6.425 - Appointment of Appellate Counsel
MCR 6.427 - Judgment
MCR 6.433(A)(1) and (D) - Postconviction Proceedings
MCR 6.502(C) - Postappeal Relief
MCR 6.503 - Filing and Service of Motion
MCR 6.505 - Right to Legal Assistance
MCR 6.507 - Expansion of Record
MCR 7.101 - Appeals to Circuit Court
MCR 7.105(J)(6) and (K)(4) - Appeals from Administrative Agencies
MCR 7.204(E), (F), and (G) - Trial Court and Other Filing Requirements
MCR 7.209(F)(2)(f) and (G) - Change of Address; Filing of Appeal Bond
MCR 7.210 - Record on Appeal
MCR 7.211(C) - Special Motions
MCR 8.103(7) - Reports
MCR 8.105 - General Duties of Clerks
MCR 8.106 - Money Paid into Court
MCR 8.108(D) - Transfer of Court Reporters and Recorders Records
MCR 8.110(C)(6), (7) - Delegation of Administrative Duties; Direction to Supply Forms

MCR 8.111(C) and (D)(3) - Assignment of Cases
MCR 8.119 - Court Records and Reports; Duties of Clerks

*This does not represent a comprehensive list of court rules which refer to filing something with the clerk since it is the corresponding duty of the clerk to receive items for filing. The general obligation of the clerk to accept papers for filing is stated in MCR 2.107(G) and MCR 8.119.

3. Court Reporter/Recorder

MCL 600.1101 et seq. - Court reporter/recorder number
MCL 600.2543 - Circuit court stenographers; transcripts, fees
MCR 2.305 - Subpoena for Taking Deposition
MCR 2.306 - Deposition on Oral Examination
MCR 2.307 - Depositions on Written Questions
MCR 5.925(B) - Record of Proceedings
MCR 6.101(B) - Signature and Oath on Criminal Complaint
MCR 6.402(B) - Waiver and Record Requirements
MCR 6.403 - Trial in Waiver Cases
MCR 6.419(D) - Explanation of Rulings on Record
MCR 6.425(F) - Appointment of Lawyer
MCR 7.101(F) - Record on Appeal
MCR 7.210(B) - Transcript
MCR 8.108 - Court Reporters and Recorders
MCR 8.110(C)(3) - Duties and Powers of Chief Judge

4. Sheriff and Deputy Sheriff

MCL 45.401 et seq. - County officers; compensation
Chapter 51 of the Michigan Compiled Laws - Sheriffs
MCL 168.191 et seq.; MSA 6.1191 et seq. - County officers; eligibility
MCL 600.581 through MCL 600.589 - Court sessions
MCR 2.103(D) - Process Requiring Arrest
MCR 2.510(D)- Summoning Jurors
MCR 3.103(E) - Attachment; Execution of Writ
MCR 3.105(F), (G), and (J) - Claim and Delivery; Seizure, Delivery, Execution
MCR 6.102(E) - Execution and Return of Warrant

5. Friend of the Court

MCL 552.501 et seq. - Friend of the Court Act
MCL 552.601 et seq. - Support and Parenting Time Enforce. Act
MCL 552.671 et seq. - Interstate Income Withholding Act

MCL 722.719 - Paternity bond
MCL 722.729 - Service fees for support payments
MCL 780.167 - Enforcement of support; duties of responding court
MCL 780.168 - Enforcement of support; duties of responding court
MCL 780.173 - Enforcement of support; duties of responding court
MCL 780.179(2) and (3) - Register of support orders
MCR 3.203(B) and (D) - Process
MCR 3.204(B) and (C) - Proceedings Affecting Minors
MCR 3.205(B) - Notice to Prior Court
MCR 3.208 - Friend of the Court
MCR 3.210(B) - Defaults
MCR 3.211(A)(2), (B)(3), and (D)(3) - Judgments and Orders
MCR 3.213 - Postjudgment Motions

6. Friend of the Court Referee

MCL 552.507 - Referee; designation; powers
MCL 552.508 - Expedited relief

7. Domestic Relations Mediator

MCL 552.513 - Mediation
MCR 3.211 - Judgments and Orders

8. Judicial Assistant

MCL 600.1481 - Appointment, eligibility, duties, etc.

9. Judicial Clerk

MCL 600.565- Judicial clerks

10. Judicial Secretary

MCR 8.110(C)(3)(d) - Supervision of Performance

11. Law Clerk

MCL 600.1471(1) - (5) - Research law clerks
MCR 8.110(C)(3)(d) - Supervision of Performance

12. Marriage Counselor

MCL 551.332 et seq. - Family counseling services

13. Probation Officer

MCL 771.14 - Presentence investigation report
MCL 771.14a - Presentencing report; juveniles
MCL 791.222 - Appointment, supervision, removal
MCL 791.223 - Assistant director
MCL 791.223a - Personnel
MCL 791.225 - Compensation
MCL 791.229 - Records and reports
MCR 6.425(A) - Presentence Report
MCR 6.445(G) - Probation Revocation
MCR 6.931(E)(1) and (F) - Juvenile Sentencing

14. Parole Officer

MCL 791.231 - Field services
MCL 791.236 - Order of parole
MCL 791.239 - Arrest without warrant

15. Juvenile Court Administrator/Director

Mich Sup Ct AO 1985-5 as amended by Mich Sup Ct AO 1988-3 - Juvenile Standards

16. Juvenile Register

MCL 712A.7 - Appointment, duties, salary
Mich Sup Ct AO 1985-5 as amended by Mich Sup Ct AO 1988-3 - Juvenile Standards
MCR 2.119(E)(4)(b) and (G)(2) - Motion Fees and Costs
MCR 2.510 - Juror Personal History Questionnaire
MCR 2.511(G) - Oath of Jurors
MCR 5.602(B) - Entry of Judgments and Orders
MCR 5.903(A)(5), (15) - Filing of Petition; Authorization
MCR 5.920(B), (C), and (F) - Service of Process
MCR 5.925(C) - Open Proceedings
MCR 5.926 - Transfer of Jurisdiction
MCR 5.927 (See MCR 3.205) - Prior Court Orders
MCR 5.935(C)(3), (6), (7) - Release of Juvenile
MCR 5.936(C) - Notice of Disposition
MCR 5.974(C) - Notice; Parental Rights
MCR 5.980(A) - Child Custody Proceedings
MCR 6.911(B) - Transfer to Juvenile Court
MCR 7.101(C)(2), (D)(1), (E), (F), (G), (I), (J), (M), and (N) - Appeals
MCR 7.209(G) - Bond on Appeal
MCR 7.210(B), (C), (D), (E), (H), and (J) - Record on Appeal

MCR 7.211(C) - Motions in Court of Appeals
MCR 8.103(7) - Reports
MCR 8.105 - General Duties of Clerks
MCR 8.106 - Money Paid into Court
MCR 8.108(D) - Transfer of Court Reporters and Recorders Records
MCR 8.110(C)(6), (7) - Delegation of Administrative Duties; Direction to Supply Forms
MCR 8.111(C) and (D)(3) - Assignment of Cases
MCR 8.119 - Court Records and Reports; Duties of Clerks

17. Juvenile Referee

MCL 712A.10 - Probation officers designated as referees
MCL 791.228 - Probation record
MCR 5.903(A)(15) - Authorization of Petition
MCR 5.913 - Referees
MCR 5.925(B) - Record of Proceedings
MCR 5.934(B)(2) - Temporary Detention; Court not Open

18. Juvenile Probation Officer

MCL 712A.9 - Appointment, compensation, duties
MCL 712A.10 - Probation officers designated as referees
MCL 712A.14 - Custody
Mich Sup Ct AO 1985-5 as amended by Mich Sup Ct AO 1988-3 - Juvenile Standards

19. Detention Home Employees when facility operated by court

MCL 712A.2(e) - Prevention programs
MCL 712A.16 - Detention
Mich Sup Ct AO 1985-5 as amended by Mich Sup Ct AO 1988-3 - Juvenile Standards

20. County Juvenile Officer

MCL 400.251 - Appointment, term, compensation
MCR 3.205(B) - Notice to Prior Court

21. County Agent

MCL 712A.8 - Creation of office

B. District Court

1. Clerk and Deputy

MCL 600.1340 - Jurors; court clerks' certificate
MCL 600.8271 - District court operation
MCL 600.8281 - Appointment; term
MCL 600.8404 and 600.8405 - Small claims
MCR 2.102 - Summons
MCR 2.107(G) - Filing Defined
MCR 2.109(A) - Security for Costs
MCR 2.119(E)(4)(b) and (G)(2) - Motion Fees and Costs
MCR 2.222(D)(2) - Change of Venue - Jury Fee
MCR 2.223(B)(3) - Change of Venue - Costs
MCR 2.225(C) Joinder of Party - Jury Fee
MCR 2.227(A)(3), (4) and (B)(3) - Transfer of Actions
MCR 2.403 - Mediation
MCR 2.502(B)(1) - Dismissal for Lack of Progress
MCR 2.506(B) and (I)(2), (3) - Subpeona
MCR 2.507(G) - Deposit of Fees
MCR 2.510 - Juror Personal History Questionnaire
MCR 2.511(G) - Oath of Jurors
MCR 2.517(A)(5) - Notification of Findings
MCR 2.602(B)(3) and (D) - Entry of Judgments/Orders
MCR 2.603(A)(1), (2)(a) and (B)(2), (4) - Default and Default Judgment
MCR 2.611(G) - Notice of Decision on Motion for New trial
MCR 2.620 - Satisfaction of Judgment
MCR 2.625(F) - Taxation of Costs
MCR 3.101(D), (I), (K)(4), and (L)(1) and (2) - Garnishment
MCR 3.103(G)(2) - Attachment
MCR 3.403 - Sale of Premises
MCR 3.605(E) - Collection of Penalties, Fines, Forfeitures, and Recognizances
MCR 4.002(A)(1), (C), and (D) - Transfer of Actions
MCR 4.101(B)(3) and (G)(4) - Civil Infraction Default; Appeal
MCR 4.201(A), (C), (F)(4)(a), (H)(2), and (K)(5) - Summary Proceedings
MCR 4.202(E), (H)(2), and (J) - Summary Proceedings
MCR 4.302(A) - Small Claims; Statement of Claim
MCR 4.303(A) and (C) - Small Claims; Notice
MCR 4.306(B)(2), (C)(3), and (D) - Small Claims; Removal to Trial Court
MCR 6.101(B) - Signature and Oath on Criminal Complaint
MCR 6.102(A) - Issuance of Warrant
MCR 6.103(A) - Issuance of Summons
MCR 6.110(G) - Return of Examination
MCR 6.427 - Judgment
MCR 6.615(B) - Misdemeanor Traffic; Appearance; Failure to Appear

MCR 6.905(D) - Assistance of Attorney; Cost (Juvenile)
MCR 6.911(B) - Prelminary Examination (Juvenile)
MCR 7.101(C)(2), (D)(1), (E), (F), (G), (I)(2), (J), (M), and (N) - Appeals to Circuit Court
MCR 8.103(7) - Reports
MCR 8.105 - General Duties of Clerks
MCR 8.106 - Money Paid into Court
MCR 8.108(D) - Transfer of Court Reporters and Recorders Records
MCR 8.110(C)(6), (7) - Delegation of Administrative Duties; Direction to Supply Forms
MCR 8.111(C) and (D)(3) - Assignment of Cases
MCR 8.119 - Court Records and Reports; Duties of Clerks
MCR 8.201 - Allocation of Costs in Third-Class Districts
MCR 8.204 - Bonds for Clerks

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2. Magistrate

MCL 551.7(1)(b) - Solemnizing marriages, authority
MCL 600.8271 - District court operation
MCL 600.8316 - Authorization to perform marriages
MCL 600.8427 - Small claims hearing procedure
MCL 600.8501 et seq. - Magistrates
MCR 4.101(D) - Civil Infraction; Admission without Explanation
MCR 4.401 - Magistrates
MCR 5.935(A)(3) - Special Adjournment (Juvenile)
MCR 5.939(B) - Probable Cause Finding of Magistrate (Juvenile)
MCR 6.102(A) - Arrest on Warrant; Issuance
MCR 6.104 - Arraignment on Warrant or Complaint
MCR 6.615(C) - Misdemeanor Traffic; Arraignment
MCR 6.905 - Assitance of Attorney (Juveniles)
MCR 6.907 - Arraignment (Juveniles)
MCR 6.909(A) - Release or Detaining Juveniles
MCR 6.911 - Preliminary Examination (Juveniles)
MCR 8.204 - Bonds for Magistrates
MCR 8.205 - Magistrates

3. Court Reporter/Recorder

MCL 600.8271 - District court operations
MCL 600.8601 et seq. - Recorders and reporters
MCR 2.305 - Subpoena for Taking Deposition
MCR 2.306 - Deposition on Oral Examination

MCR 2.307 - Depositions on Written Questions
MCR 4.201(E) - Recording (Landlord/Tenant)
MCR 6.419(D) - Explanation of Rulings on Record
MCR 6.610(C) - Criminal Procedure (Record)
MCR 6.911 - Preliminary Examination (Juvenile)
MCR 7.101(F) - Record on Appeal
MCR 7.210(B) - Transcript
MCR 8.108 - Court Reporters and Recorders
MCR 8.110(C)(3) - Duties and Powers of Chief Judge

4. Sheriff and Deputy Sheriff

MCL 45.401 et seq. - County officers; compensation
Chapter 51 of the Compiled Laws - Sheriffs
MCL 168.191 et seq. - County officers; eligibility
MCL 600.581 through MCL 600.589 - Court sessions
MCL 600.8321 - Service of process
MCR 2.103(D) - Process Requiring Arrest
MCR 2.510(D)- Summoning Jurors
MCR 3.103(E) - Attachment; Execution of Writ
MCR 3.105(F), (G), and (J) - Claim and Delivery; Seizure, Delivery, Execution
MCR 6.102(E) - Execution and Return of Warrant

5. Probation Officer

MCL 600.8314 - Establishment of probation department
MCR 6.425(A) - Presentence Report
MCR 6.445(G) - Probation Revocation

6. Judicial Assistant

MCL 600.1481 - Appointment, eligibility, duties, etc.

7. Judicial Secretary

MCL 600.8601 - Court recorder or reporter
MCR 8.110(C)(3)(d) - Supervision of Performance

8. Law Clerk

MCL 600.1471(1) - (5) - Research clerk
MCR 8.110(C)(3)(d) - Supervision of Performance

C. Probate Court

1. Probate Register, Deputy, and Clerk

MCL 600.833 - Probate register
MCL 600.834 - Powers of probate register
MCL 600.836 - Deputy register, clerks duties
MCR 2.107(G) - Filing Defined
MCR 2.109(A) - Security for Costs
MCR 2.119(E)(4)(b) and (G)(2) - Motion Fees and Costs
MCR 2.227(A)(3), (4) amd (B)(3) (see MCR 5.221) - Transfer of Actions
MCR 2.502(B)(1) - Dismissal for Lack of Progress
MCR 2.506(B) and (I)(2), (3) - Subpoena
MCR 2.507(G) - Deposit of Fees
MCR 2.510 (see MCR 5.510) - Juror Personal History Questionnaire
MCR 2.511(G) - Oath of Jurors
MCR 2.517(A)(5) - Notification of Findings
MCR 2.611(G) - Notice of Decision on Motion for New Trial
MCR 2.625(F) - Taxation of Costs
MCR 3.205(B) and (C) - Notice to Prior Court
MCR 3.605(E) - Collection of Penalties, Fines, Forfeitures, and Recognizances
MCR 5.001(B) - Terminology
MCR 5.113(A)(2) and (D) - Papers; Form and Filing
MCR 5.508(A) - Jury Trial of Right; Demand
MCR 5.602(B) - Form and Signing of Judgments and Orders
MCR 5.703(B)(1) - Initial Hearing; Proofs
MCR 5.707(B) - Notice to Personal Representative; Reporting
MCR 5.709(B) - Indepent Probate; Denial of Petition
MCR 5.722(D) - Trustee Accounting; Follow-up Procedures
MCR 5.741(B) - Inquiry inAdequacy of Treatment; Notice of Written Report
MCR 5.765(C)(2) - Notice; Testamentary Guardian of LIP
MCR 5.766(B) - Notice; Testamentary Guardian of DDP
MCR 5.769(E) - Report of Guardian; Inventories and Accounts; Procedures
MCR 5.802(B)(2) - Appellate Procedure
MCR 7.101(C)(2), (D)(1), (E), (F), (G), (I)(2), (J), (M), and (N) - Appeals to Circuit
MCR 7.204(E), (F), and (G) - Trial Court and Other Filing Requirements
MCR 7.209(F) and (G) - Change of Address; Filing of Appeal Bond
MCR 7.210(B), (C), (D), (E), (F), (H), and (J) - Record on Appeal
MCR 7.211(C) - Special Motions
MCR 8.103(7) - Reports
MCR 8.105 - General Duties of Clerks
MCR 8.106 - Money Paid into Court
MCR 8.108(D) - Transfer of Court Reporters and Recorders Records
MCR 8.110(C)(6), (7) - Delegation of Administrative Duties; Direction to Supply Forms
MCR 8.111(C) and (D)(3) - Assignment of Cases

MCR 8.119 - Court Records and Reports; Duties of Clerks
MCR 8.301 - Powers of Register of Probate
MCR 8.302 - Documents and Files

*This does not represent a comprehensive list of court rules which refer to filing something with the clerk since it is the corresponding duty of the clerk to receive items for filing. The general obligation of the clerk to accept papers for filing is stated in MCR 2.107(G) and MCR 8.119.

2. Sheriff and Deputy Sheriff

MCL 45.401 et seq. - County officers; compensation
Chapter 51 of the Compiled Laws - Sheriffs
MCL 168.191 et seq. - County officers; eligibility
MCL 600.581 through MCL 600.589 - Court sessions
MCL 600.8321 - Service of process
MCR 2.103(D) - Process Requiring Arrest
MCR 2.510(D)- Summoning Jurors

3. Court Reporter/Recorder

MCL 600.835 - Official court reporters or certified recorders
MCL 600.836 - Duties
MCR 2.305 - Subpoena for Taking Deposition
MCR 2.306 - Deposition on Oral Examination
MCR 2.307 - Depositions on Written Questions
MCR 7.101(F) - Record on Appeal
MCR 7.210(B) - Transcript
MCR 8.108 - Court Reporters and Recorders
MCR 8.110(C)(3) - Duties and Powers of Chief Judge

(see also pages 5-06-01 and 5-06-02, Qualifications of Court Staff)

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6-01 FEE SCHEDULES

A. Maintenance of Fee Schedules

The Michigan Department of Treasury was responsible for updating fee schedules pursuant to statutes, however, they had not updated the schedules since 1985. In 1993 the State Court Administrative Office took responsibility for updating the fee schedules. Updates to circuit and district fee schedules will be provided through the Michigan Supreme Court Report. Questions should be directed to the State Court Administrative Office. [MCL 21.41 et seq., MCL 141.421 et seq.]

B. Limitations on Fees

A judge of any court, sheriff, bailiff, district court magistrate, or other officer, or other person except attorneys at law to whom any fees or compensation shall be allowed by law for any service, shall not take or receive any other or greater fee or reward for his/her service, but such as is or shall be allowed by the laws of this state.
[MCL 600.2513]

No fee or compensation allowed by law, shall be demanded or received by any officer or person for any service, unless such service was actually rendered by him/her; but this section shall not prevent any officer from demanding any fee allowed for any service of which s/he is entitled by law to require the payment previous to rendering such service. [MCL 600.2516]

A violation of either MCL 600.2513 or MCL 600.2516 shall be deemed a misdemeanor; and the person guilty of a violation shall be liable to the party aggrieved for treble the damages sustained by him/her, and shall be a cause for forfeiture of office.
[MCL 600.2519]

(see also Section 5-09, page 5-09-02)

C. Fee Schedules Issued to the Courts

Updated fee schedules were issued by the State Court Administrative Office for the district courts, circuit court, and probate courts on the following dates:

1. District Court Fees - July, 2002
2. Circuit Court Fees - April, 1998 including portions of Mich Sup Ct AO 1994-5 associated with Family Division
3. Probate Court Fees - April, 2000

Other bulletins are issued regarding mileage rates for service of process, revisions to accounting procedures, child care fund collection fee, and various other matters pertinent to fiscal management. For court fee and service of process schedules which are issued by the State Court Administrative Office, see the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/ffc.htm.

D. Interest on Civil Judgments

The State Treasurer is required to periodically inform the court of any adjustment to the interest rate on civil judgments. For current or historical information, contact the Michigan Department of Treasury.

Michigan Department of Treasury
Treasury Building
Lansing, Michigan 48922
(517) 373-3200

The State Court Administrative Office sends a copy of this information to the courts through the Michigan Supreme Court Report twice yearly. The information is also available on the Department of Treasury's website at www.treas.state.mi.us. See the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/ffc.htm for the table.

6-02 RECOMMENDED FINES AND COSTS SCHEDULE - CIVIL INFRACTIONS

The State Court Administrator annually publishes and distributes (through the Michigan Supreme Court Report) to each district court a recommended range of civil fines and costs for first-civil infractions; for the latest version of this schedule, see the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/ffc.htm. This recommendation is not binding upon the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges, district court referees, and district court magistrates and as a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state. [MCL 257.907(8)]

Each district and municipal court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the respective district or city. If a schedule is established, it must be prominently posted and readily available for public inspection. A schedule need not include all violations which are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses or a combination of civil infractions and traffic offenses. [MCL 257.907(7)]

Civil infractions committed by juveniles are under the jurisdiction of the family division of the circuit court. Unless a circuit court waives jurisdiction over these civil infractions within the geographic jurisdiction of the district court, a circuit court should consider adopting a schedule of civil fines and costs similar to those used by the district courts.

6-03 BUDGETING

The Supreme Court requires each trial court to "submit its proposed and appropriated annual budget and subsequent modifications to the State Court Administrator at the time of its submission to or receipt from the local funding unit or units." [Mich Sup Ct AO 1998-5]

The budget submitted must be in conformity with a uniform chart of accounts. If the local funding unit requests that a proposed budget be submitted in line-item detail, the chief judge must comply with the request. If a budget has been appropriated in line-item detail, without prior approval of the funding unit, a court may not transfer between line-item accounts to: (a) create new personnel positions or to supplement existing wage scales or benefits, except to implement across the board increases that were granted to employees of the funding unit after the adoption of the court's budget at the same rate, or (b) reclassify an employee to a higher level of an existing category. A chief judge may not enter into a multiple-year commitment concerning any personnel economic issue unless: (1) the funding unit agrees, or (2) the agreement does not exceed the percentage increase or the duration of a multiple-year contract that the funding unit has negotiated for its employees. Courts must notify the funding unit or a local court management council of transfers between lines within 10 business days of the transfer. The requirements shall not be construed to restrict implementation of collective bargaining agreements.

The State Court Administrative Office has established a procedure that requires that budget materials be forwarded to its Regional Administrative Offices. Regional administrators review proposed and appropriated budgets and supplements in order to be familiar with budget circumstances of each court for the purpose of analyzing trends in funding levels and to be prepared in the event of fiscal crises in their constituent courts.

6-04 AUDITS

Under the Uniform Budgeting and Accounting Act of 1978 local units of government (counties, cities, villages and townships) of less than 1,000,000 population are required to "have an annual audit of its financial records, accounts and procedures except that in the units of local government having a population of less than 2,000 such audits shall be required not less frequently than biennially." Local units of government with 1,000,000 or more population are required to obtain an annual audit, "except that if internal auditing procedures for all public moneys are established, and a copy of the annual internal audit of all public moneys is filed with the state department of treasury, then an independent audit shall be required not less frequently than each 5 years." The State Treasurer prescribes minimum auditing procedures and standards for these audits. Generally, local units of government have retained the services of certified public accountants to perform the required audits.

Current Michigan Law, however, is unclear as to the audit requirements for revenues received and disbursed by court operations including trust and depository accounts maintained and administered by the courts (i.e., friend of the court support account; bond and trust account; depository account used for fines, costs and fees; etc.). Because most of the annual audits are contracted by the funding unit, the Audits performed by certified public accountants in compliance with the Uniform Budgeting and Accounting Act of 1978 generally only include an examination of the operational expenditures of the court at the local funding unit level. An audit of court revenues and expenditures including an examination of trust and depository accounts is generally not included in the scope of these audits.

It is recommended that court revenues, expenditures and all funds maintained by the court be audited on an annual basis. The Internal Audit Section within the Supreme Court Finance Department periodically performs court audits but an audit of all courts within the State of Michigan on an annual basis is not possible due to their limited audit staff. The Internal Audit Section also periodically performs one day internal control and accounting system reviews at court operations.

It is recommended that the chief judge communicate the need for an annual audit of all of the court's revenue and expenditure accounts including the trust and depository accounts. Funds for performing these audits should be included within the court's operational budget request, and a written request should be sent to the local unit governing body requesting an audit.

If you would like further information relative to an audit of your court, contact your SCAO Regional Administrator or the Audit Manager for the Michigan Supreme Court Finance Department at 517-373-5544.

6-05 TRIAL COURT FINANCIAL MANAGEMENT GUIDELINES

A. Introduction

The chief judge has the management responsibility to ensure that an adequate accounting and internal control system is in operation to safeguard all court receipts and disbursements. The court administrator, friend of the court or county clerk should develop, implement and administer procedures which will provide for an adequate accounting and internal control system. The following financial management guidelines are to be used for the collection, disbursement and control of court funds.

B. Accounting System

The receipt and disbursement of all court collections should be properly recorded in an accounting system (automated or manual) that provides for source documentation and records of original and final entry. These receipt and disbursement records should provide an audit trail to the source document and case file records. The accounting system should be maintained on a current basis and balanced to subsidiary records monthly.

C. Automated Accounting and Case Management System Security

1. If an automated accounting or case management system is utilized, access to the system should be restricted as to the functions that employees are able to perform. Proper security should be established within the system which will provide an adequate internal control structure.

2. Employee user classifications and security within the system should be established, monitored and controlled by court management.

3. The system should provide data or reports that reflect user classifications for each employee which are periodically reviewed by court management.

4. Each employee should have a unique password to access the system which is known only to that employee. At a minimum, passwords should be changed every six months.

5. Employees who are involved in opening the mail, receipting payments, balancing the accounting records and performing the bank reconciliation should not have the capability to delete case files, make adjustments to payment records or modify court orders in the automated system.

6. The system should provide reports that reflect case files and case file financial data that have been deleted, adjusted, or modified.

7. Employees who receipt payments should not have the capability to generate court checks from the automated system.

8. Cases received by the court should be assigned numbers and logged in through an automated or manual process when received. The court should maintain an automated or manual case file management system that provides for the proper accountability of all cases received.

9. Courts are discouraged from purchasing and distributing citations to local law enforcement agencies, while continuing to work with local agencies to eliminate duplicate numbering systems. If a court does purchase and distribute citations, they should be prenumbered and the distribution properly accounted for by the court.

D. Internal Control System

The American Institute of Certified Public Accountants (AICPA) defines internal control as follows:

"Internal control comprises the plan or organization and all of the coordinate methods and measures adopted within a business, government, or department thereof to safeguard its assets, to check the accuracy and reliability of its accounting data, promote operating efficiency, and encourage adherence to prescribed managerial policies."

1. Duties and responsibilities for handling receipts and disbursements should be arranged and separated so that an employee does not perform more than one of the following functions:

   a. Opening the mail.

   b. Receipting payments.

   c. Balancing receipts to the accounting records.

   d. Performing the bank reconciliation.

   Court management must realize that a greater risk in safeguarding receipts will exist if duties and responsibilities are not appropriately arranged and separated. In smaller courts, where the number of employees is limited and duties can not be adequately separated, court management must provide a greater review and supervision of employee functions and procedures.

2. Position descriptions should be developed for employees who are involved in the receipt and disbursement process which clearly defines the duties and responsibilities of each employee. These duties and responsibilities should be periodically reviewed by court management.

3. All employees who are involved in the receipt and disbursement process should be bonded. In addition, employees in positions of trust should be required to take annual vacations during which time their duties are performed by other personnel. In larger courts, employees should be periodically rotated between various job duties.

E. Bank Accounts

1. Type of Accounts

A bank account in the name of the court shouldbe established only when the account is necessary for the proper receipt and disbursement of certain funds. Generally, there are four types of court bank accounts:

a. Trust Accounts

1) Friend of the Court Account

A trust bank account is established for the receipt and disbursement of all friend of the court collections.

2) Bond and Trust Account

A bond and trust account is established for the receipt and disbursement of bond and other trust funds such as restitution.

3) Court-Ordered Account

An escrow account is established for a specific case as the result of a court order.

b. Depository Account

A depository bank account in the name of the court is established for the receipt and disbursement of funds received that are transmitted on a monthly basis to the local funding unit, state and other governmental agencies.

c. Bank Accounts Reimbursed by the Funding Unit

Some courts administer and control accounts that are funded through the funding unit such as jury fee and witness fee bank accounts.

d. Operational Bank Accounts

Court agencies which operate independent of the funding unit(s) may maintain bank accounts in support of the operational costs of the court (payroll, travel, contractual services, supplies, rent, equipment, etc.).

2. Authorized Check Signers

a. Check signers should be authorized by the chief judge or designated court head. A copy of the bank signature card or letter authorizing the check signers should be on file at the court.

b. The court should not use a rubber stamp in providing an authorized signature. Original signatures should be required on all checks except for friend of the court checks issued through an automatic check writing process.

3. Check Registers

An automated accounting system must provide a check register that lists check numbers in numerical order to meet fundamental internal control requirements. Standards regarding check registers have been produced by the State Court Administrative Office and are available at the SCAO website at: http://courts.michigan.gov/scao/resources/standards/#chk.

4. Bank Reconciliations

a. Bank reconciliations for all court bank accounts should be completed monthly and maintained on a current basis. The reconciliation should be completed within 10 working days from receipt of the bank statement.

b. Bank reconciliations should be completed by someone who is not involved in opening the mail, receipting payments, or balancing receipts to the accounting records. In addition, the person who performs the bank reconciliation should not be an authorized check signer on the bank accounts being reconciled.

c. Bank statements should be unopened when received by the bank reconciler.

d. The bank reconciliation process should consist of the following:

1) Checks cleared by the bank should be verified to checks cleared by the court. For automated bank reconciliation programs, this process would consist of verifying the total of cleared checks per the bank statement (total debits less debit adjustments) to the total of cleared checks per the court system total.

2) Deposits recorded on the bank statement should be verified to deposit records per the court. This should include a review to determine that deposits were made on the date that the deposit should have been transmitted to the bank. All deposits in transit and any overages or shortages should be properly accounted for.

3) All debit and credit memos reflected on the bank statement should be reviewed and properly accounted for in the court's accounting records and bank reconciliation.

4) The ending bank statement balance should be reconciled to the book balance of the court including the identification of all reconciling items (deposits in transit, outstanding checks, overages, shortages, unrecovered NSF checks, bank service charges, checks cleared in error, bank errors, credit memos, debit memos and other items on the bank statement that are not on the court records and vice versa). Reconciling items should be brought to the attention of the bank and responsible court staff. The items should be properly disposed of, adjusted and eliminated prior to completion of the following month's bank reconciliation.

5) If an unreconciled difference between the bank statement balance and the court book balance exists, the following guidelines can be used in locating the differences:

   a) Repeat steps 1 through 3 above.

   b) If the cleared checks total per court records does not agree with the bank total (number 1 above), review the bank statement for checks that may have been cleared by the bank twice or may have been cleared at an amount different than the amount cleared by the court.

   c) Examine voided checks making sure that checks voided after the bank reconciliation date (usually the bank statement ending date) but dated prior to the bank reconciliation date are reflected as outstanding on the outstanding check list.

   d) Make sure that NSF checks have been properly reflected in the bank reconciliation including those from the prior month that have not been recovered. Trace all NSF debits and credits shown on the bank statement to both the prior bank reconciliation and the current month's listing of unrecovered NSF checks.

   e) Go back to the prior month's bank reconciliation, cleared checks report and outstanding check listing and make sure that all reconciling items and adjustments from the prior month were either cleared or have been properly brought forward to the current month's bank reconciliation.

6) Unreconciled differences between the bank statement balance and the court book balance should be resolved on a timely basis. Should an unreconciled difference exist which cannot be found, the unreconciled difference should be properly adjusted through the local funding unit or court's operational budget on an annual basis.

e. In order to properly monitor the completion of bank reconciliations on a current basis and to be aware of any unreconciled differences, completed bank reconciliations should be periodically reviewed by court management.

5. NSF (Non-Sufficient Funds) Checks

a. The payer should be immediately contacted when the NSF check notice is received from the bank.

b. A procedure should be established for handling checks deposited that are returned NSF. This procedure should include maintaining a listing of all NSF checks received and the proper accountability and enforcement for the recovery of the NSF checks. Accounting and case file records should be reduced or adjusted by the amount of the NSF check at the time the NSF check notice is received from the bank.

c. Any NSF service fees assessed by the bank should be charged to the payer. The court may charge a service handling fee to the payer for an NSF check even though the bank does not.

d. No personal checks should be accepted from individuals after two checks have been returned NSF.

e. NSF checks which have not been collected after 60 days should be referred to the local prosecuting attorney for collection.

6. Escheating Old Outstanding Checks

Old outstanding checks should be periodically reviewed and escheated to the State of Michigan. The Unclaimed Property Division of the Michigan Department of Treasury requires that all uncashed checks unclaimed for a period of one year, including undeliverable and outstanding checks, should be escheated as prescribed in Treasury regulations. Use the Michigan Department of Treasury form 2011 (formerly C-7071). Before filing a report with the State Treasurer regarding the property, the court should send notice of intent to escheat to the owner (SCAO Approved form MC 25). Notice must be sent not less than 60 days nor more than 365 days before filing the report. [MCL 567.234, MCL 567.238(5)]

If a person entitled to receive restitution which the court has collected fails to claim it from the court within two years of being eligible to do so, the court must remit the unclaimed amount to the Crime Victim's Rights Fund on its monthly transmittal to the state. That person may subsequently claim the restitution by applying to the court which collected and remitted it. The court must notify the Crime Victim Services Commission of the claim, and the Commission must approve a reduction in the transmittal to the Crime Victim's Rights Fund to pay the victim. [MCL 780.766(21), MCL 780.794(21), MCL 780.826(18)]

7. Old Court Bank Accounts - Unidentified Balances

Any funds that exist in an old court bank account which cannot be identified to a defendant, support recipient, restitution victim, governmental agency, or other court payee should be escheated to the State of Michigan as prescribed in Treasury regulations. Use the Michigan Department of Treasury form 2011.

F. Collections

1. Centralization of Collections

All payments received by the court should be collected and receipted in one centralized location. The number of employees authorized to receive checks, money orders and cash should be restricted to a limited number of employees. If possible, one or two employees (or more depending on the size of the office) should be assigned as cashiers and the only employees authorized to collect and receipt both in-office and mail payments. Probation officers and other court employees who are not within the main accounting or cashiering unit should not be allowed to collect any payments.

2. Receipting Payments to the Accounting System

All payments received by the court should be receipted and recorded in the court's accounting system and deposited into the court or funding unit bank account.

3. Mail Opening Process

a. Employees who open the mail should not be involved with receipting payments, balancing the accounting records, or performing the bank reconciliation.

b. Checks, money orders and cash received in the mail should be recorded on a mail log prepared by the mail opener or, as a minimum, an adding machine tape should be prepared. This process may not be possible in courts with only a few employees. If a mail log is prepared, it should indicate the date received, payer's name, type of payment (check, money order, or cash), check/money order number and amount.

c. Checks and money orders should be endorsed for deposit at the time the mail is opened and after they are properly identified as being payable to the court. If the court validates checks and money orders through a cash register system, however, the validation may not be done until the payment is receipted to the cash register system.

d. All "cash" received in the mail should be verified at the time the mail is opened by another employee and records should identify the receipt of "cash" and the initials of both employees.

e. Checks and money orders received by the court in error should be noted on the mail log or documented in a separate record. These checks and money orders should be appropriately forwarded to the proper payee or returned to the payer rather than deposited in the bank account.

f. After all checks, money orders and cash have been recorded and totaled on the mail log or adding machine tape, the log or tape should be initialed by the mail opener. The mail log or adding machine tape should then be forwarded to the employee who balances receipts to the accounting records while the checks, money orders and cash should be given to the employee who performs the receipt function (see paragraph F.7.e. on page 06-05-12).

g. All mail payments should be receipted to the accounting records on the day received or no later than at the end of the next business day.

4. Receipt Process

a. Employees who receipt payments should not be involved with opening the mail, balancing receipts to the accounting records, or performing the bank reconciliation.

b. If the court is on an automated receipt system, each employee should have a separate unique password for receipting payments which is known only to the employee. The system should provide an audit trail tracing each receipt to the employee who entered it in the system.

c. Each employee authorized to receipt in-office payments should be assigned to a separate cash drawer with access to the drawer being restricted to the assigned employee.

d. Receipt records should indicate the type of payment (check, money order or cash), date received, amount received and case number. The check or money order number should also be indicated. If the court is on a manual receipt system, receipts should be prenumbered. Automated systems should provide a receipt or transaction number.

e. If the court is on an automated accounting system, the system should not allow a receipt to be written to a lesser amount, edited or deleted once the receipt has been accepted in the system.

f. A receipt should be attached to or placed in the case or other permanent file unless an automated financial case management system is in operation which provides receipt information in the automated case file record.

g. A receipt should be provided to the payer for in-office payments.

h. Checks and money orders received for in-office payments should be endorsed for deposit or validated for deposit on the cash register at the time the payment is receipted.

i. After receipting, undeposited checks, money orders and cash should be kept in a locked drawer or other locked device during the day.

j. If the court is closed noon hours, undeposited checks, money orders and cash should be kept in a secure location which is not accessible to the public and court employees.

k. Cash on hand balances used for making change should be kept at a minimum.

l. Third party checks should not be accepted.

m. Overpayments of fines, costs, fees and restitution should be refunded by check to the payer. If the court has a policy of not returning overpayments below a certain amount, the overpayment should be receipted and transmitted to the funding unit.

n. Canadian and Other Foreign Currency

If possible, the court should only accept U.S. currency. There are some circumstances, however, where Canadian or other foreign currency is received and must be accepted by the court. The below receipt guidelines should be followed when foreign currency is accepted:

1) A separate deposit should be prepared for Canadian and other foreign checks, money orders and cash.

2) Payments should not be receipted to a court's accounting records until after the bank has been contacted and an adjustment to U.S. currency has been made.

3) For friend of the court offices, it may be necessary to receipt the payments to a suspense account at the Canadian or foreign amount. The suspense account is subsequently discounted or adjusted to U.S. currency when notification is received from the bank. A disbursement is then made to the recipient at the U.S. currency amount.

4) The court should maintain accounting records that properly control and provide an audit trail for the receipt and disbursement of Canadian and other foreign funds.

5) Any bank charges for Canadian and other foreign deposits should be adjusted and charged to the payer's account or case.

o. The court should not assess or collect fees for services ordered by the court or required by statute or court rule when the services are not performed by the court. Examples include process server fees, or counseling, treatment or educational programs.

p. If the court accepts credit and debit cards in payment of monies due to the court, proper controls should exist relative to the acceptance of these charges. This includes determining the proper identification of the person paying by credit card, verification with the credit card company, and determining information required for credit card payments made over the telephone, if accepted by the court.

q. Court employees authorized to waive fines, costs and fees should attach documentation presented by the defendant to tickets or case file records when fines, costs and fees are waived.

5. Voided Receipts

Proper security and controls should exist regarding the voiding of receipts as follows:

a. The original voided receipt should be retained with balancing records. In addition, voided receipts should be marked "VOID", indicate the reason for the void and reflect the reissued receipt number, where applicable.

b. A review procedure should exist whereby an employee verifies the voided receipt total per the cash register tape or accounting system report to the original voided receipts. This review should ensure that all receipts voided were proper and that the receipts were reentered in the accounting system unless a justified explanation is provided as to why a voided receipt was not reentered.

c. The review procedure in a manual receipt system should consist of verifying that all receipt numbers are accounted for in the receipts journal with the proper accountability of all voided receipts. Receipt numbers that have been voided should be marked "VOID" in the receipts journal.

d. The employee who reviews voided receipt totals and ensures that all voids were proper and justified should be independent of the receipt process. Also, this employee should not be authorized or have the capability to void or edit receipts.

e. The automated system should not omit voided receipts from daily receipt reports. When a receipt is voided, the transaction should be appropriately posted to payment records in the automated case management system.

f. The accounting system and cash register should not allow for negative entries to be entered without a case file number also being entered. Otherwise, receipts totals could be reduced while case file payment records are not changed.

6. Manual Receipts

Proper controls should exist regarding the use of manual receipts. These controls are required whether the court is on a manual or automated accounting system.

a. All manual receipts should be prenumbered, reflect the name of the court and provide at least two copies.

b. Manual receipt books should be under the control of a supervisor who should maintain a record of all receipt books used and unused.

c. Manual receipts should not be located in any court offices other than the main cashiering unit.

d. Unused manual receipts should be kept in a secure location.

e. Manual receipts should be properly accounted for with verification of the beginning sequence number to the ending sequence number by the employee who balances receipts to the accounting records.

f. The employee who reviews and accounts for manual receipts should not be involved in the receipt process.

g. If the court is on an automated accounting system, manual receipts should only be used when the system is not operational and it becomes necessary to write a receipt.

h. Manual receipts used when the automated accounting system is not operational should reflect the automated receipt number used when the receipt is subsequently entered in the automated accounting system.

i. Manual receipts used when the automated accounting system is not operational should be reviewed by an employee independent of the receipt process to ensure that the receipts were subsequently entered in the automated accounting system. This review could be done on a periodic basis.

7. Balancing the Accounting Records

a. Employees who balance receipts to the accounting records should not be involved with opening the mail, receipting payments or performing the bank reconciliation.

b. If the court has assigned employees as cashiers with separate cash drawers, each cashier should count the cash in his or her drawer at the end of the day. These employees should sign or initial a report reflecting the checks, money orders and cash counted. The checks, money orders and cash should then be forwarded to the employee who balances the accounting records.

c. Checks, money orders and cash should be counted by the employee who does the balancing and verifies receipts to the total per the accounting records. The process should include verification of total "cash" receipts per the accounting records to actual "cash" counted.

d. Receipt or transaction numbers should be accounted for with verification of the first number of the accounting report or journal following the last number from the previous accounting report or journal to ensure that numbers have not been missed.

e. If a mail log or adding machine tape of checks, money orders and cash received in the mail is prepared, the mail receipt total per the accounting records should be compared and verified to the total reflected on the log or tape. The employee who performs this verification should sign or initial the log or tape. If a portion or all of the payments are not receipted to the accounting records on the same day they were received, an audit trail of the mail or adding machine tape from the date received to the date receipted should exist.

f. The court should not maintain an over/short fund to balance overages and shortages. Overages should be remitted to the local funding unit while shortages should be replenished through the court's operating budget.

g. Overages and shortages should be reported to court management with any significant overages and shortages being investigated and reported to the chief judge in writing. Court management is responsible for reviewing and monitoring periodic overages and shortages.

h. Receipt totals should be summarized on an accounting report, cash register tape or summary cash receipts report with any overages and shortages being identified.

i. The employee who balances receipts should sign or initial the accounting report, cash register tape or summary cash receipts report as verification that receipts were balanced and that any overages or shortages have been identified.

j. If the back side of checks and money orders are receipt validated through the cash register, the balancing and deposit preparation process should include a review of the back of all checks and money orders to be deposited to ensure that they were properly validated. This review should provide verification that the checks and money orders were receipted in the cash register system.

k. Checks and money orders to be deposited should be listed on the deposit slip or, as a minimum, there should be an adding machine tape of checks and money orders being deposited which should be retained by the court.

l. Checks, money orders and cash received for unknown cases or cases not yet received by the court should be deposited in the bank within one day from the date of receipt rather than held undeposited. If the court maintains a suspense bank account to deposit these funds, the account should be reviewed monthly and suspense funds properly disposed of. Suspense bank account balances should be kept at a minimum.

m. Undeposited checks, money orders and cash should be kept in a locked safe or other locked secure device at night.

   1) Access to the safe or secure device should be restricted to a few court employees.

   2) The safe or secure device combination or lock should be periodically changed and changed whenever someone terminates employment with the court that knows the combination or has a key to the safe or secure device.

n. Court agencies that have a large amount of checks, money orders and cash to be deposited should utilize locked bank bags.

o. In no case should employees or other individuals be allowed to cash checks (personal, court, funding unit, etc.) from undeposited cash receipts.

p. Proper security should be utilized for the transmission of the deposit to the bank or funding unit.

q. The employee who transmits the deposit to the bank or funding unit should be required to provide a deposit validation slip from the bank or funding unit to a supervisor. The supervisor should verify that the deposit was actually made on the date transmitted and in the amount reflected on daily balancing records.

r. If the court deposits directly with the funding unit, staff at the funding unit should count and verify the deposit amount in the presence of the court employee who transmits the deposit.

s. If the court operates separate sub-offices which collect and receipt payments, the money should be deposited with the centralized office at least once a week.

t. If security carriers or law enforcement agencies transmit deposits to the bank, a record showing the date, time, amount of deposit, number of bags (should be locked bags) and carrier signature should be maintained by the court.

u. Deposits should be made no less frequently than every two days. In smaller court agencies, deposits should be made whenever the collection total reaches $1,000 or at least weekly even if the total is less than $1,000.

G. Disbursements

1. All disbursements made by the court should be made through the issuance of a check. In no case should a disbursement be made in cash or should a check be made payable to "cash". A court's automated accounting system must provide a check register that lists check numbers in numerical order (see page 6-05-04).

2. Checks should not be presigned.

3. Blank checks should be stored in a secure area and should not contain any authorized signatures.

4. Any check number missing as the result of an error made by the vendor should be properly documented and accounted for in the court records.

5. The court should provide proper security in the use and control of facsimile signature plates.

6. Friend of the court checks should only be printed and issued after the deposit has been verified to the accounting records.

7. Proper controls and security should exist for the voiding and reissuing of checks in friend of the court offices. This function should be restricted to employees who are not involved in the receipt and disbursement process and documentation should be maintained in support of all checks voided and reissued.

8. A replacement check should be reissued to a payee only after the payee has signed an affidavit indicating that the original check was not cashed. Documentation should be maintained by the court in support of replacement checks issued.

9. Friend of the court checks for state collections in TANF or FIP cases should be transmitted by depositing the funds in the state treasurer's account at the local bank.

10. Collections transmitted to the local funding unit should be reconciled to the accounting records and bank account prior to submission of the check to the funding unit.

11. All transmittals and disbursements due to the local funding unit, state and other governmental agencies should be submitted on a monthly basis, or as otherwise required. Department of Treasury Letters and Department of Treasury Transmittal Advice Forms and Instructions are available at the Department of Treasury website at: http://www.michigan.gov/treasury/0,1607,7-121-1751_2164---,00.html. See a distribution of fines and costs table for civil infraction and misdemeanor violations at the SCAO website at: http://courts.michigan.gov/scao/resources/other/disttbl.pdf.

12. Collections should be transmitted to the local funding unit within ten business days following the end of the month unless some other agreement has been made between the local funding unit and the court.

13. A receipt from the local funding unit should be obtained and retained with the court copy of the transmittal advice.

14. Statutory service fee checks from the friend of the court office should be remitted to the county no later than one business day after the date of the check.

15. If the court receives garnishment checks and endorses the checks to the plaintiff rather than depositing the checks in the trust account, an accurate record of receipts and disbursements should be maintained and checks held in a secure area prior to release.

H. Bonds, Restitution and Other Trust Funds

1. A subsidiary ledger should be maintained for bonds, restitution and other trust funds held by the court. The ledger should reflect receipts, disbursements and the outstanding balance for each case.

2. The total outstanding balance in the bond, restitution and trust ledger(s) should be reconciled to the applicable trust bank statement balance or local funding unit trust account balance on a monthly basis. The reconciliations should be retained for audit.

3. Open bonds, restitution and other trust funds reflected in the subsidiary ledger should be reviewed annually for lack of progress. Open bonds and other trust funds, with the exception of restitution, should be escheated as prescribed in Treasury regulations to the Unclaimed Property Division of the Michigan Department of Treasury. Unclaimed bonds should not be forfeited to the funding unit unless the defendant has not complied with the conditions of bail.

   If a person entitled to receive restitution which the court has collected fails to claim it from the court within two years of being eligible to do so, the court must remit the unclaimed amount to the Crime Victim's Rights Fund on its monthly transmittal to the state. That person may subsequently claim the restitution by applying to the court which collected and remitted it. The court must notify the Crime Victim Services Commission of the claim, and the Commission must approve a reduction in the transmittal to the Crime Victim's Rights Fund to pay the victim. [MCL 780.766(21), MCL 780.794(21), MCL 780.826(18)]

4. All payments received for bonds, restitution and other trust funds should be receipted and deposited through the accounting system of the court.

5. Receipts should be provided to police agencies at the time bonds are received by the court. If receipts are not issued at the time bonds are received, the employee who receives bonds from police agencies should maintain a record or log that reflects all bond monies received and provides an audit trail to receipt records in the accounting system.

   An employee who is not involved in receiving bonds from the police agencies should receipt the bonds to the accounting system or otherwise periodically review bond records and verify that bonds received were appropriately receipted to the accounting system.

6. A copy of the bond receipt and a record of the bond disposition should be filed and recorded in the case file or noted in the automated case management record.

7. Applying Bonds to Fines, Costs, Fees and Restitution

   a. When the full amount of an appearance bond is to be applied to fines, costs, fees and restitution, a check should be drawn payable to the court and appropriately receipted to the accounting system in accordance with the judgment.

   b. If only a portion of the appearance bond is to be applied as fines, costs, fees and restitution, a check should be drawn payable to the court for the amount to be applied, appropriately endorsed, and receipted to the accounting system. The balance should be refunded to the defendant or person who posted the bond through the issuance of a check. In no case should only one check be issued that is payable to the court for the full bond amount, resulting in a cash refund for the difference.

   c. As an alternative to the above, one daily check may be written payable to the court covering all bonds applied as fines, costs, fees and restitution. This procedure is allowed provided that there is an acceptable process and documentation for applying the bonds. If a bond release form is used that requires the signature of the defendant or person who posted the bond, the form should be prenumbered and properly reviewed and accounted for daily.

   d. All bond checks applied to fines, costs, fees and restitution should reflect the case number(s).

8. Bond Refunds

All bond refunds should be made by check and reflect the case number. Bond refund checks should not be cashed by the court. (see also, G.1 on page 06-05–14)

9. Bond Forfeitures

When a defendant does not comply with the conditions of bail and the bond deposit is ordered forfeited, a check should be drawn payable to the court and appropriately receipted to the accounting system. Bond forfeitures should be disposed of between 28 and 45 days from the forfeiture order date. Bond forfeiture checks should reflect the case number.

10. Restitution

Restitution should be deposited in a trust account and all disbursements should be made by check with the case number being properly reflected. Restitution should be disbursed to victims within one week from receipt of the restitution payment unless the defendant makes weekly or biweekly payments in which case monthly disbursements can be made. Restitution disbursements to victims should be made at least once a month.

11. Friend of the Court Trust Account Advances

There are instances where a support payment received by the friend of the court office is misapplied or otherwise sent to a recipient in error. Generally, the funds can be recovered through a subsequent payment made to the office and appropriately directed to the correct recipient. There are certain instances, however, where the funds can not be recovered on a timely basis and where a condition exists that requires an advance be made to a support recipient. An advance of funds should only be made in rare cases when it would cause extreme hardship to the recipient that was denied the funds and after all other possible solutions have been exhausted. When such an advance is made, the procedures below should be followed:

a. Trust funds in the bank account "float" should not be used to cover an advance made to a recipient.

b. The proper procedure for advancing funds to a support recipient is to obtain a check, payable to the friend of the court office, from the local funding unit. The funding unit check should then be receipted into the friend of the court accounting system and deposited in the bank account. A friend of the court check should then be issued and properly recorded in the accounting system.

c. When the advance is recovered from the payee who received the payment in error, the funds should be deposited with the funding unit and properly accounted for and recorded in the friend of the court records.

d. Records should be maintained by the friend of the court office which provides documentation relative to all advances made by the office. These records should reflect the case numbers, amount advanced, date, amount recovered and unrecovered advance balance.

e. Friend of the court offices should have a procedure established relative to the advancement of funds to a support recipient and the recovery of the funds from the payee who received the funds in error.

f. Advanced funds that are considered uncollectible should be periodically written off by the friend of the court office.

I. Receivables

1. Fines, Costs, Fees and Restitution Due from Defendants

a. A separate receivable account should be maintained for each defendant authorized to make time or installment payments of fines, costs, fees and restitution.

b. Receivable account records should indicate the case number, defendant name, address, date of sentence, amount assessed, payment terms, receipt date, receipt number, receipt amount and balance due.

c. The court should have a procedure that enforces and monitors the collection of fines, costs, fees and restitution.

d. Fines, costs, fees and restitution received from defendants in installment payments should be distributed in accordance with applicable statutes.

e. All case file balances should be paid in full prior to closing a case where fines, costs, fees and restitution have been ordered unless otherwise closed by a court order.

2. Court-Ordered Parental Reimbursements

a. A separate receivable account should be established for parental reimbursements due to the court as the result of a court order.

b. Parental reimbursement receivable records should indicate the case number, payer name, address, amount due, payment terms, receipt date, receipt number, receipt amount and balance due.

c. The court should have a procedure that enforces and monitors the collection of parental reimbursements.

d. The court should have a policy regarding the priority for application of installment payments received for parental reimbursements in accordance with applicable statutes.

e. All account balances should be paid in full prior to closing a case where parental reimbursement has been ordered unless otherwise closed by a court order.

J. Suspected Embezzlement

1. If embezzlement is suspected, or irregularities appear, the chief judge of the court should immediately contact the State Court Administrative Office regional administrator. The regional administrator will contact the appropriate law enforcement agencies (usually the Michigan Attorney General's Office and State Police) to begin a criminal investigation if such action is found to be necessary. In addition, the State Court Administrative Office will arrange for an audit (usually the Supreme Court Internal Audit Section), if necessary. The law enforcement agencies and audit section will work with local court employees, management and judicial staff to expeditiously complete the investigation and audit. During the investigation and audit, court staff should not talk to any suspect (if known), any other court staff or others until given permission by the aforementioned agencies.

2. Complaints from citizens, support recipients and defendants should be reviewed by court management. Special attention should be made to complaints about payments not being properly credited to case records or payments made to the court, which were payable to another individual or organization, that were not received by that individual or organization.

6-06 FUNDING PROBLEMS FOR MULTI-LOCATION COURTS

Multi-location trial courts experience unique funding problems. In many cases, the chief judge and court administrator must perform budgetary responsibility with the governing body of the local governmental unit at each court location.

Under at least two statutes, local governmental units may agree to share court expenses:

A. District Court Act

Under the District Court Act one or more district control units within any district may agree among themselves to share any or all of the expenses of maintaining, financing, or operating the district court. [MCL 600.8104(3)]

B. Intergovernmental Transfers of Functions and Responsibilities Act

Under the Intergovernmental Transfers of Functions and Responsibilities Act, two or more political subdivisions are authorized to enter into a contract with each other providing for the transfer of functions or responsibilities to one another or any combination thereof upon request of each political subdivision involved. [MCL 124.532 et seq.]

6-07 FUNDING UNIT DISPUTES

A. Introduction

In the area of fiscal management, disputes between trial courts and their local funding units concerning adequate funding for the operation of the trial court can create a very trying situation for the court and the local governmental officials involved. (See also Section 5-05, pages 5-05-01 through 5-05-03)

1. Obtaining Funding from Local Government

Through Michigan Supreme Court Administrative Order 1985-6, adopted contemporaneously with issuance of the Judgment Order in 2nd District Court v Hillsdale County, 423 Mich 705 (1985), the Michigan Supreme Court established the procedure trial courts must follow to obtain funding from the local governmental unit to properly perform its duties. Michigan Supreme Court Administrative Order 1998-5 reiterates the procedures.

2. General Procedure Regarding Disagreement on Funding

In the Hillsdale case, the Michigan Supreme Court generally held that when agreement cannot be reached between a court and a funding unit, the court may initiate suit and shall bear the burden of proof regarding expenditures in excess of appropriations. Under the procedure established by Administrative Order 1985-6 and reiterated in 1998-5, the State Court Administrator will assign a disinterested judge to preside over the action.

Before initiating legal action, however, the trial court must notify the State Court Administrator under Supreme Court Administrative Order 1998-5. During the prescribed 30 to 60 day waiting period the State Court Administrator, through the Regional State Court Administrators, attempts to aid the court and the involved local funding unit or units to resolve the dispute.

B. How to Avoid Funding Disputes

The most effective method of handling funding disputes is to avoid them. However, this is not to suggest that courts should concede to inadequate resources. It does mean that cooperatively establishing appropriate funding levels with the executive and legislative branches is the best guarantee that the court will consistently obtain required resources.

1. Fundamentals in Establishing Favorable Relationship with Funding Authorities

There are two fundamentals in establishing a favorable relationship with funding authorities. Those are realistic requests and continuous, effective communication.

a. Realistic Requests

How realistic a request is must be defined on a case by case basis and must be done in the context of the local fiscal situation. Requesting or demanding substantial budgetary outlays at times when a funding unit is in financial crisis, particularly if the need for the outlays are not well substantiated, may not be realistic.

b. Continuous and Effective Communication

Communication is the key to public understanding of the business of the courts and, therefore, an appreciation of its needs. Too many of the public, and those in other branches of government, see courts variously as an agency like any other in the executive branch or solely as a criminal justice agency or enforcement agency. It is the responsibility of the court to ensure that the public and other branches of government have an understanding of the constitutional independence of courts; of their critical responsibility for managing records, information, decision-making, and the enforcement of their decisions; and of their workload and their needs in handling workload.

Studies of the budget decision-making process in state governments show that the most important factors influencing legislative decision-making on budget matters are not demonstrated need or workload statistics, but rather the availability of funds and credibility of the entity requesting funds.

Communication with the funding unit should be ongoing, not just at budget time and not just at times when the court is asking for additional resources. Courts have accomplished this in a variety of ways including the issuance of annual reports (with regular credible data regarding workload); regular meetings with the funding unit or a court advisory body which includes attendance by executive and legislative branch agencies on a regular basis.

C. Early Negotiation

At the earliest sign of disagreement over funding levels for court operations, the chief judge and/or court administrator should attempt negotiations with key executive and legislative branch officials. It is recommended that both the chief judge and court administrator be closely involved in all such negotiations. The chief judge is, by rule, ultimately responsible for operation of the court and, therefore, the chief policy-maker. In the absence of a court administrator, the chief judge is the chief policy implementor as well. Where a court administrator exists, the court administrator should be a policy-maker as well and is chiefly responsible for policy implementation.

D. Involve Your Regional Administrator

The Regional Administrator of the State Court Administrative Office should be notified immediately upon the first sign of any difficulty in budget negotiations if they have not been involved up to that point. The earlier the Regional Administrator can become involved, the easier it will be for the State Court Administrative Office to provide assistance in budget negotiations. Accordingly, it is advisable to keep the Regional Administrator advised of all proceedings relating to the budget even though that office may have no direct involvement in the budget preparation or negotiation process until a later time, or perhaps at any time if problems do not develop.

The chief judge or court administrator of a local trial court may request direct assistance or intervention by the Regional Administrator at any time during the process. The Regional Administrator will respond based on the analysis of the specific situation. This could include direct mediation, arbitration, or negotiation.

E. Third Party Mediation

1. Resources

The Michigan Association of Counties and the Michigan Probate Judges Association, Michigan District Judges Association, and Michigan Judges Association have established a network of volunteer county commissioners and judges, who upon request of the State Court Administrative Office and the Michigan Association of Counties, will act as mediators to assist in resolving disputes which cannot be resolved otherwise. This procedure has been employed prior to legal action and upon agreement of parties after a lawsuit has been commenced. The procedure may be requested by the chief judge through a request to the Regional Administrator.

2. Selection, Expenses, and Procedures

a. Selection of Mediators Based on Voluntary Participation

The procedure requires voluntary participation by the trial court and the funding unit. The Regional Administrator will select a judge-mediator from a list of volunteers approved by the State Court Administrator. In turn, the Michigan Association of Counties will be requested to assist in selection of a mediator from a list of volunteers developed by the Michigan Association of Counties either as a result of a direct request from the funding unit or from the Regional Administrator. The judge-mediator will be appointed formally to the role of mediator through a letter from the State Court Administrator. The two mediators selected will in turn select a third mediator for the panel.

b. Expenses

Expenses for funding unit mediators will be paid by the funding unit. Expenses for the judge mediators will be paid by the State Court Administrative Office.

c. Procedures

Procedures for the mediation will be established on a case by cases basis by agreement of the parties and the mediation panel. Any recommendations or decisions by the mediation panel are not intended to be binding unless the parties stipulate otherwise. No procedural rules exist relating to the admissibility of panel findings or recommendations in any subsequent or pending lawsuit. Accordingly, to the extent that those issues are important to the parties, they should be addressed at the beginning of the mediation process. Because third party mediation was established on an informal basis by the Michigan Association of Counties and various judges' associations, it can be invoked at any time by agreement of the parties involved, and the procedures can be adjusted to fit the circumstances of the dispute under consideration. However, since mediators are volunteers and must take time from their regular duties, third party mediation should not be overused.

F. Lawsuit as Last Resort

1. Notice to State Court Administrator on Intent to File Law Suit

If a trial court determines that no other recourse is available, it may choose to file a lawsuit against the funding unit. Prior to doing so, the trial court must provide 30 days' notice to the State Court Administrator, in writing, of the intention to file a lawsuit. The letter providing notice should be directed to the State Court Administrator with a copy supplied to the Regional Administrator. The letter should indicate what efforts have been made to resolve differences over budget matters and a summary of the substance of the dispute which will be the subject of the lawsuit, as well as any other matters that the trial court deems relevant. The State Court Administrator, in turn, will acknowledge receipt of the notice indicating the critical dates for the 30 day notice and indicating the type of action that the State Court Administrative Office will undertake to attempt to resolve the dispute.

2. Intervention

In most cases, the matter will be referred to the appropriate Regional Administrator for intervention. The Regional Administrator may employ one of several methods including a review of the budget request and response from the funding unit, attempts at informal negotiation and/or mediation, or referral to third party mediation.

If third party mediation is deemed appropriate by the Regional Administrator or if either the trial court or the funding unit representatives demand third party mediation, the procedure developed jointly by the Michigan Association of Counties and various judges' associations will be implemented.

(see also Section 5-05, Labor Negotiations, pages 5-05-01 through 5-05-03)

6-08 ALTERNATIVE FUNDING SOURCES - GRANTS

A. Introduction

The principal funding source for most court operations is a general appropriation from the court's funding authority. However, occasionally there is an opportunity to obtain funds for court operations or projects for research on improvement of court operations from alternative sources. These alternative sources may well be another governmental entity, or, in some cases, a foundation or charitable institution. Alternative funds will be categorized for purposes of this discussion into entitlements and grants.

B. Entitlement Funds

1. Administration

Entitlement funds are administered by other government units, usually the state or federal government, and are earmarked for the subsidization of specific activities of the local government. Often, a state government agency will administer federal entitlement funds according to specific guidelines set by the federal agency responsible for administration and distribution of funds.

2. Restrictions in Use

Typically, entitlement funds are suitable for reimbursement of governmental activity based on the character and nature of the recipient agency or based on the nature of the activity alone. In either case, use and performance restrictions or guidelines apply. This is because entitlement funds are almost always intended to encourage an activity or activities of a specific nature (i.e., child support enforcement) or to benefit a class of persons or organizations (i.e., local government, the case of reimbursement for prosecution of cases involving prisoners of state prisons).

3. Eligibility

Rules relating to eligibility for these funds are promulgated, distributed, and enforced by administering agencies, usually a state agency (with guidance from federal agencies, if federal funds are involved). If the potential recipient fails to meet performance, record keeping or eligibility criteria for any given funding period, funds will be withheld or in some cases must be returned. Rules change frequently, often with each funding period, and recipients should make sure they are aware of the current rules.

4. Contacts

Some of the agencies which may have available entitlement funds are listed below. The list is not exhaustive, and you may wish to contact the State Court Administrative Office Regional Administrator in your region for further information.

a. Office of Child Support

The Office of Child Support administers federal funds for reimbursement of a percentage of administrative costs associated with the collection of child support. In addition, the office 1) administers funds paid as incentives for efficient collection of child support and 2) reimbursement to prosecuting attorneys and the probate court, juvenile division for costs incurred in complying with the Victim's Rights statutes (see Section 6-14, page 6-14-01) [MCL 780.751-.834]

Family Independence Agency
Office of Child Support
235 South Grand Avenue, Suite 1215
PO Box 30478
Lansing, MI 48909
(517) 373-7570

b. Child and Family Services

Child and Family Services administers the Child Care Fund, State Ward Board and Care, and Aid to Dependent Children in Foster Care which are used to reimburse counties for the placement of children in foster care or other residential programs (see Section 6-10, pages 6-10-01 and 6-10-02).

Family Independence Agency
Child and Family Services
235 South Grand Avenue, Suite 510
PO Box 30037
Lansing, MI 48909
(517) 373-2083

c. Department of Corrections

The Department of Corrections' Finance Division, administers a state mandated program to reimburse circuit courts and prosecutors for costs associated with the prosecution of inmates of state prisons located within the jurisdiction of the court in which the prosecution takes place (see Section 6-12, pages 6-12-01 and 6-12-02).

Department of Corrections
Finance Division
PO Box 30003
Lansing, MI 48909-7503
(517) 373-3797

The offices listed should be contacted for specific guidelines relating to the funds cited.

The State Court Administrative Office makes periodic announcements relating to the availability of and rules pertaining to such funding. If court officials would like assistance in determining the existence of entitlement funds for a specific purpose, the State Court Administrative Office Regional Office should be contacted (see Section 3-01, page 3-01-05 for list of regional offices).

C. Grants

1. Introduction

Grant funding can be an excellent source of funding to supplement local general fund appropriations and entitlement funds. However, general appropriations (and service-related revenues) should always be viewed as the primary source of funding for basic operations. Entitlement funds can usually be viewed in the same sense.

2. Administration

Grant funds are typically awarded for specific activities or projects upon application for limited periods of time, and are often restricted to new or experimental activities. Restrictions on use and application requirements vary widely depending upon program and funding sources. Grant funds available to judicial agencies from the federal government are often administered by state agencies pursuant to annual plans submitted by those state agencies.

3. Eligibility

Most federally supported programs require contributions by grantees of a resource "match" for the grant project, either in the form of the use of existing resources for the project or the use of added local resources. Grant funds available from private foundations, on the other hand, do not universally require matching resources to be contributed by the recipient, but the restrictions applicable to private foundation grants vary widely and should be considered carefully prior to application.

4. Restrictions in Use

In almost all cases, grant funds are available for limited periods for individual projects. Many governmental grant programs require periodic legislative renewal and may, therefore, exist for only a few years.

Because of these restrictions, grant funds should never be viewed as a source for funding basic or ongoing operations. Rather, grants are best used as resources for testing new programs, evaluating existing programs, or research and planning activities. Managers should anticipate that, at the end of a grant period, general appropriation funds must be obtained to continue project activities if it is determined the project is worthwhile and that activities of the project should be maintained over a period of time.

5. Contacts

a. Private Sources

Grant funds are also available from private sources, usually foundations set up specifically to provide resources to worthy programs in specific substantive areas. For example, the Michigan State Bar Foundation awards grants for projects which will benefit the legal system. The Edna McConnell Clark Foundation has funded many projects in the area of juvenile justice.

Another resource is The Michigan Foundation Directory which is available through the Council of Michigan Foundations. This guide contains a complete list of all Michigan Foundations and Michigan Corporate Giving Programs.

Council of Michigan Foundations
PO Box 599
Grand Haven, MI 49417
(616) 842-7080

Most foundations have annual goals for targeting the available funds in that year to certain types of projects. Some foundations have limits on the amounts available per grant, and some have geographic limitations. Each foundation should be contacted individually by letter to determine the rules for application for funding. There are a number of directories and guides relating to private foundation funding. One such resource is The Foundation Directory which is available from the Foundation Center in New York. This publication is updated regularly.

b. State and Federal Sources

Several state and federal offices have offered grant funding of justice system improvement activities. Some of those offices are listed below. Each office should be contacted to obtain current information regarding grant programs.

1) Department of State Police

The Department of State Police is responsible for administration of the Michigan Justice Training Fund which provides grants for the in-service training of criminal justice personnel in the areas of law enforcement, prosecution, correction, defense, and the judicial branch.

Department of State Police
Michigan Justice Training Commission
7426 N. Canal Road
Lansing, MI 48913
(517) 322-6627

2) Family Independence Agency

The Family Independence Agency is responsible for administration of grant funds available from the Office of Juvenile Justice and Delinquency Prevention through the Juvenile Justice and Delinquency Prevention Act.

Family Independence Agency
Juvenile Justice Grant Unit
235 South Grand Avenue, Suite 404
PO Box 30037
Lansing, MI 48909
(517) 335-6128

3) Office of Child Support

The Office of Child Support is responsible both for certain entitlement funds for reimbursement of activities relating to child support enforcement, but is also a conduit for federal grant programs relating to child support activities.

Family Independence Agency
Office of Child Support
235 South Grand Avenue, Suite 1215
PO Box 30478
Lansing, MI 48909
(517) 373-7570

4) Office of Highway Safety Planning

The Office of Highway Safety Planning is responsible for administering federal highway safety fund grants. The office has funded several projects for courts and prosecutors relating to the improved operations of court handling of traffic cases, particularly OUIL cases.

Department of State Police
Office of Highway Safety Planning
4000 Collins Road
PO Box 30633
Lansing, MI 48909-8133
(517) 336-6477

5) State Justice Institute

The State Justice Institute was created by Congress under the State Justice Institute Act of 1984, Public Law 98-620, and is authorized to award grants, cooperative agreements, and contracts to state and local courts and others to improve the administration and quality of justice in state courts.

State Justice Institute
1650 King Street, Suite 600
Alexandria, VA 22314
(703) 684-6100

6) Office of Drug Control Policy

This office is responsible for administering Anti-Drug Abuse Act law enforce-ment grants to provide funds to assist state and local governments to carry out specific programs that offer high probability of improving operation of the criminal justice system and enhancing drug control efforts at the state and local levels. Funds are administered under the Byrne Memorial Formula Grant.

Office of Drug Control Policy
Lewis Cass Building, 2nd Floor
320 South Walnut
Lansing, MI 48913
(517) 373-4700

7) Drug Courts Program Office

The Drug Courts Program Office (DCPO) was established to administer the Drug Court Grant Program. The Drug Court Grant Program makes grants to states, state courts, local courts, units of local government, and Indian tribal governments to establish drug courts in response to increased numbers of nonviolent, substance-abusing adult and juvenile offenders who contribute to the pervasive problems of prison and jail overcrowding and the high recidivism rate of those offenders.

Drug Courts Program Office
Office of Justice Programs
US Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 616-5001

8) Michigan Justice Training Commission

The Michigan Justice Training Commission provides funding to state and local agencies in the fields of law enforcement, adjudication, corrections, prosecution, defense, and state supported colleges and universities to provide in-service criminal justice training for its employees or employees of eligible agencies.

Michigan Justice Training Commission
7426 Canal Road
Lansing, Michigan 48913
(517) 322-6627

6-09 COOPERATIVE REIMBURSEMENT PROGRAM

A. Definition and Purpose

The Cooperative Reimbursement Program (CRP) is a contractual agreement between the Office of Child Support, Michigan Family Independence Agency, and the county and circuit court for the provision of federally mandated (IV-D) child support services through the friend of the court office. In general, IV-D child support services include activities to enforce, account for, collect, and distribute child support in cases that have on file a IV-D application for services, but Michigan has been granted a waiver for parenting time services to be included in the program. The contract specifies the respective responsibilities of each party for services, reporting requirements, and financial participation. [45 CFR 302.34, MCL 400.233]

B. General Procedures

Each year the friend of the court, upon authorization of the county board of commissioners and the circuit court, submits an application to the Office of Child Support for reimbursement of IV-D related activities. The application sets forth the activities to be performed, the personnel needed, the other IV-D related office activities, and a budget which estimates IV-D expenses along with a breakdown of state and local shares of those expenses. After review and negotiations, if necessary, by the Office of Child Support and the local signatories, a contract is prepared which outlines services to be provided, expenses to be reimbursed, and the respective parties' shares of those expenses. Upon execution of the contract, the friend of the court performs the services as provided and submits monthly reports to the Office of Child Support for reimbursement of expenses as provided in the contract.

C. Contract Terms and Development

Due to the ever changing laws in the child support enforcement field, terms of the contract change periodically to reflect those changes. The minimum level of state reimbursement of IV-D expenses is established by federal regulation. That level has gradually reduced since the inception of the program with present regulations providing for a floor of 66% state funding as of 1990. The State of Michigan can, and has, subsidized that level which reduces the financial contributions of the county.

D. Financial Benefits to County and Court

The CRP assists the local jurisdiction in the funding of friend of the court offices. Reimbursements made pursuant to the contract offset specific friend of the court expenditures.

The federal IV-D program also provides incentives to child support enforcement agencies through the payment of an incentive based upon the cost effectiveness of the state IV-D program. The incentives are passed through to the local county based upon a formula developed and promulgated by the Office of Child Support, Michigan Family Independence Agency. These incentive payments serve as another friend of the court generated revenue which may be used by the local jurisdiction to offset the local costs of the IV-D program and other friend of the court mandated services. (see also Section 4-04, page 4-04-02)
[45 CFR 303.52]

6-10 FUNDING SOURCES AND COLLECTIONS FOR COURT AND STATE WARDS

A. Funding Sources

There are currently four funding sources for the care of children and youth. The funding sources for which a minor is qualified are influenced by the child's legal status and funding eligibility. Following is an explanation and description of each of the four funds.

1. County General Fund

The primary source of funds for care of minors who are in court custody is the local county general fund.

a. County Child Care Fund

The county treasurer is specifically designated to be the custodian of the Child Care Fund and must deposit in it all funds raised by the county (general fund) for the care of children. This includes costs for minors not under the jurisdiction of the court but served by the local Family Independence Agency office, and minors who are under the jurisdiction of the court. Money returned to the court for foster care of children by the state or the parent must also be deposited in this fund.
[MCL 400.117c]

2. State Child Care Fund Account

This account is not used for direct payment of child care expense. Its use is limited to reimbursement of county child care fund expenditures after they have been incurred and reported.

a. Reimbursable Expenditures

1) Pre-Adoption Care

Foster care costs, not including administrative costs incurred by the placing agency during the release appeal period are reimbursable.

2) Child Care

Reimbursable Child Care Fund expenditures fall into three broad categories:

a) County Operated Child Care Facilities

Reimbursement is limited to the operating cost of the facility. There is no reimbursement for capital expenditures.

b) Out-of-Home Care for Court Wards

Cost for the direct services to court wards placed in foster care, institutional care, or independent living are generally reimbursable. Judicial or court administrative costs are not reimbursable.

c) In-Home Care

Most all costs, except judicial costs incurred in reducing out-of-home days of care through an approved program, are reimbursable. These costs are limited to service which prevent the need to place a youth out of the home or to facilitate the early return of a youth to his/her home.

b. Basic Grant (Juvenile Justice Service)

Counties having a population of less than 75,000 are eligible for a Basic Grant of $15,000. The Basic Grant program must be approved annually by the Michigan Family Independence Agency. The program must be new or expanded service for youth who are within or likely to come under court jurisdiction. The basic grant is a state reimbursement for up to $15,000 of county expenditures for approved programs.

c. Cost Share

The cost share for pre-adoptive care and the Basic Grant is 100% state. The cost share for certain costs incurred for county operated child care facilities, out-of-home care for court wards, and in-home care is 50% state and 50% county. Expenditures which qualify for state reimbursement of 50% are detailed and described in the Child Care Fund Rules (R400.2001 through 400.2048) and Child Care Handbook (available through the Michigan Family Independence Agency).

d. Billing/Payment Procedure

In each of the above types of care or service, county funds are used to pay the provider. The county must then submit Form DSS 207 for state reimbursement in the ratios stated above.

3. Aid to Dependent Children in Foster Care (Title IV E)

This federal funding source is administered by the Michigan Family Independence Agency. Payment is made by the state.

a. Eligibility

For a child's case to be eligible for Title IV E funding, all of the following criteria must be met:

1) The child must meet specific Title IV E eligibility criteria (was or would have been eligible for Title IV E in his/her own home);

2) If the child is a court ward (not committed to the state through Act 150 or 220 [MCL 803.301 et seq. or MCL 400.201 et seq.]), the court order must place the child under the "care and supervision" of the Michigan Family Independence Agency;

3) The court order must state:

   a) that it is contrary to the welfare of the child to remain in the home of the parents and

   b) that reasonable efforts have been made to prevent removal or return the child to the home;

4) The child must be placed in an Title IV E fundable placement. Title IV E fundable placements are licensed family foster homes, private non-profit child caring institutions, and small treatment facilities operated by the Michigan Family Independence Agency.

b. Cost Share

The cost share depends on the type of placement. For licensed foster homes and private child caring institutions, the cost share is approximately 50% state, 50% federal. For Arbor Heights Center and Michigan Family Independence Agency's operated residential care center placements the cost share is 50% federal, 25% state, and 25% county.

c. Billing/Payment Procedure

1) For children in placement eligible for 50% federal, 50% state funding, the state pays costs and claims federal reimbursement. There are no county costs.

2) For children in placement eligible for 50% federal, 25% state, and 25% county, the county is charged back 25% of the costs.

4. State Ward Board and Care (Non Title IV E)

This is the primary funding source for state wards. Payment is made by the Michigan Family Independence Agency.

a. Eligibility

This is the fund which is used for youth committed to the state and accepted through PA 150 [MCL 803.301 et seq.] (delinquency) or PA 220 [MCL 400.201 et seq.] (dependent, abused, neglected) when the youth is not eligible for Title IV E or is not in a Title IV E fundable placement.

b. Cost Share

The cost share is 50% state and 50% county.

c. Billing/Payment Procedure

The state incurs the cost of care if it is provided by state staff and pays for the care if it is provided by a family foster home or private agency. The state then charges the county back 50% of the cost.

B. Collections

1. Collections From Parents, Guardian, and Custodian for Reimbursement of Cost of Care

a. Authority

The court has the authority and responsibility for the collection of reimbursement for the cost of care or service for all minors served by the court or placed by the court with the state in its orders. (see SCAO Approved forms JC 25, 26, and 38)
[MCL 712A.18(2),(3)]

b. Collection Fee

The court may retain 25% of the amounts collected as a result of court ordered reimbursement for Child Care Fund expenditures. The 25% collection fee does not apply to collections received from Social Security, veterans benefits, or other governmental benefits.

c. Collection Share

Money collected by the court for Child Care Fund expenditures must be shared with the state in the same ratio as the cost of care is shared.

1) Child Care Fund

Money collected by the court, for youth funded through the Child Care Fund, is retained by the court. The 25% collection fee is deducted from the amount collected and the remaining 75% is reported as a revenue on the monthly reporting form for state reimbursement.

2) State Ward Board and Care

Money collected for youth funded through the State Ward Board and Care account may be either all retained by the court and reported to the state, or the court may retain the 25% collection fee plus 50% of the remaining amount and send the remaining 50% to the state.

If the court does not remit the state's portion of the collections, the state will make the off-setting adjustment on the monthly state ward chargeback statement.

3) Title IV E

Money collected by the court for youth funded through Title IV E may be retained and reported in the same manner as described under State Ward Board and Care. The 25% collection fee is retained and the remaining 75% is either retained and reported or submitted to the state in the same ratio as costs are shared. The county's share of the costs is either 25% or 0 depending on the type of placement.

Revised "Guidelines for Court Ordered Reimbursement and Procedures for Reimbursement Program Operations" are in the process of being developed. When finalized, they will be available at http://courts.michigan.gov/scao/resources/standards/reimb_guidelines.pdf.

C. Accounting Procedures

Instructions and directions on accounting procedures and how to handle Child Care Fund disbursements and collections for the funding sources are contained in the Uniform Accounting Procedures Manual for County Probate Court Child Care Fund.

6-11 STATE GRANTS FOR COUNTY JUVENILE OFFICERS

A. Introduction

The powers, duties, and compensation of county juvenile officers of the probate courts are prescribed in MCL 400.251. Under the statute funding for the employment of county juvenile officers and assistant county juvenile officers is available through 1) state salary and state fringes, 2) state salary (county fringes), and 3) state grant payments. Each county is allowed one county juvenile officer. The number of assistants is based on the population of the county.

B. Authority

Payment policies and procedures for county juvenile officers and assistant county juvenile officers have been developed by the Michigan Family Independence Agency. Persons employed as county juvenile officers or assistant county juvenile officers as of October 1, 1980 were required to choose one of the three funding options; however, individuals employed after October 1, 1980 can be paid by state grants only. [MCL 400.251, MCL 400.252]

C. Payment System

The amount of the grants for county juvenile officers and assistant county juvenile officers is set forth in statute and is based on the population of the county. The population is defined as the most recent population projection issued by the Department of Management and Budget for the state. The grants are adjusted annually by the same percentage as the annual salary adjustment made for state Civil Service employees who are excluded from representation under Civil Service rules. The grant payments constitute full payment of the state obligation for the salary, expense, and fringe benefits of the county juvenile officer or assistant. [MCL 400.253]

County juvenile officers employed prior to October 1, 1980 who initially selected funding under the salary options may change to funding under state grants. However, once funding under state grants has been assigned, funding may not be reverted back to the salary options.

D. Reporting Use of Grant Money

Grant payments are made in advance on a quarterly basis. At the end of each quarter the county treasurer must submit a certified expenditure report (DSS-56) to the Michigan Family Independence Agency, Payment Document Control Division. This form identifies the amount paid and the position(s) or individual(s) under the grant during the quarter. This report is used to certify that the full amount of the grant was applied to salaries, expenses, and fringe benefits for only those individuals designated as county juvenile officers or assistants.

If in any quarter the full amount of the grant was not applied to salaries, fringes, and expenses of the designated individuals, appropriate adjustments will be made during the following quarter.

Reporting forms will be supplied to county treasurers by the Michigan Family Independence Agency, Bureau of Planning and Fiscal Oversight.

(see also Section 4-17, page 4-17-01)

6-12 STATE REIMBURSEMENT FOR PRISON CASES

A. Felonies Committed by State Prisoners

1. Counties Entitled to Reimbursement

In the following cases committed by inmates of state correctional facilities during a period of state incarceration:

a. new felony offenses;

b. new felonies committed during escape; and

c. escape from custody,

counties in which a state correctional facility is located are entitled to reimbursement for the reasonable and actual costs incurred by the county for:

a. juror's fees;

b. witness fees;

c. fees of attorneys appointed by the court for the defendant; and

d. transcript fees.

2. Determination of Reasonableness of Expenses

After determination by the Michigan Department of Management and Budget of the reasonableness of the amount to be paid, payment shall be made in accordance with the accounting laws of the state. The determination of reasonableness by the Michigan Department of Management and Budget shall be conclusive.

3. Requesting Reimbursement

Counties are required to submit monthly itemized costs to the Michigan Department of Corrections, Finance Division. Forms and instructions for requesting reimbursement are available from them.

Michigan Department of Corrections
Finance Division
PO Box 30003
Lansing, MI 48909-7503
(517) 373-3797

[MCL 800.452]

B. Mentally Ill State Prisoners

1. Counties Entitled to Reimbursement

For implementing the jurisdictional duties in the probate court imposed on a county by Chapter 10 of the Mental Health Code, MCL 330.2001 et seq., with respect to proceedings involving allegedly mentally ill state prisoners within a state correctional facility in that county:

a. for transfer of the prisoner to the center for forensic psychiatry for treatment, or

b. for treatment of the prisoner within a state correctional facility,

the county is entitled to reimbursement for the reasonable and actual expenses incurred by the county for:

a. the expense of legal counsel appointed to represent an indigent prisoner in the proceeding,

b. compensation for each juror who is either summoned for voir dire or impaneled on a jury, if a jury trial is demanded in the proceedings,

c. compensation paid to each witness subpoenaed to the proceeding by the prisoner,

d. the expense of the preparation of a transcript of the proceeding.

2. Determination of Reasonableness of Expenses

Each county shall submit quarterly its itemized costs for these proceedings to the chief probate judge of the county. After determination by the chief probate judge of the reasonableness of the amount to be paid, payment shall be made in accordance with the accounting laws of the state. The determination of reasonableness by the chief probate judge shall be conclusive.

[MCL 800.455(2)]

6-13 REIMBURSEMENT FROM LITIGANTS

A. Reimbursement for Cost of Appointed Counsel

1. Criminal Cases

If a defendant (in a criminal felony case) is able to pay part of the cost of a lawyer, the court may require contribution to the cost of providing a lawyer and may establish a plan for collecting the contribution. [MCR 6.005(C)]

If a court requires a probationer to pay costs, the costs shall be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance to the defendant and supervison of the probationer. [MCL 771.3(6)]

In criminal actions where juveniles are charged with life offenses subject to the jurisdiction of the district and circuit court, the court may assess cost of legal representation, or part thereof, against a juvenile or against a person responsible for the support of a juvenile, or both. [MCR 6.905(D)]

2. Juvenile Cases

If the family division of the circuit court court appoints an attorney to represent a child, parent, guardian, or custodian, an order of disposition entered under MCL 712A.18 may require the child, parent, guardian, or custodian to reimburse the court for attorney fees. [MCL 712A.18(5)]

If an attorney is appointed for a party under MCL 712A.17c(2), the court may enter an order assessing attorney costs against the party or the person responsible for the support of that party. An order assessing attorney costs may be enforced through contempt proceedings. [MCL 712A.17c(2)]

When an attorney is appointed for a party under MCR 5.915(D), the court may enter an order assessing costs of the representation against the party or against a person responsible for the support of that party, which order may be enforced through contempt proceedings. [MCR 5.915(D)]

If the court appoints an attorney to represent a juvenile, an order entered under this section may require the juvenile or person responsible for the juvenile's support, or both, to reimburse the court for attorney fees. [MCL 769.1(7)]

(See also Section 15, pages 15-02-07, 15-02-08, 15-03-03, and 15-03-04)

B. Reimbursement for the Care of a Child

1. Required Reimbursement

The family division of the circuit court is required to include in any order of disposition placing a juvenile in or committing a juvenile to care outside of the juvenile's own home and under state or court supervision, a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service. [MCL 712A.18(2)]

2. Discretionary Reimbursement

An order of disposition placing a juvenile on probation in the juvenile's own home may contain a provision for the reimbursement by the juvenile, parent, guardian, or custodian, to the court for the cost of service. [MCL 712A.18(3)]

3. Guidelines for Reimbursement

The office of the State Court Administrator, under the direction and supervision of the Supreme Court and in consultation with the Michigan Family Independence Agency and the Michigan Probate Judges Association created guidelines and a model schedule which may be used by the court in determining the ability to pay the costs of care and service. Revised "Guidelines for Court Ordered Reimbursement and Procedures for Reimbursement Program Operations" are in the process of being developed. When finalized, they will be available at http://courts.michigan.gov/scao/resources/standards/reimb_guidelines.pdf. The guidelines and model schedule take into account the income and resources of the child, parent, guardian, and custodian. [MCL 712A.18(6)]

4. Collection and Disbursement of Reimbursement

The court shall provide for the collection of all amounts ordered to be reimbursed, and the money collected shall be accounted for and reported to the county board of commissioners. Collections to cover delinquent accounts or to pay the balance due on reimbursement orders may be made after a juvenile is released or discharged from care outside the juvenile's own home and under state, county juvenile agency, or court supervision. Twenty-five percent of all amounts collected pursuant to an order entered under this subsection shall be credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected pursuant to an order entered under this subsection shall be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under state, county jvuenile agency, or court supervision. The court may also collect benefits paid for the cost of care of a court ward from the government of the United States. Money collected for juveniles placed by the court with or committed to the Michigan Family Independence Agency or a county juvenile agency shall be accounted for and reported on an individual juvenile basis.
[MCL 712A.18(2)]

C. Reimbursement for Cost of Court Appointed Guardian Ad Litem

The court may assess the cost of providing a guardian ad litem against the party or a person responsible for the support of the party, and may enforce the order of reimbursement through contempt proceedings. [MCR 5.916(D)]

D. Reimbursement of Filing Fees/Costs and Restitution from Prisoner Accounts

1. Filing Fees and Costs

a. On a claim of indigency (pursuant to MCR 2.002), if a prisoner submits for filing a civil action or an appeal in a civil action, they must include a certified copy of their institutional account showing the current balance and a 12-month history of deposits and withdrawals. The Department of Corrections (DOC) certifies the account. The court shall order the payment or partial payment of fees and costs (SCAO Form CC 20a). [MCL 600.2963(1)]

b. The filing shall be suspended by the court until payment, or partial payment, as ordered by the court is made. All documents are to be returned to the prisoner, plus two certified copies of the court order for payment of fees and costs. The court shall also send the DOC facility a copy of the certified order. [MCL 600.2963(1)]

c. The prisoner has 21 days after the court order to resubmit the documents for filing, the filing fee (or partial filing fee) and one certified copy of the order. If the filing fee is not received within 21 days after the day it was ordered, the court shall not file the action and all documents are to be returned to the prisoner by the court. [MCL 600.2963(1)]

d. The full filing fee shall be ordered by the court if there are sufficient funds in the account upon filing. [MCL 600.2963(2)]

e. If the account is less than the full filing fee, the court shall require payment of an initial partial fee in an amount equal to 50% of the greater of:

   1) The average monthly deposits for 12 months preceding the date of filing.

   2) The average monthly balance in the account for 12 months preceding the date of filing.

   [MCL 600.2963(3)]

f. The court shall disregard amounts in the institutional account that are required by law or by another court order to be paid for any other purposes when determining the balance under subsections (2) or (3). [MCL 600.2963(4)]

g. In addition to an initial partial filing fee under subsection (3), the court shall order the prisoner to make monthly payments in an amount equal to 50% of the deposits made to the account and shall continue in this manner until the full filing fee is paid. [MCL 600.2963(5)]

h. Collection and remittal of payments is to be done by the DOC pursuant to MCL 791.268, which calls for DOC to remove the amounts from the account and when the court ordered amount is received, submit it to the court. [MCL 600.2963(5)]

i. If costs are assessed against a prisoner and there is not sufficient funds in the account, the court shall order payments in the same manner as provided in this section. [MCL 600.2963(5)]

j. The total amount collected shall not exceed the full amount of fees and costs required by law. [MCL 600.2963(6)]

k. The fact of incarceration cannot be the sole basis for determination of indigency. However, this section shall not prohibit a prisoner from starting an action if the prisoner has no assets and no means by which to pay the initial partial filing fee. If payment of fees and costs is waived or suspended, the court shall order the fees and costs paid in the manner provided by this section when the reason for waiver or suspension no longer exists. [MCL 600.2963(7)]

l. A prisoner who has failed to pay outstanding fees and costs as required under this section shall not commence a new civil action or appeal until the outstanding fees and costs have been paid. [MCL 600.2963(8)]

m. If a prisoner is ordered by a court to make monthly payments for the purpose of paying the balance of filing fees or costs under MCL 600.2963, the agency having custody of the prisoner shall remove those amounts from the institutional account of the prisoner subject to the order and, when an amount equal to the balanc of the filing fees or costs due is removed, remit that amount as directed in the order. [MCL 600.2963(9]

n. **DOC Policy - Director's Office Memorandum 1997-55, effective 6/1/97**

1) Court orders supersede policy where the court order is inconsistent with policy.

2) Priority for payments:

   a) Victim restitution
   b) Child support only if by court order
   c) Filing fees or costs
   d) Other court-ordered payments
   e) Fees for medical services
   f) Other institutional debts in chronological order

3) Once funds ordered to be removed from prisoner's account have been collected in full or when the prisoner transfers to residential and electronic programs, paroles, discharges from DOC jurisdiction or dies, the funds collected shall be sent to the court that issued the order with an explanation of the circumstances for sending the funds.

2. Victim Restitution

a. Establishes Crime Victim Services Commission (abolishes criminal assessments commission). [MCL 780.901 et seq.]

b. Adds reference to definition of juvenile to include family division of circuit court for offenses where the juvenile is not tried as an adult. [MCL 780.901 et seq.]

c. If restitution is ordered and the DOC receives a copy of the restitution order from the court, the DOC shall deduct 50% of the funds received by the prisoner in a month over $50 for payment of restitution. DOC is to forward the money to the crime victim when the amount exceeds $100 or the entire amount if the prisoner is paroled, transferred to community programs or discharged on the maximum sentence. DOC is to notify the prisoner in writing of all deductions and payments. This requirement remains in effect until all restitution is paid.

d. Restitution orders are non-modifiable by DOC. [MCL 791.220h]

e. The court shall not order restitution to be paid to a victim or their estate if they are to receive compensation for that loss and the court shall state on the record with specificity the reasons for its action. [MCL 769.1a(8)]

f. If an entity entitled to restitution cannot or refuses to be reimbursed, the money is to be deposited into the state treasury in the crime victim's rights fund. [MCL 769.1a(8]

g. A defendant may petition the sentencing judge to modify restitution; the court must determine that payment under the order will impose a manifest hardship on the defendant or his or her immediate family and may modify the method of payment. [MCL 769.1a(12)]

h. An order of restitution is effective until satisfied in full. An order of restitution is a judgment and lien against all property of the defendant for the amount specified in the order of restitution. The lien may be recorded as provided by law. [MCL 769.1a(13)]

i. The court shall provide a copy of the order of restitution (contained on the Judgment of Sentence/Commitment to DOC) to DOC when they are remanded to the jurisdiction of the DOC. [MCL 769.1a(16)]

6-14 COMPENSATION FOR CRIME VICTIM RIGHTS SERVICES

A. Authority

The family division of the circuit court is required to advise victims of offenses alleged to have been committed by juveniles, who are referred to the court, of specific rights. The court then must respond to requests for consultation, documents and information as required by statute. [MCL 780.781-.802]

B. Compensation for Services

The Office of Contract Management, Michigan Department of Management and Budget, will reimburse reasonable expenditures of the court required to comply with the statute. These expenditures are expected to be for those costs incurred for clerical staff time, materials, and postage. Costs for other items should be reviewed with the Michigan Department of Management and Budget staff before they are incurred. Cost claims forms (OCJ 604) are available from them. (see also Section 11-05, pages 11-05-01 through 11-05-04)
[MCL 780.751-.83]

Office of Contract Management
Michigan Department of Management and Budget
PO Box 30026
Lansing, MI 48909
(517) 373-7373

6-15 CRIMINAL ASSESSMENTS

A. Authority and Purpose

Criminal assessments are authorized under MCL 780.905 to pay for crime victim rights services under Section 24 of Article I of the State Constitution of 1963 and are collected by the district and circuit courts. Based on a formula determined by the Department of Community Health, Crime Victims Services Commission, courts are compensated for the costs associated with collection of criminal assessments. [MCL 780.906]

B. Responsibilities of Circuit and District Court

1. Collecting Assessments

The court shall order each person convicted of a felony to pay an assessment of $60.00 and shall order each person convicted of a serious misdemeanor or a specified misdemeanor to pay an assessment of $50.00.

The family division of the circuit court shall order each juvenile for whom the court enters an order of disposition for a juvenile offense to pay an assessment of $20.00. A juvenile offense is defined as an offense, that if committed by an adult would be a felony, serious misdemeanor, or a specified misdemeanor.

The court shall order a person to pay only one assessment for each criminal case. If the court allows the payment of victim payments and any other combination of other fines, costs, assessments, probation supervision fees, or other payments to be paid in installments, the assessment shall be a condition of a probation order. Fifty percent of all money collected from the person shall be applied to payment of victim payments and the balance shall be applied toward payments of fines, costs, assessments, probation supervision fees, or other payments.

2. Transmitting Assessments

The clerk of the court shall, on the last day of each month, do both of the following:

a. Transmit all of the assessments received to the Department of Treasury with a written report of those assessments as prescribed by the Department of Treasury (forms L295 and LGA57).

b. Transmit a written report to the Department of Community Health, Crime Victims Services Commission on form CVR 606 (Crime Victim Rights Assessment Report) containing all of the following information for that month:

1) the name of the court.

2) the total number of assessable convictions obtained in that court.

3) the total number of defendants against whom an assessment was imposed by the court.

4) the total amount of assessments imposed by that court.

5) the total amount of assessments collected by that court.

6) other information required by the Crime Victims Services Commission.

[MCL 780.905]

C. Compensation for Administrative Costs

Circuit and district courts are compensated for the administrative costs involved in collecting the criminal assessments and for providing the Crime Victim Rights Assessment Report (CVR 606). Each court retains a percentage, determined by the Crime Victims Services Commission, of the total assessments based on the level of reporting made on CVR 606. [MCL 780.906]

6-16 COURT EQUITY FUND

A. Authority and Purpose

The Court Equity Fund was created in 1996 by the state legislature as a source of funding to Michigan's trial courts. The fund receives state general fund/general purpose funds as well as portions of trial court revenue collections.

B. Administration of Fund

The fund is distributed to trial court funding units quarterly, commencing with the state fiscal year beginning October 1, 1996. Distributions are governed by statutory formula qualifications, fund revenue collections and state appropriations. Qualification for distribution from this fund is outlined below. The State Court Administrative Office is responsible for administering the fund.

1. Definitions

a. Qualifying Period

This is the period of caseload reporting used in calculating the relative caseload percentage. For the first year of the fund, state fiscal year beginning October 1, 1996, the qualifying period is calendar year 1995. For state fiscal year beginning October 1, 1997, the qualifying period is the last two calendar years for which reasonably complete caseload statistics are available. For state fiscal year beginning October 1, 1998 and each subsequent year, the qualifying period is the last three calendar years for which reasonably complete caseload statistics are available.

b. Relative Caseload

A percentage derived by using a county's qualifying caseload over a statewide total for the qualifying period. Qualifying caseload includes the caseloads of circuit courts including Recorder's court and all probate and probate district courts. If a court includes more than one county in its jurisdiction, the relative caseload calculation for a county would include only the caseload attributed to that county.

c. Formula

1) The relative caseload (%) of each county is multiplied by the total amount available for distribution from the court equity fund.

2) A calculation is made to determine the percentage of statewide judgeships allocated to each county (includes all probate, circuit and district court judgeships within the county). If a judge serves more than one county, the county will be credited for that judge only for the fraction of the judicial salary standardization payment that the state reimburses that county.

3) The amount determined under **1)** for each county is multiplied by the sum of 1 and the ratio of judges for each county determined under **2)**. The total of the individual county amounts determined will exceed the amount available for distribution so a calculation is made to determine the pro rata share of the amount available for distribution for each county.

C. Hold Harmless Fund

This fund is created in the State Treasury for five years commencing with the fiscal year beginning October 1, 1996. The fund has received appropriations of $20 million of state general funds for the first year of operation. Special provisions in the enacting legislation reduce the amount of future fiscal year intended appropriations to the fund by $4 million each year as well as outline specific formulas for the County of Wayne and the City of Detroit to receive funding from the Hold Harmless Fund. A calculation is needed to determine if a city or a county other than the County of Wayne and the City of Detroit will qualify for funding from this fund.

A county may qualify for funding if it is determined that the county would receive less funding from the Court Equity Fund formula in the fiscal year in question than they had received in the state fiscal year beginning October 1, 1995 from the State Court Fund and the Juror Fee Reimbursement Program combined. Counties that fall under this condition for a given fiscal year would be entitled to funds from the Hold Harmless Fund equal to the difference of the level of funding the county received from the State Court Fund and the Juror Fee Reimbursement Program in state fiscal year 1995-96 and the calculation of funding the county is expected to receive from the Court Equity Fund in the given fiscal year.

A city may qualify for funding if they received funding from the State Court Fund in the state fiscal year beginning October 1, 1995. Cities that fall under this condition would be entitled to funds from the Hold Harmless Fund equal to the amount of funding the city received from the State Court Fund in state fiscal year 1995-96.

If the appropriation of state funds to the Hold Harmless Fund exceeds the total claims by qualifying cities and counties, the balance will be retained in a work project account to be added to the appropriation for the Hold Harmless Fund for the following fiscal year. If the total claims exceeds the appropriation of state funds to the Hold Harmless Fund, each claimant will receive a pro rata share of the available funds.

Caseflow Management

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Caseflow Management

7-01 INTRODUCTION

A. Definition

Caseflow management is central to the court's mission. The term caseflow management denotes management of the continuum of processes and resources necessary to move a case from the point of initiation through disposition. It is concerned with active attention by the court to the progress of each case once it has been filed with the court.

As part of the ongoing commitment to Michigan Supreme Court Administrative Order 1991-4, an Advisory Committee was established in 1992 to develop a caseflow management guide as a training and resource tool for use by the trial courts. Development of the guide was funded by the State Judicial Institute. The goal of the Committee was to develop a resource which serves the following three purposes.

1. Assist court staff in assessing their case management systems by outlining the basic components of an effective case management program and by providing detailed descriptions of assessment techniques.

2. Provide examples from both large and small, rural and urban courts of programs and procedures already in operation in Michigan that can serve as a ready resource for courts considering changes in their case management practices.

3. Emphasize the importance of judicial leadership, court administrative support, and bar involvement in the development and maintenance of an exemplary case management system.

The guide, Caseflow Management: A Practitioner's Guide, was distributed to all trial court judges, all circuit, district, and municipal court administrators and clerks, all county clerks, all probate registers, and all juvenile directors and administrators by the State Court Administrative Office.

7-04 CASELOAD MANAGEMENT INFORMATION REPORTS

A. Authority

The State Court Administrator, under the Supreme Court's supervision and direction, shall:

1. collect and compile statistical and other data, make reports of the business transacted by the courts, and transmit the reports to the Supreme Court so that the statistics and other data may be used in taking proper action in the administration of justice.

2. obtain reports from courts, and the judges, clerks, and other officers of the courts, in accordance with rules adopted by the Supreme Court on cases and other judicial business conducted or pending in the courts, and report on them to the Supreme Court.

[MCR 8.103(5),(7)]

(see references to various Approved SCAO forms in the following items and Section 8-05, page 8-05-01 for a list of reports to state agencies)

B. Speedy Trial Report

Control of the trial calendar is vested in the trial court. The chief judge shall have filed with the State Court Administrator a monthly report setting forth the reasons for delay in the proceedings:

1. in felony cases in which there has been a delay of 28 days between the hearing on the preliminary examination or the date of the waiver of the preliminary examination and the arraignment on the information or indictment;

2. in felony cases in which there has been a delay of 6 months between the date of the arraignment on the information or indictment and the beginning of trial;

3. in misdemeanor cases in which there has been a delay of 6 months between the date of the arraignment on the warrant and complaint and the beginning of trial;

4. in felony cases in which a defendant is incarcerated longer than 6 months and in misdemeanor cases in which a defendant is incarcerated longer than 28 days.

[MCR 6.004, MCR 8.110(C)(5)]

(see forms SCAO 13 and SCAO 14, Speedy Trial Report for Circuit Court and District Court, rev. 8/90 and 10/96)

C. Matters Undecided Report

Every trial judge shall, on the first business day of January, May, and September of each year, file with the State Court Administrator a certified statement in the form prescribed by the State Court Administrator, containing full information on any matter submitted to the judge for decision more than 4 months earlier which remains undecided. The judge shall also set forth in the statement the reason a matter remains undecided. For the purposes of this rule the time for submission is the time the last argument or presentation in the matter was made or the expiration of the time allowed for filing the last brief, as the case may be. If the judge has no cases to report, the word "none" on a signed report is required. [MCR 8.107] NOTE: In probate court, matters under advisement must be decided within 30 days per statute. [MCL 600.848(2)] Decisions regarding termination of parental rights must be made within 28 days after taking final proofs. [MCR 5.974(G)]

(see form SCAO 27, Statement of Matters Undecided (MCR 8.107), rev. 2/99 and SCAO 27a, Statement of Matters Undecided at Retirement, (MCR 8.107), rev. 2/99)

D. Reporting Requirements in Estate and Trust Proceedings

Probate courts must report to the SCAO biannually on the first business day of January and July of each year all pending proceedings:

1. for all estates in supervised administration where the personal representative has not filed an inventory of the estate within 91 days after the date of the letters of authority or as otherwise ordered, and the inventory remains unfiled at the time of the report;

2. for all guardianships and conservatorships where the fiduciary has not filed an inventory of the estate within 56 days after the date of the letters of authority or as otherwise ordered, and the inventory remains unfiled at the time of the report;

3. for all estates in supervised administration where the personal representative has not filed an accounting within 56 days of the close of the accounting period;

4. for all guardianships and conservatorships where the fiduciary has not filed an accounting within 56 days of the close of the accounting period or within 56 days of the date of death of the ward;

5. for all estates where 28 days have elapsed since the anniversary of the original appointment of a personal representative without the filing of either

    a. a petition for an order of complete estate settlement pursuant to MCL 700.3952

    b. a petition for a settlement order pursuant to MCL 700.3953

c. the sworn statement pursuant to MCL 700.3954, or

d. a detailed statement of the estate's continuing pendency and reasons for the delay in its closing and distribution.

6. For all cases where there has been any other instance of noncompliance with the requirements of Michigan Court Rules or Michigan Compiled Laws.

(see form SCAO 23, Delinquent Fiduciary Report, rev. 2/00)

E. Use of Trial Court Caseload Reports

The trial court caseload reports are a vital source of information for the following purposes:

1. policy, planning, control, and evaluation of individual caseloads with regard to assignment, scheduling, and other caseflow management events and for identifying trends;

2. the basis for resource allocation and budget requests including providing projections for statewide funding and assisting in resolving funding disputes;

3. making recommendations for additional judgeships;

4. comparing caseload and activities, providing feedback to trial courts, and providing information to the National Center for State Courts for national analysis;

5. responding to inquiries from legislative/county government, judicial and other interest groups, and providing general information to the public regarding court activities; and

6. compiling the Annual Report of the State Court Administrative Office to the Supreme Court regarding the caseload the trial courts.

F. Trial Court Caseload Collection Reports

1. SCAO 18, District Court Caseload, revised 7/02

2. SCAO 22, Probate Court Caseload, revised 12/01

3. SCAO 31, Circuit Court Caseload Report, revised 12/01

4. SCAO 40b, Monthly Activity Report for Family Division of Circuit Court - Juvenile, revised 11/00

5. SCAO 41, Office of the Friend of the Court Statistical Report, revised 7/02

Caseload data from report forms SCAO 18, SCAO 22, SCAO 31, and SCAO 40b is now collected electronically through a web-based application called the Caseload Reporting System (CRS). This system has a number of features in addition to actual data collection. For details about the CRS, see the individual caseload manuals: Caseload of Michigan Trial Court Reporting Forms and Instructions for Circuit Court, Caseload of Michigan Trial Court Reporting Forms and Instructions for District Court, and Caseload of Michigan Trial Court Reporting Forms and Instructions for Probate Court at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/publications/manuals/#promnl.

7-05 CASE ASSIGNMENT SYSTEM

A. Authority

The chief judge has the authority and the responsibility to direct the apportionment and assignment of the business of the court, subject to the provisions of MCR 8.111. [MCR 8.110(C)(3)(b)]

B. Case Assignment and Reassignment Systems

All trial courts must have a case assignment system and a case reassignment system. Generally, cases are initially assigned randomly and equally among the judges of the court in a method determined by the chief judge. If a judge cannot undertake an assigned case, the chief judge may reassign the case to another judge. When establishing a case assignment and case reassignment system, the provisions of MCR 8.111 must be carefully considered. The State Court Administrative Office is available to provide technical assistance to trial courts in creating and documenting the court's case assignment system. It is recommended that trial courts document their case assignment system through administrative order.

(for more details on case assignment systems, see Caseflow Management: A Practitioner's Guide, published by the State Court Administrative Office)

7-06 VISITING JUDGES

A. Authority

The chief judge has the authority and the responsibility to request assignments of visiting judges and direct the assignment of matters to the visiting judges. [MCR 8.110(C)(3)(g)]

B. Assignment of Visiting Judges

Whenever all of the judges of a trial court are unable to undertake a case, or whenever a trial court needs assistance with its docket, the State Court Administrator is authorized to assign a visiting judge from another court. The State Court Administrator has approved "guidelines, policies, and procedures regarding assignment of judges". These guidelines are for the use of trial court personnel and State Court Administrative Office staff involved in the judicial assignment process. See the guideline on the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/assign_guidelines.pdf.
(see form SCAO 2, Assignment, rev. 1/96)

C. Assignment and Compensation of Sitting and Retired Judges

1. Sitting Judges

The Supreme Court or the State Court Administrator has the right to assign a judge of any court to serve as a judge in any other court in this state except where the judge is authorized to act as a judge. [MCL 600.225(1)] The amount of compensation is set by statute. [MCL 600.225(6)]

2. Retired Judges

The Supreme Court may authorize any retired judge to perform judicial duties in any court. [MCL 600.226(1)] The compensation for a retired judge is set by statute. [MCL 600.226(2)]

If a sitting or retired judge has indicated to a court that s/he is available, an agreement should be reached with respect to the dates of availability and compensation. The court should then contact the State Court Administrative Office to obtain authority for the assignment. If a court is in need of extra judges, but has no available sitting or retired judge, the court should contact the State Court Administrative Office for assistance in finding an available judge.

(see form SCAO 50, Retired Judges Information, rev. 11/02)

D. Temporary Assignment to Court of Appeals

The Supreme Court may transfer judges from certain trial courts to the Court of Appeals to act as temporary judges. [MCL 600.306]

E. Marriage Assignments

If a judge without marriage jurisdiction (circuit, Court of Appeals, Supreme Court) wishes to perform a marriage, or a judge with marriage jurisdiction (district, municipal, or probate) wishes to perform a marriage outside the territorial jurisdiction of the court, an assignment for that purpose will be made by the State Court Administrative Office (see Section 15-07, page 15-07-01).

A telephone request to obtain a marriage assignment prior to the date is sufficient. The date of the marriage ceremony and the names of the parties should be supplied. The State Court Administrative Office will issue an assignment to the probate court in the county of the ceremony. If requested, an assignment will be made to the appropriate district court.

The State Court Administrative Office does not assign district court magistrates to other courts. (see Section 4-09, page 4-09-04)

7-07 ALTERNATIVE DISPUTE RESOLUTION (ADR)

The State of Michigan, by legislation and by court rule, has several alternative dispute resolution mechanisms. The purpose of these mechanisms is to assist parties in resolving their disputes without formal adjudication in the trial court. The following is a brief explanation of the major programs which have been implemented in Michigan. For current information on alternative dispute resolution, please contact the Office of Dispute Resolution, State Court Administrative Office. For general information, visit the website at: http://courts.michigan.gov/scao/dispute/odr.htm.

A. Court Related Alternative Dispute Resolution

1. Alternative Dispute Resolution Generally

MCR 2.410 provides that civil matters may be referred to a non-binding ADR process by stipulation of the parties, or on order of the court. Parties are encouraged to select their own ADR process, however if they do not, the court may select both the ADR process and the neutral service provider. Courts must have an approved local administrative order identifying the court's local ADR plan prior to using the authority to order persons to an ADR process. Guidelines for completing the local ADR plan are available from the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/odr/ADRplngls.pdf. An overview of the ADR rules is available from the State Court Administrative Office, Office of Dispute Resolution.

2. Mediation

MCR 2.411 outlines key provisions of courts' use of the mediation process, including identification of matters for mediation, qualifications of mediators, and fee provisions. Standards of Conduct for mediators have been separately adopted via SCAO Administrative Memorandum 2001-01 and are available at: http://courts.michigan.gov/scao/resources/other/proc.htm. Qualifications for persons serving as mediator trainers are also available from the State Court Administrative Office.

3. Case Evaluation in Civil Cases

Michigan Court Rules and statutes have created a pre-trial case evaluation program for civil cases filed in the circuit, district, and probate courts. All cases involving health care provider malpractice and all other tort cases in which damages are claimed to exceed $10,000 must receive a case evaluation. [MCL 600.4901 et seq., MCL 600.4951 et seq., MCR 2.403 and MCR 2.404]

Each trial court that submits cases to case evaluation under MCR 2.403 shall adopt by local administrative order a plan to maintain a list of persons available to serve as mediators and to assign mediators from the list to panels. The plan must be in writing and available to the public in the mediation clerk's office. (See the Guidelines for Preparing Local Administrative Orders for Selecting Case Evaluators and Case Evaluation Panels at: http://courts.michigan.gov/scao/resources/standards/adrlao_guidelines.pdf)

Individuals may apply to the ADR clerk to be placed on the list of case evaluators. The courts may use SCAO Approved form MC 34, Case Evaluator's Application, for this purpose if they desire. (The form is available from the State Court Administrative Office website at: http://courts.michigan.gov/scao/courtforms/caseevaluation/mc34.pdf).

4. Mediation in Domestic Relations Cases

Mediation in domestic relations case is authorized by MCR 3.216. Substantial amendments to the rule took effect August 1, 2000. Qualifications for persons serving as trainers of mediators are available from the State Court Administrative Office.

5. Mediation in Child Custody and Parenting Time Disputes

The Friend of the Court Act provides for mediation in child custody and parenting time disputes. These services are provided through Michigan's friend of the court offices either through utilization of in-house staff or by contract with outside agencies.

Domestic relations mediation through friend of the court offices can apply in either prejudgment or post judgment disputes as well as Paternity or Family Support Act matters. The process is voluntary. Additionally, the statute provides for confidential communications, the qualifications of domestic relations mediators, and for the entry of consent orders.

[MCL 552.513, MCL 552.515]

B. Non-Court Alternative Dispute Resolution

1. Uniform Arbitration Act

Michigan has adopted the Uniform Arbitration Act which permits parties to civil actions to submit to arbitration for resolution of civil matters.
[MCL 600.5001 - .5035]

2. Medical Malpractice Arbitration Act

Michigan has adopted an act to provide for arbitration in the resolution of malpractice actions if the total amount of damages claimed is $75,000 or less, including interest and costs. [MCL 600.2912g and 600.2912h]

3. Community Dispute Resolution Act

a. Authority

The Community Dispute Resolution Program was legislatively created in 1989 to provide conciliation, mediation, or other forms and techniques of voluntary dispute resolution to persons as an alternative to the judicial process. The program is funded by the Community Dispute Resolution Fund and administered by the State Court Administrator. This program also houses the:

- Michigan Agricultural Mediation Program
- Michigan Special Education Mediation Program
- Permanency Planning Mediation Program

A list of all current Community Dispute Resolution Program centers appears in the Directory issue of the Michigan Bar Journal. The list, plus other information about the program, can be obtained by contacting the State Court Administrative Office or by visiting the website at: http://courts.michigan.gov/scao/dispute/index.htm. [MCL 691.1553-.1554]

b. Funding

The Community Dispute Resolution Fund is funded by a $2.00 portion of civil and small claims filing fees in the circuit and district courts. The funds are distributed to non-profit or governmental organizations which provide dispute resolution services. [MCL 691.1560(3), MCL 600.837(2)]

C. ADR Information

ADR practice is quickly evolving in Michigan. For current information about the use of ADR in the courts, availability of training, academic programs, and further resources, please contact:

Office of Dispute Resolution
State Court Administrative Office
Box 30048
Lansing MI 48909

Telephone: (517) 373-4839
FAX: (517) 373-8922
http://courts.michigan.gov/scao/dispute.odr.htm

Records and Information Management

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Appendix

Case Disposition Report Forms

Records and Information Management

8-01 INTRODUCTION

Every court should have a program for managing the creation, maintenance, and disposition of all court records. Any records management program instituted should consider the handling of a file from case initiation to destruction. Standards for managing trial court case files, which represent the majority of a court's records management needs, have been established through Michigan Supreme Court Administrative Order 99-17. See Michigan Trial Court Case File Management Standards for details.

Education and training in the area of records management is available through the Institute for Court Management. In addition, the National Center for State Courts has published A Guide to Court Records Management.

Any records management program should be considered in light of caseflow management practices as well. See Caseflow Management: A Practitioner's Guide for a better understanding of this relationship.

8-02 RECORDS KEPT BY COURT CLERKS

A. Records Kept by all Court Clerks

The clerk of the court shall comply with the records standards in MCR 8.119 and as otherwise prescribed by the Michigan Supreme Court. The clerk of the court of every trial court shall keep records in the form and style the court prescribes and in accordance with Michigan Supreme Court records standards and local court plans.

A court may adopt a computerized, microfilm, or word-processing system for maintaining records that substantially complies with MCR 8.119(D).

1. Filing of Papers

The clerk of the court shall endorse on every paper the date on which it is filed. Papers filed with the clerk of the court must comply with Michigan Court Rules and Michigan Supreme Court records standards. The clerk of the court may reject papers which do not conform to MCR 2.113(C)(1) and MCR 5.113(A)(1).

2. Case Files

The clerk of the court shall maintain a file folder for each action, bearing the case number assigned to it, in which the clerk shall keep all pleadings, process, written opinions and findings, orders, and judgments filed in the action. Additionally, the clerk shall keep in the file all other documents prescribed by court rule, statute, or as ordered by the court.

3. Types of Records

The clerk shall keep and maintain records of each case consisting of a numerical index, an alphabetical index, a register of actions, and a case file in such form and style as may be prescribed by the Supreme Court.

Each case shall be assigned a case number on receipt of a complaint, petition, or other initiating document. The case number shall comply with MCR 2.113(C)(1)(c) or MCR 5.113(A)(1)(b)(ii) as applicable. In addition to the case number, a separate petition number shall be assigned to each petition filed under the Juvenile Code as required under MCR 5.113(A)(1)(b)(ii). The case number (and petition number if applicable) shall be recorded on the register of actions, file folder, numerical index, and alphabetical index.

The records shall include the following characteristics:

a. Indexes

The clerk shall maintain a numerical index as a list of consecutive case numbers on which the date of filing and the names of the parties are recorded. The index may be maintained either as a central index for all cases filed in the court or as separate lists for particular types of cases or particular divisions of the court. The clerk shall maintain a central alphabetical index or separate alphabetical indexes for particular types of cases or particular divisions of the court on which the date of filing, names of all parties and the case number are recorded.

b. Register of Actions

The clerk shall keep a case history of each case, known as a register of actions. The register of actions shall contain both pre- and post-judgment information. When a case is commenced, a register of actions form shall be created. The case identification information in the alphabetical index shall be entered on the register of actions. In addition, the following shall be noted chronologically on the register of actions as it pertains to the case: the offense (if one), the judge assigned to the case, fees paid, date and title of each filed document, process issued and returned, date of service, date of each event and type and result of action, date of scheduled trials, hearings, and all other appearances or reviews, orders, judgments, verdicts, the judge at adjudication and disposition, date of adjudication and disposition, manner of adjudication and disposition. Each notation shall be brief, but shall show the nature of each paper filed, each order or judgment of the court, and the returns showing execution. Each notation shall be dated with not only the date of filing but with the date of entry and shall indicate the person recording the action.

c. Calendars

The clerk may maintain calendars of actions. A calendar is a schedule of cases ready for court action that identifies times and places of activity.

d. Journals

Except for recording marriages, journals shall not be maintained.

4. Other Records

The clerk shall keep in such form as may be prescribed by the court, other papers, documents, materials, and things filed with or handled by the court including but not limited to wills for safekeeping, exhibits and other discovery materials, requests for search warrants, marriage records, and administrative activities.

[MCR 8.119(D)]

(see also Section 4-02, page 4-02-02 and Section 4-07, page 4-07-02)

B. Other Records Kept by the Register of Probate

Original orders and letters of authority, after being recorded, must be placed in the files of the probate court. For security purposes, testamentary documents of deceased persons, bonds, orders, and such other documents as the probate court directs must be copied by microfilming or other means promptly after filing or issuance and preserved in the records of the probate court separately from the files. [MCL 600.832, MCR 8.302]

C. Court Reporter/Recorder Records

1. Records Kept by Court Reporter/Recorder

The court reporter/recorder who takes the testimony on the trial or the hearing of any case shall prefix the record of the testimony of each witness with the full name of the witness and the date and time the testimony was taken. At the conclusion of the trial of the case the reporter/recorder shall secure all of the records and properly entitle them on the outside, and shall safely keep them in his/her office. (see also Section 4-24, pages 4-24-01 through 4-24-05)

2. Transfer of Records to Clerk of Court

If the court reporter/recorder dies, resigns, is removed from office, or leaves the state, his/her records in each case must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records subject to the direction of the court. The records are a part of the record of each case and are subject to inspection in the same manner as other records. On order of the court, a transcript may be made from the records and filed as a part of the record in the case. (see also Section 4-02, pages 4-02-02, Section 4-07, page 4-07-02, Section 4-11, page 4-11-02, and Section 4-14, page 4-14-01)

3. Court to Retain Records of Freelance Reporters/Recorders

Although not addressed by rule, it is a good management practice for a court to retain the records of court reporters/recorders who are not employed by the court.

8-03 PUBLIC ACCESS TO COURT CASE RECORDS

The clerk may not permit any record or paper on file in the clerk's office to be taken from it without the order of the court.

A. Right of Public Inspection

Generally, unless access to a file is restricted by statute, court rule, or an order according to MCR 8.119(F), any person may inspect pleadings and other papers in a court clerk's office and may obtain copies as provided by MCR 8.119(E)(2) and (3). A court, by administrative order, may make reasonable regulations necessary to protect its public records and prevent excessive and unreasonable interference with the discharge of its functions. (see also Section 12-03, page 12-03-05 and Section 12-04, page 12-04-02) (See the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm for the Model Order for Access to Court Records) [MCR 8.105(C)]

Access to Friend of the Court records is regulated by MCR 3.218. (See the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/lao.htm for the Model Order for Access to Friend of the Court records and request form)

1. Providing Copies

If a person wishes to obtain copies of papers in a file, the clerk shall provide copies upon receipt of the reasonable cost of reproduction. If the clerk prefers, he or she may permit the requesting person to make copies at his or her own expense under the direct supervision of the clerk.

2. Creating New Records

A court is not required to create a new record, except to the extent required by furnishing copies of a file, paper, or record. A court may create a new record or compilation of records pertaining to case files or case related information on request, provided that the record created or compiled does not disclose information that would otherwise be confidential or restricted by statute, court rule, or an order entered pursuant to MCR 8.119 (F).

3. Copy Fee

Except for copies of transcripts and as otherwise directed by statute or court rule, a standard fee may be established for providing copies of papers in a file.

4. Local Administrative Order Regulating Access

Every court, shall adopt an administrative order pursuant to MCR 8.112(B) to:

a. make reasonable regulations necessary to protect its public records and prevent excessive and unreasonable interference with the discharge of its functions;

b. specify the reasonable cost of reproduction of records provided under MCR 8.119(E)(2); and

c. specify the process for determining costs under MCR 8.119(E)(3).

[MCR 8.119(E)]

B. Handling Inquiries Regarding Nonpublic Records

The court's response to inquiries regarding nonpublic records is outlined in the Michigan Trial Court Case File Management Standards, Component 19.

C. Authority for Restricting Access

Some of the more common statutes, courts rules, and case law which restrict public access to court case records or portions of records are listed in the Michigan Trial Court Case File Management Standards, Component 19/ (See Model LAO 8 for Public Access to Court Records at http://courts.michigan.gov/scao/resources/other/lao.htm)

D. Freedom of Information Act

Oftentimes, court records are requested by a person citing the Freedom of Information Act. [MCL 15.231 et seq.] Although the judiciary is specifically excluded from the definition of public bodies subject to the Act, several Michigan Court Rules cover public access to court files and records. Specifically, MCR 8.119(E) permits any person to inspect pleadings and other papers in the clerk's office and to obtain copies.

E. Providing Indigent Defendants with Case Records (applies to circuit courts and Recorder's Court only) [MCR 6.433]

1. Appeals of Right.

An indigent defendant may file a written request with the sentencing court for specified court documents or transcripts, indicating that they are required to pursue an appeal of right. The court must order the clerk to provide the defendant with copies of documents without cost to the defendant, and, unless the transcript has already been ordered as provided in MCR 6.425(F)(2), must order the preparation of the transcript.

2. **Appeals by Leave.** An indigent defendant who may file an application for leave to appeal may obtain copies of transcripts and other documents as provided in this subrule.

   a. The defendant must make a written request to the sentencing court for specified documents or transcripts indicating that they are required to prepare an application for leave to appeal.

   b. If the requested materials have been filed with the court and not provided previously to the defendant, the court clerk must provide a copy to the defendant. If the requested materials have been provided previously to the defendant, on defendant's showing of good cause to the court, the clerk must provide the defendant with another copy.

   c. If the request includes the transcript of a proceeding that has not been transcribed, the court must order the materials transcribed and filed with the court. After the transcript has been prepared, court clerk must provide a copy to the defendant.

3. **Other Postconviction Proceedings.** An indigent defendant who is not eligible to file an appeal of right or an application for leave to appeal may obtain records and documents as provided in this subrule.

   a. The defendant must make a written request to the sentencing court for specific court documents or transcripts indicating that the materials are required to pursue postconviction remedies in a state or federal court and are not otherwise available to the defendant.

   b. If the documents or transcripts have been filed with the court, the clerk must provide the defendant with copies of such materials without cost to the defendant.

   c. The court may order the transcription of additional proceedings if it finds that there is good cause for doing so. After such a transcript has been prepared, the clerk must provide a copy to the defendant.

   d. Nothing in this rule precludes the court from ordering materials to be supplied to the defendant in a proceedings under subchapter 6.500.

F. Sealed Records

Except as otherwise provided by statute or court rule, a court may not enter an order that seals court records, in whole or in part, in any action or proceeding unless certain factors exist. These factors and the sealing of court records is governed by MCR 8.119(F).

A court may not seal a court order or opinion, including an order or opinion that disposes of a motion to seal the record. Whenever a court grants a motion to seal a court record, in whole or in part, the court must forward a copy of the order to the Clerk of the Supreme Court and the State Court Administrative Office pursuant to MCR 8.119(F)(7).

G. Juvenile Case Records

Access to juvenile case records of the family division of circuit court is more specifically defined by MCR 5.903(A)(9) and (18), MCR 5.925(D), and MCR 5.783.

8-04 RECORD RETENTION AND DISPOSAL

A. Authority

Records may not be disposed of, mutilated, or destroyed except as allowed by statute or court rule. Minimum record retention schedules for use by the trial courts have been approved by the State Administrative Board. [MCL 399.5, MCL 600.2137, MCL 691.1101, MCL 600.8344, MCL 720.551, MCR 5.925]

B. Record Retention and Disposal Schedules

The following court related schedules have been compiled and have been approved by the State Administrative Board:

1. General Schedule No. 1 - Definition of Non-Record Material (revised and approved July 7, 1964) - available at the Department of Management and Budget website at: http://www.michigan.gov/documents/gs1_20727_7.pdf.

2. General Schedule No. 16 - Records Retention and Disposal Schedule for Michigan Trial Courts (August 7, 2001) - available at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/cf_schd.pdf.

C. Microfilming

1. Michigan Standards

The Department of Management and Budget, Office Services Division has filed microfilm standards with the Secretary of State on April 6, 1966 by the authority conferred on the department of administration by section 1 of Act No. 105 of the Public Acts of 1964 and section 102 of Act No. 380 of the Public Acts of 1965, being sections 691.1101 and 16.202 of the Compiled Laws of 1948. The standards can be found in the State of Michigan Supplement to 1954 Michigan Administrative Code, Supplement No. 47, Rules 18.101 through 18.113. Another resource is the Microfilm Handbook: Michigan Local Government, available from the State Archives of Michigan, Department of History, Arts, and Libraries. State Archives is in the process of revising these rules. For further information or questions concerning microfilming contact the State Archives of Michigan, Department of State, 717 West Allegan, Lansing, MI 48918, (517) 373-1401. See http://www.michigan.gov/dmb/0,1607,7-150-9141_13131-31497--,00.html.

2. Microfilm Resources

a. Standards

- U.S. and international standards

American National Standards Institute (ANSI)
1430 Broadway
New York, NY 10018

Association for Information and Image Management
1100 Wayne Avenue
Suite 1101
Silver Spring, MD 20910

- Industry standards, some ANSI standards, and compilations of federal government standards

National Micrographics Association (NMA)
Suite 1101
8728 Colesville Road
Silver Spring, MD 20910

b. Education and Training

- Seminars and publications

Xidex Institute of Film Technology
305 Soquel Way
Sunnyvale, CA 94086

National Micrographics Association (NMA)
Suite 1101
8728 Colesville Road
Silver Spring, MD 20910

- Publications

Association for Information and Image Management
1100 Wayne Avenue
Suite 1101
Silver Spring, MD 20910

Eastman Kodak Company
Rochester, NY 14650

c. Periodicals and Other Publications

Association for Image and Information Management. Practice for Operational Procedures/Inspection and Quality Control of First Generation, Silver-Gelatin Microfilm of Documents. Silver Spring, MD: Association for Image and Information Management, 1983.

Gwinn, Nancy E., editor. Preservation Microfilming: A Guide for Librarians and Archivists. Chicago, IL: American Library Association, 1987.

Microfilm Techniques Inc. Microfilm Techniques. New York: Microfilm Techniques Incorporated. (this publication is free - 250 Fulton Avenue, Hemstead, NY 11550)

National Micrographics Association. Glossary of Micrographics. Silver Spring, MD: Association for Image and Information Management, 1980.

National Micrographics Association. Journal of Micrographics. Silver Spring, MD: National Micrographics Association.

National Micrographics Association. Micrographic Film Technology. Silver Spring, MD: Association for Image and Information Management, 1983.

d. Microfilm Services

Graphic Sciences, Royal Oak: (800) 397-6620

Imax, Southfield

Lason, Lansing: (517) 323-3231

Vucom, Lansing: (517) 882-2244

D. Record Storage

When a file becomes inactive, the court may want to consider off-site storage for file maintenance if there is not adequate storage in the court facility. The following companies provide management and storage of records.

1. Commercial Equipment Company (document imaging), Lansing: (800) 694-5544
2. Data Pro-Tech, Lansing: (517) 482-0022
3. Diversiteck, New Hudson: (810) 486-2011
4. Document Services, Inc., Livonia: (800) 229-0180

5. Graphic Sciences (digital imaging), Royal Oak: (810) 549-6600 or (800) 397-6620
6. Kent Records Management, Grand Rapids: (616) 459-6681
7. Leonard Archives, Inc., Detroit: (313) 872-8300
8. Records Retention Center, Kalamazoo: (616) 382-1555
9. Safe Records Center, Inc., Lansing: (517) 394-0832
10. Underground Security, Grand Rapids: (616) 245-5675

For restoration of water damaged records, contact Munters Incentive Group at:

Munters Corporation
Moisture Control Services
39293 Plymouth Road
Suite 117
Livonia, Michigan 48150
(313) 432-0050
FAX (31) 432-0051

E. Notification Prior to Destruction

Before records may be destroyed, the Michigan Department of History, Arts, and Libraries - State Archives must be notified. If an audit has not been performed during the period of retention the State Department of Treasury must also be notified before destruction of records. Even when microfilmed, the original case record must be retained for the minimum period. Form MH-38 (rev. 3/87), Certificate of Records Disposal must be completed and submitted to the Michgian Department of History, Arts, and Libraries - State Archives, Lansing, MI 48918. See the form at: http://www.michigan.gov/hal/0,1607-17451_18673_19386-56141--,00.html.

In addition to regularly scheduled destruction of records, State Archives should be notified on the Certificate of Records Disposal when any records are expunged pursuant to MCR 5.925. The State is not interested in obtaining the files for placement in the archives because it would be in conflict with court rule. However, the practice of notifying the State will provide the courts with proof that expunged records were properly disposed of. **Note:** The definition of expungement is undergoing possible revision as the result of a recent Michigan Supreme Court ruling, People v Smith, 437 Mich 293 (1991).

F. Disposal

1. Methods of Disposal

Accepted disposal methods of records are transfer to State Archives (at their discretion), shredding, burning, and pulverization. Companies that provide shredding services include:

a. Confidential Records Destruction/Paper Recycling, Michigan Department of Management and Budget, Lansing: (517) 322-1899

b. Data Destruction of Jackson, Jackson: (517) 750-3028

c. Safe Records Center, Inc., 4940 Center Drive, Lansing, MI: (517) 394-0832

Companies that provide pulverization services include:

Document Services, Inc., Livonia: (800) 229-0180

2. Scrap Paper

The following companies are willing to purchase scrap paper (e.g. disposed court records); contact the State Archives for verification:

a. Jackson Fibres Company, Jackson: (517) 784-9191

b. Simplex, Constantine: (616) 435-2425

c. General Mill Supply Company, Detroit: (313) 554-1000

8-05 CASE DISPOSITION REPORTS TO STATE AGENCIES

In addition to the caseload and case monitoring reports submitted to the State Court Administrator (see Sections 3-04 and Section 7-04), court personnel are required to submit a number of case disposition reports to state agencies. [See MCR 8.119(G)]

Report Name	Submitted By	State Agency	Authority
Abstract Certification Form BDVR 103	Court Clerk	Michigan Department of State Abstract Processing Unit 7064 Crowner Drive Lansing, MI 48918 (517) 322-1596	MCL 257.732
Adoption Records Form DCH 0854 (9/00) (was B-83a)	Court Clerk	Dept. of Community Health Changes Unit 3423 North MLK Jr Blvd Lansing, MI 48909 (517) 335-8684	MCL 333.2829
Complaints, Judgments, Decress, Orders filed, Consumer Protection Act	Court Clerk	Michigan Attorney General Consumer Protection Division PO Box 30213 Lansing, MI 48909 (517) 335-0855	MCL 445.912
Criminal and Juvenile Offense Dispositions	Court Clerk	Michigan State Police Central Records Division 7150 Harris Drive Lansing, MI 48913 (517) 373-0382	MCL 769.16a, MCL 712A.18(16) MCL 712A.18(16)
Divorce Records Forms DCH-0838 (11/99) (was B-42) and B-84 (8/93)	Court Clerk	Dept. of Community Health Registration Unit 3423 North MLK Jr Blvd Lansing, MI 48909 (517) 335-9826	MCL 333.2864
LEIN Reporting SCAO Forms PCM 214, PC 631, and MC 207	Court Clerk	Michigan State Police (recipient is generally a local Michigan State Police contact)	MCL 330.1464a, MCL 700.5107, MCL 769.16b

Report Name	Submitted By	State Agency	Authority
Medical Malpractice Judgments Form LHI-700 (8/86)	Court Clerk	Department of Licensing and Regulation Bureau of Health Services PO Box 30018 Lansing, MI 48909 (517) 373-1530	MCL 333.16243(2)
Name Change Orders SCAO Form PC 52	Court Clerk	Michigan State Police	MCL 711.1(3)
Order Granting Custody to Putative Father Form B-71 (1/97)	Court Clerk	Dept. of Community Health Registration Unit 3423 North MLK Jr Blvd Lansing, MI 48909 (517) 335-9826	MCL 710.39
Paternity Orders Forms B-71 (1/97) and B-72 (11/85) (now DCH-0740)	Court Clerk	Dept. of Community Health Registration Unit 3423 North MLK Jr Blvd Lansing, MI 48909 (517) 335-9826	MCL 722.717
Sex Offender Registration Forms DD-4	Probation Clerk or Court Clerk	Local arresting agency or Michigan State Police local post	MCL 28.724
Traffic Offense Abstract Form DSI-22A (4/99) (may submit film or tape in lieu of form)	Court Clerk	Michigan Department of State Abstract Processing Unit 7064 Crowner Drive Lansing, MI 48918 (517) 322-1596	MCL 257.321a, MCL 257.732

8-06 STATE COURT ADMINISTRATIVE OFFICE FORMS

A. Authority

1. State Court Administrative Office

a. The State Court Administrator under the Supreme Court's supervision and direction, shall approve and publish forms as required by the Michigan Court Rules and such other recommended forms as the administrator deems advisable. [MCR 8.103(9)]

b. For the purpose of achieving uniformity of forms throughout this state in the probate court, effective July 1, 1979, only forms approved by the Supreme Court or the State Court Administrator shall be used. [MCL 600.855]

c. The Department of Mental Health shall prescribe the forms to be used under the Mental Health Code, and all hospitals shall use department forms. Forms that may be used in court proceedings under the Mental Health Code shall be subject to the approval of the Supreme Court. [MCL 330.1404]

2. Chief Judge

The chief judge may, by administrative order, direct the clerk of the court to provide litigants and attorneys with copies of forms approved by the State Court Administrator. The administrative order may allow the clerk to provide the forms at a cost of reproduction to the clerk. [MCR 8.110(C)(7)]

While certain statutes and court rules require the State Court Administrator to approve forms for use in specific proceedings, the use of SCAO Approved forms, when they exist, is not mandatory except in probate court.

B. State Court Administrative Office Forms Development and Revision Process

The current process for the development, revision, and final approval of court forms involves from three to six steps; 1) formal request for form development or revision 2) primary analysis by forms analyst, 3) documentation and followup, 4) secondary analysis through assistance of other SCAO staff, 5) consultation with court personnel and other professionals, and 6) formal advisory committee meetings. These steps are also followed when forms development or revisions are initiated by the forms analyst as a result of legislative and court rule tracking and analysis.

1. Formal Request

Forms revisions and development may be initiated by State Court Administrative Office (SCAO) staff, court personnel, forms committee members, or other interested persons. All requests are directed to the forms analyst for processing. The function and responsibilities of the SCAO are defined as follows:

"SCAO is responsible for the management of the forms project. The principal responsibility for development, revision, approval, and distribution of court forms rests with SCAO. An advisory committee may be used in developing and revising forms and SCAO will generally make modifications consistent with SCAO form standards and statutory or court rules changes based on internal analysis and informal consultation with various court and other professional personnel as needed."

Initial contact regarding forms is made to the forms analyst and may include:

a. requests for forms revisions or development of new forms.

b. questions about use of forms.

c. requests for camera ready copies of forms, forms handbooks, and other materials.

d. inquiries into background or history of forms.

e. other concerns regarding forms.

2. Primary and Secondary Analysis

All contacts are screened and analyzed, communicated to any other individuals as appropriate, and responded to by the forms analyst. Final response may be the result of research by the forms analyst, consultation with other SCAO personnel or the consultants, or review by the Michigan Court Forms Committee if recommended to the committee for resolution.

3. Documentation and Followup

The forms analyst will respond to all inquiries with the results of internal analysis. If further action will be taken, the individual who raised the issue will be advised of this and will be kept informed of the status of their inquiry until resolved. All internal analysis, communication with consultants, and formal meetings will be documented. Minutes of Michigan Court Forms Advisory Committee meetings will be distributed to members and, upon request, to any other interested persons. All other documentation is subject to inspection.

4. Consultation

When the SCAO is unable to conclude a forms issue internally, court personnel and other legal professionals who have offered their services as consultants will be contacted for input. While the majority of forms issues will be handled by mail or telephone calls, informal meetings may be held with SCAO staff and selected individuals to discuss more complicated issues. As an option, consultants may ask that an issue be referred to the Michigan Court Forms Committee for formal review.

a. Responsibilities of Consultants

Consultants assist SCAO staff in analyzing legislation, court rules, and procedural guidelines; developing and revising forms; and drafting instructions for proper use of forms on an informal basis. Their primary function will be to provide an ongoing, informal network between the courts and the SCAO.

b. How to Become a Consultant

Any individual in the court or legal profession interested in serving as a consultant who has some contact with forms throughout their daily work may contact the State Court Administrative Office Forms Analyst.

5. Formal Meeting

The Michigan Court Forms Advisory Committee consists of individuals from various components of the judiciary and legal profession. The Committee will meet to discuss any forms issues referred to them by either SCAO staff or consultants. The primary focus of the committee is substantive and procedural content analysis of prescribed statutes and court rules, however, SCAO may ask for input in design as it relates to effective use of forms.

a. Responsibilities

The primary function of the Committee is to discuss pending legislation and court rules which may impact forms, to provide input on the most effective means for handling potential revision and development of forms, and to advise on effective implementation for the court which may include suggestions in developing procedural guidelines, forms instructions, or content of forms.

The Committee is prescheduled to meet at certain times throughout year. Forms relevant to circuit and district courts are discussed in March. Forms relevant to the friend of the court are discussed in January, April, July, and October. Forms relevant to probate court and family division of circuit court are discussed in September. In emergency situations, additional meetings may be scheduled. Members should inform their respective associations of meetings dates and are encouraged to provide their colleagues an opportunity to review agenda items and to solicit suggestions and comments on the material.

b. Appointment to the Committee

Members are appointed by the State Court Administrator and serve staggered terms of three years. As positions become vacant, court related organizations are asked to suggest three persons for appointment to that position. The State Court Administrator will select a member based on that input.

C. Approval and Distribution

1. Approval by State Court Administrator

All forms development and revisions accepted and approved through the appropriate steps of the forms development and revision process are typeset for final approval by the State Court Administrator.

2. Distribution of SCAO Approved Forms, Instructions, and Other Information

SCAO approved forms are printed and distributed to the trial courts; legal printers, publishers, and software companies; and relevant state government departments. Notice of forms revisions and new developments are communicated to the the Michigan State Bar for publication in their Bar Journal. Forms contact persons within the courts will receive a mailing in June and December of each year which includes:

1) camera ready copies of revised or new forms,
2) revised numerical and alphabetical indexes of the forms.
3) an explanation of changes to the forms,
4) instructions on the use of the forms if necessary.

In emergency situations, revised or new forms may be distributed at other times of the year. Directions or clarification regarding use of forms which arise out of inquiries or conflicts will be communicated when the forms are distributed.

SCAO Approved forms are also available on the Michigan Supreme Court website (www.supremecourt.state.mi.us) in portable document format (PDF). The forms can be accessed and printed from the website by anyone who has Adobe's Acrobat Reader which is a free plug-in available from Adobe.

3. Forms Contact Person

Each court has one or more designated forms contact persons who will be the primary contact for the SCAO Forms Analyst. The purpose of the forms contact person is to:

a. be the telephone contact person to coordinate forms requests, questions, and other forms related issues between our office and the court (this does not preclude anyone else from contacting the SCAO directly if they wish to); and

b. receive from the SCAO the original camera ready copies of SCAO approved forms, forms indexes, update to handbooks (circuit and district courts only), and other correspondence regarding forms.

D. Modifying SCAO Approved Forms

Those courts desiring to modify SCAO approved forms to accommodate local practice must obtain approval from the State Court Administrative Office, except for the following:

1. Print names, titles, addresses, telephone numbers, or other court specific information in blank space on the form.

2. Print special instructions in unused space on the form.

3. Add or delete plys or multi-part forms as needed for minimum distribution listed on the form.

4. Have forms padded, use carbonless paper, or use carbon interleaves as applicable to procedures in individual courts.

5. Print in continuous feed for use with word processors or computer printers.

Whenever forms are modified other than as described above, the approval of the State Court Administrative Office (SCAO) must be obtained or the SCAO approval and form number must be removed from the modified form before it is printed or used.

(See also the Circuit and District Court Forms Handbook)

E. Standard Specifications and Design Criteria

In 1984, the Circuit, District, Juvenile, and Probate Court Forms Committees adopted the SCAO standard specifications and design criteria. Minor revisions were made in 1990. These specifications may be helpful in developing internal court forms or for designing forms which are electronically published. The specifications are as follows:

1. Standard Specifications for Printing of Forms

a. Five-eighths inch allowance at top for binding and minimum of one-eighth inch allowance on each side.

b. Approval of State Court Administrator, at top left within one-half inch allowance "Approved SCAO".

c. Standard header across top of form will include:

1) "State of Michigan" and court identification in two and one-quarter inch box at top left.

2) Form title in three inch box at top center.

3) Case number in two and one-quarter inch box at top right.

d. Form number, revision date, and title respectively commencing at bottom left.

e. Applicable court rules or statutes at bottom, directly following the title.

f. Distribution printed at top right. In addition, commercial publishing houses should print copy designation on each form at bottom center as applicable. Distribution is not applicable for most probate court forms.

g. OSM Code printed at top right on all probate court forms, including those used in the juvenile division.

h. Tumble printing for reverse side of forms.

i. Color-coding to be determined by type of case (noted on printing specifications in forms handbook).

j. Recommended print size of 8 point for caption, 11 point for narrative, and 11 point bold for titles.

k. Spacing for typewriter entry of data.

l. Fold marks printed on specific forms designed for use in standard window envelopes so appropriate address appears in window (optional).

2. Technical Design Criteria

a. Use of paper no larger than eight and one-half inches by eleven inches as required under MCR 1.109.

b. Double typewriter spacing for all handwritten entries.

c. Number style for date.

d. Suggested maximum of five tab stops for typed entries to be designated across top (optional).

e. Standard information after header placed in same location wherever possible.

f. Number of each item as applicable.

g. One and one-quarter to two inch space at bottom of probate court forms for endorsement with date filed, title of form, and signature line for deputy probate register.

h. Minimum use of capital letters, underlining, and italics.

3. Substantive Design Criteria

a. Use of non-technical English language wherever possible.

b. Forms designed to be self-explanatory where possible. When extra instructions are necessary, the reverse side or a separate cover sheet will be included (minimal instructions also provided in the forms handbook).

c. Use of a declaration when a jurat is not specifically required by statute or court rule. The following language may be used by the circuit and district courts: "I declare that the statements above are true to the best of my information, knowledge, and belief." [MCR 2.114] The following language may be used by the probate court (probate and juvenile divisions): "I declare that this _____ has been examined by me and that its contents are true to the best of my information, knowledge, and belief." [MCR 5.114]

d. Compliance with statutes and court rules.

e. Design to achieve maximum efficiency and clarity in processing.

f. Conformance with the approved printing and design criteria.

F. Managing Forms

The following suggestions may be of benefit to courts in managing forms if a "forms division" is not in operation.

a. Maintain updated files on the forms including indexing and inventory records.

b. Establish procedures for ordering, stocking, and maintaining inventory of forms.

c. Establish procedures for distributing forms and related correspondence to proper individuals/divisions within the court.

d. Establish other policies and procedures which aid the court in managing both SCAO approved forms and internally developed forms.

Those courts with larger volumes of paper work will benefit more by managing forms than those with smaller volumes. However, all courts will benefit from procedures that ensure that the proper individuals or divisions are kept up-to-date on information relating to forms which is pertinent to their daily tasks.

SECTION 8

APPENDIX

Case Disposition Report Forms

Mail to : MICHIGAN DEPARTMENT OF STATE
ABSTRACT PROCESSING
LANSING MI 48918-1560
Authority granted under Public Act 300 of 1949 as amended

MICHIGAN ABSTRACT OF CONVICTION

LICENSE NUMBER	STATE	SOS USE	DRIVER NAME (FIRST, MIDDLE, LAST)	BIRTH DATE
1	2	3	4	5

COURT CODE	VIOL DATE	ADJUDICATED	OFFENSE CD	SPEED	NATURE OF OFFENSE
6	7	8	9	10	11

VEHICLE	S/MF	REV	SUSP	RESTRICT	ORIG CHG	TRIAL	JUDGE #	COURT FINDING	CASE/TICKET NUMBER
12	13	14	15	16	17	18	P 19	20	21

ENTER Y IF ORDERED	COL SANC	INTR LOCK	DRIVING ALLOWED TO/FROM	PROB	CON SERV	ALC PRG	MED TMT	SCH	PLATE#	VEH YEAR	VEH MAKE	VIN	HOLD
	22	23		24	25	26	27	28	29	30	31	32	33

CODE	FIRST WORK NAME AND LOCATION	WORK HOURS	WORK DAYS ALLOWED
34	35	36	37

CODE	SECOND WORK NAME AND LOCATION	WORK HOURS	WORK DAYS ALLOWED
38	39	40	41

DRIVER ADDRESS	CITY	STATE	ZIP
42			

COURT NAME	ADDRESS	CITY	STATE	ZIP
43				

I certify this is a true abstract of the Court Record and Order.

NAME 44 _____ DATE _____

COMMENTS 45

DS1-22A (4/99)

41902

Approved, SCAO

SENTENCING INFORMATION REPORT

Distribution: Original - Court file
Copies to SCAO, MDOC, Offender, Defense Attorney, Prosecutor

Judge Bar No. | Circuit No. | County No. | Caseload No. | Offender Soc. Sec.

Case No./Docket No.

Crime Group
- ○ 1 - Person
- ○ 2 - Property
- ○ 3 - Controlled Substance
- ○ 4 - Public Order
- ○ 5 - Public Safety
- ○ 6 - Public Trust

Crime Class
M A B C D E F G H

Offender Last Name, First Name (print in capital letters, avoid contact with edge of box)

Conviction PACC

Offense Title

Offense Date (MM/DD/YY)

Attempt ○ Yes ○ No

Conviction Stat Max, L=Life
1 2 3 4 5 6 7 8 9 0 L

Prior Record Variables

	1	2	3	4	5	6	7
75	○						
50	○		○				
30		○					
25	○		○				
20		○		○	○	○	○
15				○	○	○	
10		○	○	○	○	○	○
5		○		○	○	○	
2				○	○		
0	○	○	○	○	○	○	○

Total PRV: 1 2 3 4 5 6 7 8 9 0

PRV Level: A ○ B ○ C ○ D ○ E ○ F ○

Note: Use points from the appropriate sentencing grid to determine PRV level

Offense Variables Fill in only the variables that apply to crime group selected above.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
100			○						○										
50						○	○				○		○						
35			○																
25	○		○			○			○		○	○	○		○				○
20															○			○	
15	○	○			○			○		○					○			○	○
10	○	○	○	○		○			○	○		○	○	○	○	○	○	○	○
5	○	○	○							○		○	○		○	○	○	○	
1		○										○				○			
0	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○

Total OV: 1 2 3 4 5 6 7 8 9 0

OV Level: I ○ II ○ III ○ IV ○ V ○ VI ○

Note: Use points from the appropriate sentencing grid to determine OV level

Sentencing Recommendation

Habitual
- ○ No
- ○ Yes
  - ○ 2nd
  - ○ 3rd
  - ○ 4th or subsequent

Guideline Range to

1 2 3 4 5 6 7 8 9 0 | 1 2 3 4 5 6 7 8 9 0 L

Minimum Sentence (months), L=Life

Probation: 1 2 3 4 5 6 7 8 9 0 L
Jail: 1 2 3 4 5 6 7 8 9 0
Prison: 1 2 3 4 5 6 7 8 9 0 L

Sentence Date (MM/DD/YY)

- ○ Consecutive Sentence
- ○ Concurrent Sentence

Actual Sentence (the result of)

Sentence	Agreement	○ Yes	○ No
Cobb's	Agreement	○ Yes	○ No
Prosecutor	Recom.	○ Yes	○ No
Guideline	Departure	○ Yes	○ No

(if yes, attach SIR88-2)

Signature of Judge:

Approved, SCAO

Original - Court file
1st copy - State Court Administrative Office
2nd copy - Department of Corrections

SENTENCING INFORMATION REPORT
DEPARTURE EVALUATION

Judge	Circuit no.	County no.
Offender name	Case no./Docket no.	

The following aspects of this case led me to impose a sentence outside the recommended range:

Signature of sentencing judge

Date

APPLICATION TO

ESTABLISH NEW MICHIGAN BIRTH RECORD FOLLOWING AN ADOPTION

PLEASE READ AND FOLLOW INSTRUCTIONS
For additional information:
Vital Records Changes
(517) 335-8660 Mon-Fri 8:00 am - 5:00 pm ET

MAIL APPLICATION AND PROPER FEE TO:
Vital Records Changes
P.O. Box 30721
Lansing MI 48909

PARENT(S) INFORMATION	PLEASE PRINT CLEARLY AND LEGIBLY
Parent(s) name and complete mailing address are needed to mail the new record. Please provide a phone number to contact you if there are questions regarding this request.	
Name(s):	
Mailing Address:	
City/State/Zip:	
Daytime phone to contact you:	Area Code & Number ☐☐☐ – ☐☐☐ – ☐☐☐☐

INFORMATION REQUIRED TO CREATE THE ADOPTIVE BIRTH RECORD		
Child's Name	First Middle Last	
PARENT(S) INFORMATION	MOTHER	FATHER
Present Full Name	First Middle Last	First Middle Last
Surname Before First Married	Last	
Date of Birth	Month Day Year	Month Day Year
State of Birth (or country, if not USA)		
Social Security Number *		
Has it been requested that a new certificate NOT be created? ☐ Yes ☐ No		

* Social Security number is needed to prepare the new birth record but will not appear on a certified copy.

SIGNATURE(S)

Personal data of adoptive parents and child's name after adoption should be reviewed and signed before the section for "Information Needed to Identify Original Birth Record" is completed. The form should be signed by the adoptive parents with their current names. The adoptive parents should verify information listed for the adoptee.

_____ _____

☛ **Signature of Person Adopting** ☛ **Signature of Husband or Wife (if married)**

INFORMATION NEEDED TO IDENTIFY ORIGINAL BIRTH RECORD

Child's Name at Birth	First Middle Last
Child's Gender	☐ Male ☐ Female
Child's Date of Birth	Month Day Year
Child's Place of Birth	City County
Name of Birthing Hospital	
Maiden Name of Biological Mother	First Middle Last

COURT CERTIFICATION

The Family Division of Circuit Court of _____ County, Michigan

I hereby certify that the child named above was adopted in accordance with M.C.L. 710.24 on _____ (Month, Day, Year)

by the person or married couple listed as the parent(s) for the adoptive birth record, as set forth in the final decree of adoption.

CASE NO. _____

_____ Judge

By _____ Clerk of the Court

SEAL

OFFICE USE ONLY - DO NOT WRITE IN THIS AREA

PENALTIES: Any person who willfully and knowingly makes false application to change a Michigan birth record may be fined not more than $1,000 and/or imprisoned not more than one (1) year. MCL 333.2894(1)(b) and (c).

PAYMENT - The fee for establishing a new Michigan birth record following an adoption is $26.00 and includes one copy of the new record. Additional copies of the new record are available for $4.00 each when ordered at the same time. **Payment must be made by check or money order and made payable to the "State of Michigan." The new birth record will not be created until the recording fee has been paid.**

Establish New Birth Record Following an Adoption **(Non-Refundable)** Fee includes one (1) certified copy of the record	$26.00	$ 26.00
Additional Certified Copies	$4.00 Each	$
TOTAL ENCLOSED:		$

APPLICATION TO

ESTABLISH DELAYED REGISTRATION OF FOREIGN BIRTH

PLEASE READ AND FOLLOW INSTRUCTIONS
For additional information:
Vital Records Changes
(517) 335-8660 Mon-Fri 8:00 am - 5:00 pm ET

MAIL APPLICATION AND PROPER FEE TO:
Vital Records Changes
P.O. Box 30721
Lansing MI 48909

PARENT(S) INFORMATION		PLEASE PRINT CLEARLY AND LEGIBLY
Parent(s) names and complete mailing address are needed to mail the new record. Please provide a phone number to contact you if there are questions regarding this request.		
Name(s):		
Mailing Address:		
City/State/Zip:		
Daytime phone to contact you:	Area Code & Number	___ – ___ – ____

INFORMATION REQUIRED TO PREPARE THE ADOPTIVE BIRTH RECORD				
Child's Name First	Middle		Last	
Gender ☐ Male ☐ Female	This Birth - Single, Twin, Triplet, etc. (Specify)	If Not Single - Born 1st, 2nd, 3rd, etc. (Specify)	Date of Birth (Month, Day, Year)	Time of Birth
Country of Birth				
Mother's Name (First, Middle, Last)		Mother's State of Birth (or Country, if not U.S.)	Mother's Date of Birth (Month, Day Year)	
Mother's Surname Before First Married		Mother's Residence	Mother's County of Residence	Mother's State of Residence
Mother's Social Security Number				
Father's Name (First, Middle, Last)			Father's State of Birth (or Country, if not U.S.)	Father's Date of Birth (Month, Day, Year)
Father's Social Security Number				

SIGNATURE(S)

This form should be signed by the adoptive parents with their current names. The adoptive parents should verify information listed for the adoptive birth record.

_____ _____

Signature of Person Adopting **Signature of Husband or Wife (if married)**

COURT CERTIFICATION

The Probate Court of _____ County, Michigan

I hereby certify that this court has acknowledged the birth facts of the foreign born child, and the identified information about the adoptive parents dated

_____.
Month Day Year

CASE NO. _____

_____
Judge

By _____
Probate Register

SEAL

OFFICE USE ONLY - DO NOT WRITE IN THIS AREA

PENALTIES: Any person who willfully and knowingly makes false application to change a Michigan birth record may be fined not more than $1,000 and/or imprisoned not more than one (1) year. MCL 333.2894(1)(b) and (c).

PAYMENT - The fee for establishing a delayed registration of foreign birth is $13.00 and includes one copy of the new record. Additional copies of the new record are available for $4.00 each when ordered at the same time. **Payment must be made by check or money order and made payable to the "State of Michigan." The new birth record will not be created until the recording fee has been paid.**

Establish Delayed Registration of Foreign Birth (Non-Refundable) Fee includes one (1) certified copy of the record	$13.00	$ 13.00
_____ Additional Certified Copies	$ 4.00 Each	$
TOTAL ENCLOSED:		$

RECORD OF DIVORCE OR ANNULMENT

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

By authority of MCL 333.2813.

State File Number _____

Court Case Number _____

County Circuit Court _____

1. Husband's Name _____ (First, Middle, Last)
2. Husband's Birthdate _____ (Month, Day, Year)
3. Husband's Residence _____ (City, Village or Township) _____ (County) _____ (State)
4. Husband's Birthplace _____ (State or Foreign Country)
5. Number of this Marriage _____ (First, Second, etc. (Specify))

6. Wife's Name _____ (First, Middle, Last)
7. Wife's Birthdate _____ (Month, Day, Year)
8. Wife's Last Name Before First Married _____
9. Wife's Residence _____ (City, Village or Township) _____ (County) _____ (State)
10. Wife's Birthplace _____ (State or Foreign Country)
11. Number of this Marriage _____ (First, Second, etc. (Specify))

12. Place of this Marriage _____ (City, Village or Township) _____ (County) _____ (State or Foreign Country)
13. Date of this Marriage _____ (Month, Day, Year)
14. Date Couple Last Resided in Same Household ☐ Check If Not Separated _____ (Month, Day, Year)
15. Number of Minor Children in Household at Separation Date (Filing Date if Not Separated) ☐ Check If None _____ (Number)

16. Plaintiff ☐ Husband ☐ Wife ☐ Other
17. Plaintiff's Attorney _____ (Name (Type or Print)) _____ (Bar Number)
18. Attorney's Address _____ (Number and Street) _____ (City) _____ (State) _____ (ZIP Code)

19. Judgement of _____ (Divorce/Annulment (Specify))
20. Number of Minor Children whose Physical Custody was Awarded to: Husband _____ (Number) Wife _____ (Number) Joint _____ (Number) Other _____ (Number)
☐ No Children
21. Judgement Recorded on _____ (Month, Day, Year)
22. I certify that this Divorce was granted on _____ (Month, Day, Year)
23. Certifying Official _____ (Signature) _____ (Title) _____ (Date Signed)

Failure to provide the required information is a misdemeanor punishable by imprisonment of not more than 1 year or a fine of not more than $1,000.00 or both.

1176756

DCH-0838 11/99

MICHIGAN DEPARTMENT OF PUBLIC HEALTH
OFFICE OF THE STATE REGISTRAR AND DIVISION OF HEALTH STATISTICS
Correction/Adoption Unit
3423 N. Logan St., P.O.Box 30195
Lansing, MI 48909

CERTIFICATE OF ANNULMENT OR AMENDMENT
(USE ADOPTIVE NAMES)

Name of Child _____

Date of Birth _____

Place of Birth _____

Date of Adoption _____

Name of Father _____

Name of Mother _____

****

Original Name at Birth _____

****

The adoption of the above named child has been: **Annulled** _____ **Amended** _____ by order of the Probate Court

of _____ County, Michigan, on this _____ day of _____, 19 _____.

Amendments ordered above are as follows: _____

_____

_____

_____

_____
(Signature)
JUDGE OF PROBATE

(Seal)

MICHIGAN DEPARTMENT OF PUBLIC HEALTH
OFFICE OF THE STATE REGISTRAR &
CENTER FOR HEALTH STATISTICS

NOTICE OF ORDER OF FILIATION

State File Number:

Local File Number:

An order of filiation was issued on _____ by the circuit court of
Date

the county of _____ in the matter of the following child.

Name of Child at Birth (First, Middle, Last)			
Date of Birth (Month, Day, Year)	Place of Birth (City, Village, Township)	(County)	(State)
Name of Mother (First, Middle, Last)			(Name Before 1st Married)

The court has determined that the father of this child is:

Name of Father (First, Middle, Last)	Social Security Number	Date of Birth	State of Birth

The mother of this child has determined that the child shall be named (Please designate full name of the child):

First Middle Last

Clerk of Court

SEAL

Date

MDPH USE ONLY

New certificate created on _____ Prepared by _____

R-71 1/89

Authority and Completion as specified by: Act 205, PA 1956

NOTICE OF ABROGATION

MICHIGAN DEPARTMENT OF PUBLIC HEALTH
OFFICE OF THE STATE REGISTRAR &
CENTER FOR HEALTH STATISTICS

State File No.

I _____, being clerk of the Circuit Court of _____ County, do hereby certify that the order of filiation made in this court on _____, 19____, naming _____ as father of _____ (name of child at birth), a minor child born at _____ (Township, Village, City), _____ (County), _____ (State) on the ____ day of _____, 19____, has been abrogated

* By an order of this court made on _____ 19____, OR

* By a judgement of the Supreme Court of Michigan entered on _____, 19____.

_____
Clerk of the Court

Seal

_____
Date

* Complete the applicable provision

Recorded and filed in Michigan Deparment of Public Health _____ 19____

Completion, compliance and penalties as specified by Act 368, P.A. 1978

MARGIN RESERVED FOR BINDING

B-72 11/85

LHI-700 (8/86)

Michigan Department of Licensing and Regulation
Bureau of Health Services (517) 373-8068

Route to: Health Services

MEDICAL MALPRACTICE REPORT

WITHIN 10 DAYS OF A MEDICAL MALPRACTICE SETTLEMENT OR COURT VERDICT, PLEASE FORWARD THIS COMPLETED REPORT OR *A COPY OF THE COURT ORDER APPROVING SETTLEMENT* TO:

DEPT. OF LICENSING AND REGULATION
BUREAU OF HEALTH SERVICES
P.O. BOX 30018
LANSING, MICHIGAN 48909

(OUR MAILING ADDRESS IS PRINTED ON THE BACK FOR INSERTION INTO A STANDARD WINDOW ENVELOPE)

PLEASE TYPE OR PRINT. FOR TYPING EASE, USE MARGIN AND TAB SETTINGS ON NEXT LINE.
LEFT MARGIN SET — TAB SET

1. NAMES OF DEFENDANTS (PLEASE ENTER LAST NAME, FIRST NAME, MIDDLE INITIAL)	DEFENDANT'S MEDICAL LICENSE NO. IF KNOWN	DEFENDANT'S PROFESSION
DEFENDANT		☐ M.D. ☐ D.O. ☐ D.D.S. ☐ Other:
DEFENDANT		☐ M.D. ☐ D.O. ☐ D.D.S. ☐ Other:
DEFENDANT		☐ M.D. ☐ D.O. ☐ D.D.S. ☐ Other:
DEFENDANT		☐ M.D. ☐ D.O. ☐ D.D.S. ☐ Other:

2. AMOUNT OF DAMAGES AWARDED OR AMOUNT OF APPROVED SETTLEMENT:
$

3. COURT CASE IDENTIFICATION - PLEASE ENTER YOUR COURT'S REFERENCE (CASE) NUMBER:

4. THIS CASE WAS FILED IN
THE CITY OF THE COUNTY OF

5. COURT IN WHICH THIS CASE WAS FILED:
COURT NUMBER
☐ DISTRICT
☐ CIRCUIT
☐ OTHER:

6. DATE OF SETTLEMENT OR JUDGEMENT

NOTE: IF YOU PREFER, YOU MAY RUBBER STAMP COURT INFORMATION IN LIEU OF 4 AND 5 IN SPACE BELOW:

7. NAME(S) OF PLAINTIFF(S)

8. PLAINTIFF'S ATTORNEY - PLEASE INCLUDE NAME, ADDRESS AND PHONE NUMBER IF POSSIBLE

9. DEFENDANT'S ATTORNEY - PLEASE INCLUDE NAME, ADDRESS AND PHONE NUMBER IF POSSIBLE

10. NAME AND TITLE OF PERSON PREPARING THIS REPORT *(WE APPRECIATE YOUR ASSISTANCE!)*

P.A. 174 of 1986 as amended establishes criteria for the Michigan Department of Licensing and Regulation to investigate medical licensees involved in medical malpractice actions.

Technology

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Technology

9-01 INTRODUCTION

The trend in computerization is towards the use of small computers operated on-site, and linked, if necessary to other locations for coordination, data transfer, and data collection. Courts are no exception and should take advantage of the benefits of the trend, which includes availability of technology at lower cost. It is important, however, for individual units to coordinate with other courts and organizations with whom they need to share information and resources to ensure the capability to share that information efficiently and in a timely fashion.

These guidelines are intended to assist court managers in the decisions which need to be made in identifying their need for technology support and to ensure that compatibility with external organizations is maximized.

9-02 DETERMINING THE NEED FOR AUTOMATION

A. Evaluation of Present System

Poor management of existing manual operations is a problem that cannot be resolved by automation. However, when a court's overall efficiency in processing information breaks down, the need for automation and improving the efficiency of people and processes can become readily apparent. Solutions such as adding more judges and clerks cannot resolve long-standing problems. A lack of detailed, accurate, and timely management information can be due to faulty information systems. Court management must undertake an evaluation to determine if alternate techniques (new or enhanced manual procedures, an automated system, or a complementary combination) are needed in the court. The key to a successful evaluation is to exercise patience and not rush into a decision to fully or partially automate. Sufficient time must be invested at these early stages to realize long-term benefits.

B. Analysis of Requirements

Although the most appropriate sequence of performing the various tasks referenced in this section may depend upon the individual court's priorities, one of the first tasks is to perform a thorough requirements analysis. Improper, inaccurate, and/or inefficient office operations will only result in further inaccuracies or inefficiencies if they are not corrected before automating.

1. Who Should Perform the Analysis

The requirements analysis should be performed by a qualified systems analyst, preferably with court experience and the ability to detect, interpret, and compare efficient and inefficient operations. The analyst should also be highly proficient in communication skills and have a substantial background in data processing and systems. An individual with such skills may be made available through the Office of Systems Management.

2. Why Perform an Analysis

A paperflow analysis (which is part of the requirements analysis) enables the court to determine where information originates, who uses it, what is done with the information, and the results of having processed the information in the form of completed records, decisions, information reports, and statistics. Its objective is to help the court develop the most complementary relationships among people, machines, and manual procedures in fulfilling the information processing requirements of the court. It helps the court identify specific problem areas such as bottlenecks, duplications, misuse of court staff, and unnecessary records. It is part of the overall documentation which can be used as a basis for considering the various alternatives for improving the overall efficiency of the court and for educating various people within and outside the court on the nature of court processes, problems, and the need to pursue solutions to those problems.

3. What is Included in the Analysis

The requirements analysis also includes a definition of the purpose of the system, the various applications (modules to be included), the participants within and outside the court organization, the expected life of the system, input and output requirements (detailed and summary), and volumes of data.

Other matters to be considered in determining the need for (and feasibility of) automation encompass availability and sources of funding, security of data, and what impact the automated system will have on the court. These matters are briefly addressed in subsequent chapters.

C. Automation Committee

1. Impact of Automation

Everyone in the court will directly or indirectly contribute to the workability and success of the system, with the court personnel performing key responsibilities to assist in the operation of the system. The automated system will be used to replace a substantial number of the current manually prepared records with more accessible, complete, and accurate records. Large and cumbersome to handle manual records, such as docket books, will become obsolete with the new system.

2. Appointment of Committee

Once the decision has been made to acquire an automated information system in the court, the chief judge may wish to appoint an automation committee to consider available options in the automated systems. The Office of System Management's Committee, for instance, may contribute heavily towards avoiding the need for such an internal court committee.

3. Appointment of Systems Coordinator

The chief judge, on the recommendation of the court administrator or other appropriate designee, should designate at least one individual to coordinate and oversee the entire systems project. The coordinator's initial responsibility is to ensure that all members of the court staff understand what a new system will and will not do for them and what they must do to realize the system's potential benefits.

Selection of a system coordinator should be heavily based upon the individual's knowledge of the operation, ability to communicate well with all concerned, some understanding of the capabilities and benefits of automation, a high degree of diplomacy and tact in dealing with all concerned, and an attitude of dedication and perseverance in the achievement of the system goals.

4. Qualifications of the Coordinator

There are basically two strategies for determining the qualifications of a system coordinator. One is to emphasize background skills in computer operations and programming, placing knowledge of court operations in a lesser position of importance. The other strategy places knowledge of court operations ahead of experience with computers. This second strategy is generally preferred. Coordinators with combined qualifications are difficult to find. Experience indicates, however, that it is easier to learn how to administer the new system than to learn the intricacies of court office operations. There are only modest demands for knowledge of computer hardware and software in the coordinator's tasks. Hiring a computer hardware/ software expert for the job could create a waste of the person's talent and be a potential misfit in this important responsibility. There are exceptions -- particularly in very large courts where technical and managerial responsibilities vary from court to court.

5. Responsibilities of the Coordinator

a. Communicating Implications of Automation with Chief Judge

The degree of success in automating the court will be enhanced if the coordinator and the chief judge communicate frequently and candidly about the systems functions and requirements. The coordinator should take the initiative in discussing the implications of automation with the chief judge and then communicating them to the other judges. The press of other business can sometimes prevent judges from becoming sufficiently informed about the realities of the impact of automation on the court. Delays, misunderstandings, and general inefficiency in the system implementation can be minimized by clear and frequent briefings by the coordinator to all concerned.

b. Becoming Familiar With Individual Views and Attitudes of All Judges

One of the primary goals of the system is to bring case-related information to each judge in a timely a manner as possible. But judicial expectations about automation vary a great deal and may sometimes surpass the system's capabilities. The coordinator should become familiar with each judge's views and attitudes on automation and exercise care in providing advance explanations about a system's capabilities and how those capabilities will personally benefit each judge.

c. Preparing Staff

In addition to communicating with the judges, the coordinator must prepare the court staff for introduction of an automated system. The success of this effort will be directly related to the extent to which the coordinator has a complete grasp of the workings of the court and ancillary functions that contribute to the system. The coordinator can greatly enhance his/her understanding of the information processes through the paperflow analysis even to the point of participating in the analysis as time permits.

1) Training

Members of the court staff who have become used to performing in a certain way, particularly employees with lengthy service in the use of manual processes, will need time and training to adapt to the introduction of automation.

2) Orientation

An early orientation of office staff to automation would be arranged by the coordinator. Members of the staff who have little or no understanding about the nature, concepts, and benefits of automation should be given an opportunity to attend at least brief introductory training sessions on the basics of data processing. Such introductory training constitutes a valuable investment in alleviating fears and promoting positive attitudes towards automation.

9-03 POTENTIAL PROBLEM AREAS IN AUTOMATION

A. Introduction

A number of potential problems can be avoided by thoroughly reviewing the existing flow of paper and processes as referenced above. In doing so, existing workflow problems can be identified and corrected prior to implementation of the new system. It is particularly important to identify points in the current operation at which there tend to be delays in the receipt of information that would offset the advantages of automation. Another important matter to consider is whether or not all of the information required for the automated system is now reaching all entry points at the time and location where it will be entered into the new system.

B. Emphasis on Consequences of Errors

In order to promote the most accurate, complete, and timely processing of information, the coordinator's meetings with the staff should emphasize the consequences of errors. A checklist of required functions could help ensure that those functions have been performed. Whenever errors are made or there is insufficient or inaccurate communication to the judges, confidence in the system may break down resulting in duplicate record keeping to ensure that information needs are fully satisfied.

C. Conflicts with Standards

It is not uncommon for judges to differ in practices and procedures that may conflict with standards established for an automated system. Such differences tend to be matters of habit rather than requirements of the judicial proceedings.

Once they are pointed out, there should be reasonable agreement that while such habits or personal preferences have provided flexibility in a manual system, a practice or procedure which imposes undue demands upon an automated system may also impose undue demands upon the system's efficiency and those responsible for its successful operation. The overall success of the system will be directly related to the extent to which standard and uniform systems can be adopted by all concerned.

D. Personal Concerns

The systems coordinator's regular meetings with the court and staff participants can go a long way in airing personal concerns and related potential problems. It is important that the coordinator point out the implementation of a new system will require additional time and effort on everyone's part. Conversion to the new system will require duties and responsibilities above and beyond the normal call of duty. The conversion will require that selected data on existing and new cases be entered into the new system. The additional responsibility will very likely require that all participants in the system work extra hours from time to time until the system is implemented.

Expressed or implied feelings of resentment will require careful handling on the part of the coordinator. It should be pointed out that the extra time may be considered an investment in the benefits which the system will provide once the system is operational. It is important, however, that the coordinator determine, as nearly as possible, how long the additional demands will be placed upon the staff and keep the staff informed of progress in the conversion.

E. Emphasis on Need for Temporary Duplication in Operations During Conversion

It is advisable and common to continue the manual system throughout the conversion period of the new system. Again, there may be feelings expressed about the additional time requirements and efforts in maintaining duplicate processes and record keeping. It is important that the coordinator emphasize the need for parallel operations until such time as the new system if fully operational and is completely fulfilling the information requirements of the old system which the new system has been designated to fulfill. The coordinator should not attempt to apologize to the staff, however, for a management decision to computerize which has been made in the best interests of the court. The coordinator need only request the cooperation and support of the staff in dealing with the situation the best they can.

9-04 PREPARING FOR INSTALLATION AND IMPLEMENTATION OF THE AUTOMATED SYSTEM

A. Introduction

The overall responsibility for installing and implementing the new system is to be shared by the system coordinator, and the data processing department or the data processing supplier.

B. Surveying Court Space

The systems coordinator should arrange for a survey of the court's space for the most appropriate placement of equipment, communication lines, etc. The amount of work required will vary depending upon such matters as the age and condition of the courthouse, the space available, the location of any existing data processing service, the number and location of offices requiring the service, the size of the computer(s), and the number of peripheral devices (terminals and printers) to be installed at each location.

C. Installing Software

After the hardware is in place, the data processing department (or supplier), in cooperation with the coordinator and data processing manager, will assist in loading the software that the court will use in the automated system. The management of the court should not expect the initial operation of the system to be perfect. Hardware sometimes malfunctions when it is first installed, and some forms of hardware damage may not surface until the software is loaded.

D. Implementing Security Measures

In addition to establishing daily routines, the installation/implementation team must implement security measures involving passwords, levels of file protection, and back-up media. None of these steps is necessarily complex or burdensome, but each takes its share of time and requires careful attention to detail, and, sometimes, several repetitions.

E. Ascertaining Training Levels

The programmer analyst and systems coordinator should ascertain the training levels of the data entry clerks and arrange for additional training as required. The amount of training required will vary depending upon the complexity of the programs the court will use. Depending upon the versatility of the system, the court may wish to utilize such other applications as word processing, spread sheets, and special reports. Such additional applications will require training beyond the basic applications of the system.

F. Maintaining Both Manual and Automated Operations

The period of parallel manual and automated operations should last as long as required to ensure that everyone understands what the new system can and cannot do. As problems are identified, they should be fixed before proceeding further.

G. Validating Case Data

Other matters to be considered in the implementation process include the specific case data to be entered, that is, new case versus old case data and how the validity of historical data and current data will be maintained and monitored. Criteria should be developed for such validations.

H. Phasing Out Manual System

Procedures should be developed to make the final move to the automated system and phase out the manual system. There are a multitude of details in procedure that may be unique to individual court needs and desires which will require thoughtful consideration on the part of all concerned.

9-05 VALIDATING THE NEW AUTOMATED SYSTEM

A. Introduction

If a clerk distributed computer prepared information to a judge that is inaccurate or difficult to interpret, the clerk may risk the future of the system in that court. Embarrassment or worse can be minimized by thorough and continuing attention to data validation. Validation begins with checking the substance of automated data against the same data contained in the manual system.

B. Timeliness

In addition to high level of accuracy, data must be checked for timeliness. Information should also be presented in approximately the same form that the judge is already used to receiving it in. As discussed above, however, judges must also be willing to accept certain inevitable and unavoidable differences in format.

C. Revalidation

Validation is not a one-time process. Staff turnover creates the need for continuing revalidation of data entry tasks and reports. Changes in local or state rules may require new reports or eliminate existing reports. If the court staff diligently examines the quality of data in the system, reliability and credibility of the new system will not be questioned. Such credibility is not easy to gain; it must be earned.

9-06 SERVICES AVAILABLE THROUGH JUDICIAL INFORMATION SYSTEMS

A. Introduction

The State Court Administrative Office's Judicial Information Systems (JIS) provides management assistance to courts in the identification, development, and maintenance of automated information systems, irrespective of the hardware and software the court chooses or is required to used. In addition, JIS provides direct data processing support to the Supreme Court and State Court Administrative Office and to trial courts. Direct services to trial courts include on-line data processing systems for district and probate courts, software and technical support for circuit, district, and probate courts, and a batch case information and monitoring system for probate courts.

Services provided by JIS to courts include, but are not limited to:

1. programming and systems analysis in the development of all court caseflow management systems;

2. operator and other staff training in the use of the system;

3. development and implementation of the system (including specifications);

4. procedural evaluation and documentation;

5. paperflow study and documentation provided at court's request;

6. debugging of the system;

7. coordination of systems with county data processing facilities;

8. coordination of system development and participation in meetings of its court users committee;

9. development of planning and implementation guidelines for automated systems.; and

10. support services in the determination and selection of data processing services, equipment, and software.

11. support services in the acceptance and reformatting of abstract of conviction tapes for submission to Michigan Department of State.

B. Preparing for Automation

Courts may vary significantly in their needs in preparing for automation. JIS will provide an introduction to the tasks of the system prior to implementation. Some courts may already be competent in automation and require minimal assistance. But some courts will require support in developing a detailed plan, including a list of applications and training required in the use of these applications.

C. Training

JIS will provide training in the operation of the automated applications. Some of the new programs will be quite simple to learn; data entry may be directly referenced through a terminal screen menu or from written documentation with a minimum of on-site training from JIS staff. The middle range of programs may require more training for the data entry staff. The coordinator should develop cross-training programs to ensure that sufficiently trained back-up personnel are available.

JIS training consists of a member of JIS staff travelling to the courts to discuss computer and system management fundamentals with judges and members of the court staff, providing assistance as needed. Training for larger groups can be accommodated at the Lansing and Southfield meeting/training sites.

9-07 INTERACTIVE VIDEO TECHNOLOGY

In July 2000 the Michigan Supreme Court entered Administrative Orders 2000-3 and 2000-4 authorizing the State Court Administrator to approve trial courts to use interactive video technology in the criminal divisions of the circuit and district courts, in the family division of circuit court, and in the probate court. The interactive video technolgy would be used in the criminal divisions of the circuit and district courts to conduct the following proceedings between a courtroom and a prison, jail, or other place of detention: initial arraignments on the warrant, arraignments on the information, pretrials, pleas, sentencing for misdemeanor offenses, show cause hearings, waivers and adjournments of extradition, referrals for forensic determination of competency, and waivers and adjournments of preliminary examinations. The interactive video technology would be used in the family division of the circuit court and the probate court on an experimental basis until July 1, 2002 or until further order of the Supreme Court to conduct proceedings between a courtroom and a hospital, mental health facility, jail, detention facility, or other placement facility, in the following circumstances: 1) hearings concerning initial involuntary treatment and continuing treatment in mental health cases in probate court in the counties of Calhoun, Chippewa, Genesee, Gogebic, Kalamazoo, Livingston, Ottawa, and Wayne; and 2) Preliminary hearings and review hearings in child protective proceedings in the family division of the circuit court in the counties of Calhoun, Chippewa, Genesee, Gogebic, Livingston, Ottawa, and Wayne.

For guidelines on interactive video technology, see the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/#ivt.

Each court requesting authorization must submit a local administrative order to the State Court Administrator under MCR 8.112(B) to implement interactive video technology and prescribe the administrative procedures for each type of hearing in which the technology will be utilized.

(See also Section 1-06, page 1-06-06 or http://courts.michigan.gov/scao/resources/other/lao.htm#vp.)

9-08 VIDEO RECORD

In September 1987 the Michigan Supreme Court issued Administrative Order 1987-7 authorizing the Sixth and Ninth Circuit Courts to conduct experimental programs which allowed the record to be created by video tape. On February 27, 1989 the Michigan Supreme Court entered Administrative Order 1989-2 which authorized the expansion of the project for up to ten additional courts. Further expansion of the project was authorized on October 15, 1990 with the entry of Michigan Supreme Court Administrative Order 1990-7, which authorized the State Court Administrator to approve trial courts to use video tape record systems for the purpose of making the verbatim court record of proceedings in individual courtrooms. Trial courts must apply to the State Court Administrative Office for approval prior to installing a video tape record system.

(See also Section 1-06, page 1-06-06, and for the Video Record System Implementation Manual, see http://courts.michigan.gov/scao/resources/publications/manuals/Video-02-mnl.pdf)

9-09 FACSIMILE COMMUNICATION EQUIPMENT

In October 1990 the Michigan Supreme Court entered Administrative Order 1990-9 authorizing the State Court Administrative Office to select trial courts to be pilot courts in an experiment to test the use of facsimile transmission of documents. Each of the pilot courts were to establish a local court rule to govern the use of facsimile. Pilot courts could permit the filing of 8 1/2" by 11" pleadings, motions, affidavits, opinions, orders, or other documents by facsimile transmission. Courts could not permit the filing of any document for which a filing fee is required unless the full filing fee had been paid or deposited in advance with the clerk.

Michigan Supreme Court Administrative Order 1994-2 expanded the provisions to permit the use of facsimile communication equipment for the transmission and filing of court documents to all court desiring to receive documents by facsimile. The previous authorizations under Administrative Order 1990-9 are continued until further order of the Court or the State Court Administrative Office.

Under 1994-2, the State Court Administrative Office shall provide assistance in the implementation of the use of facsimile equipment for those courts electing to participate. Participating courts shall cooperate with the State Court Administrative Office and provide information regarding the use of facsimile equipment for the filing and transmission of court documents. Experimental court rules governing the participating courts are outlined in Administrative Order 1994-2. Court interested in the use of facsimile equipment should contact the Central Office of the State Court Administrative Office for instructions regarding submission of a local court rule.

Signature. For purposes of MCR 2.114, a signature includes a signature transmitted by facsimile communication.

Warrants. Facsimile communication equipment and voice communication equipment may be used as provided for in 1990 PA 41, 43, 44, and 45.

(See also Sections 1-06, pages 1-06-02 and 1-06-04 and 10-01, page 10-01-03).

9-10 DIGITAL AUDIO AND VIDEO RECORDING

Under Michigan Court Rule, Supreme Court Administrative Order, and statute the State Court Administrator is responsible for approving recording equipment used in Michigan trial courts. [MCR 8.103, MCR 8.109, AO 1990-7, MCL 600.8611, and MCL 600.859] Accordingly, SCAO developed standards for both audiotape equipment and video recording systems used to record court proceedings.

A list of approved audiotape equipment systems is located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/other/recordingequip.pdf. (See Section 10-01 for more details). In May 2000 the State Court Administrative Office extended the audiotape equipment standards to audio recording systems using digital technology by issuing SCAO Administrative Memorandum 2000-05. In 2001, the State Court Administrative Office issued digital video recording systems standards by issuing SCAO Administrative Memorandum 2001-03. A digital audio or video recording system must be certified according to these standards before it can be used to record trial court proceedings.

For a system to be certified, the trial court considering a given system must complete the Digital Audio or Digital Video Recording Systems Standards Checklist verifying that the system meets the minimum standards and submit it to SCAO. Courts are encouraged to work with system vendors to complete the self-evaluation form. SCAO will review the completed checklist and grant approval based upon it. See the standards, glossary, and checklist at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/#audio or http://courts.michigan.gov/scao/resources/standards/#video. Completed checklists should be sent to:

Digital Recording Coordinator
State Court Administrative Office
P.O. Box 30048
Lansing, MI 48909

Courts should develop appropriate policies and procedures governing the use of the systems they purchase. Procedures should be developed for backing up the files created by the system and periodically assessing the quality of the storage medium by testing archived files. A contingency process should also be established for backup or duplication of files in the event of obsolescence. Courts should rely on their vendor for support in developing these policies and should follow the vendor's recommended procedures designed for their specific system.

The Administrative Memorandum and attached standards and checklist are also located in the Trial Court Standards of the State Court Administrative Office, a series of manuals containing all standards for trial courts issued by the State Court Administrative Office.

9-11 COMMUNICATIONS DEVICES AND SYSTEMS

In June of 2000, the State Court Administrator issued SCAO Administrative Memorandum 2000-07 on guidelines for establishing policies and procedures governing internal court use of all communication devices and systems. The Administrative Memorandum and attached model policy and standards are located in the Trial Court Standards of the State Court Administrative Office, a series of manuals containing all standards for trial court issued by the State Court Administrative Office.

When the court is provided any of its systems through its funding unit, the court should establish procedures, written in collaboration with the funding unit, for the control and monitoring of court information to assure that the information is maintained in a protected and confidential manner. Access to the data and its availability to the public should be covered through these rules.

The rules or controls can be established through three alternatives or combination of alternatives: 1) joint policies and procedures agreed upon with the funding unit (see Model Policy for the Operation of Computer Network, Internet Access, E-Mail, Phone Service and Other Communication Equipment and Programs Utilized by the Court); 2) a contract for services between the court and the funding unit; and 3) hardware and software solutions for certain services, such as e-mail and internet access (see SCAO Administrative Memorandum 2000-07, Section B: Computer Hardware and Software Options for Judicial E-mail and Internet Autonomy), with necessary internal operating procedures.

The court is encouraged to adopt standards of operation that conform with those adopted by the funding unit so long as those standards do not interfere with the orderly operation of the court. If the funding unit has no standards, the court should adopt standards consistent with recommendations provided by the State Court Administrative Office (see Standards for Court Operations of Communication Equipment and Programs at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/cm_stds.pdf.

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Facility and Equipment Management

10-01 COURT RECORDING EQUIPMENT

A. Authority

All proceedings in the district court which are recorded by a court recorder shall be recorded by the use of recording devices approved by the State Court Administrator.
[MCL 600.8611]

All proceedings in the probate court which are recorded by a court recorder shall be recorded on a recording device approved by the State Court Administrator.
[MCL 600.859(1)]

B. State Court Administrator Approved Audio Recording Equipment for Michigan Courts

See a list of the audio recording equipment approved by the State Court Administrator for use in Michigan courts at the State Court Administrative Office website at:
http://courts.michigan.gov/scao/resources/other/recordingequip.pdf. [MCR 8.103(10)]

C. Court Recording Equipment Standards

At the May 20, 1975 Administrative Conference, the Supreme Court approved the Instructional Media Center Technical Services Testing Laboratory at Michigan State University as the independent testing agency for court recording equipment. The State Court Administrative Office will approve or reject court recording equipment based on test results. Potential customers and vendors should make application to the Certification Coordinator of the State Court Administrative Office. You may obtain a copy of the standards from the State Court Administrative Office.

D. Contractual Guidelines for Acquiring Court Recording Equipment

1. Request for Proposal and Function

A well-detailed Request for Proposal (RFP) should precede selection of successful bidder. A properly prepared and documented Request for Proposal is not only a prerequisite and consideration of a bid, but also a purchase/lease/service contract. The Request for Proposal should at least elicit information about the vendor's pertinent experience and capabilities, describe his/her technical approach, and should cover price, delivery, and installation schedules.

2. Elements of Request for Proposal

a. Vendor Data

The prospective vendor's data should supply pertinent information establishing its technical, financial, and other capabilities to perform the required work. This should include:

1) corporate and financial background.

2) technical capabilities, including specialized engineering equipment design capabilities, production capacities, and experience.

3) maintenance/service/repair capabilities and practices.

Although not absolutely necessary to an RFP, the prospective vendor should disclose references to previous customers, with specific emphasis on the equipment or systems which are contemplated under the RFP.

b. "Know-How"

The prospective vendor must, of course, demonstrate its understanding of the operational and technical requirements which may be supported by approved rating/listing by recognized testing laboratories and/or demonstration/experience of the equipment in-current courtroom use, if any. An in-depth description of the proposed equipment, including the production, maintenance, and reliability history of the proposed equipment should be furnished. The terms of all guarantees and warranties which apply to the equipment and material must be furnished. In this context, the vendor must identify and describe the maintenance and service organization which will perform such services and shall specify the terms, conditions, and procedures which will govern such maintenance and repair services. It is also useful during the RFP process to secure copies of any existing operating instructions and maintenance handbooks previously or currently furnished by the prospective vendor and to obtain an estimate, or ascertain from the foregoing, a description of the training mode, time, and cost required for system operation.

c. Cost

Finally, the prospective vendor must supply complete and current price schedules disclosing the unit price for each item, including any design option price schedule, discounts, add-ons, etc. The prospective vendor shall specify a projected timetable for deliveries and installations of equipment and material and documentation to be supplied.

3. Contract

a. Preparation

Utilizing the information and documents obtained via the RFP process, the drafter now must translate informational data into contractual terms and conditions. The following is furnished as a rough guide to the common contractual terms necessary and/or desirable in purchase/lease and service agreements between a governmental agency and a private vendor. Reiterating for emphasis, it is not intended to be a comprehensive treatment of the law of contracts or a rigid formulation of the scope and content of the agreement between the contracting parties. As always, the primary test is the intention of the parties as gathered from the whole scope and effect of the language used.

b. Preamble

The introductory section of the contract, commonly called the preamble, should clearly identify the document as a contract entered into on a date certain by and between all of the parties involved, who should be clearly identified by name and address. The nature and scope of the relationship that will be established by the contract should be clearly spelled out and the underlying consideration, i.e., reciprocal promises and performances should be generally stated. In order to simplify drafting of the terms and conditions which follow the preamble, it is helpful to identify and incorporate by reference, if appropriate, in the preamble the underlying documents such as the request for proposal, the vendor's response, etc.

c. Terms and Conditions

Following the preamble and the common prefatory statement such as "The parties to this agreement, in consideration of mutual promises, state and agree as follows:", the drafter should address in full and specific detail relevant terms and conditions of the contract. The specific order of presentation of the contractual terms can be prescribed and the drafter is best guided by the inherent chronology and logic of the relevant terms and conditions of the agreement.

E. Videotape Record

Under Mich Sup Ct AO 1990-7 trial courts may use videotape record systems for the purpose of making the verbatim court record of proceedings in individual courtrooms. Courts desiring approval to use the videotape record system must submit a local administrative order to the State Court Administrator to implement procedures.

A Videotape Record System Users Manual has been developed which outlines the standards for use in Michigan. The manual is available from the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/publications/manuals/Video-02-mnl.pdf. (See also Sections 1-06, 3-02, and 9-09). [Mich Sup Ct AO 1990-7]

10-02 COURTROOM STANDARDS

A. Introduction

In 1981, the Michigan Courthouse Study was published. That study summarized the results of a two-year inventory and evaluation of state court facilities in Michigan. The project, sponsored by the Judicial Coordinating Committee of the Supreme Court of the State of Michigan, was carried out by the Architectural Research Laboratory of the University of Michigan's College of Architecture and Urban Planning. Through administrative order 1983-2, the Michigan Supreme Court endorsed the use of the study's Design Guidelines for all future construction, remodeling, or renovation of court facilities in the state.

During the nearly two decades that have lapsed since the development of the first guidelines, many advances in design and technology have occurred. Current court facility design standards incorporate advancements in building technologies as well as addressing the impact of the rapid changes in information technology that effect efficient trial court operations.

The Michigan Court Facilities Standards Project Advisory Committee was appointed to assist the State Court Administrative Office (SCAO) in the review and revision of the prior trial court design guidelines. The update of the 1981 Design Guidelines is intended to highlight again those components of a courthouse that require special consideration in designing a new facility or expanding an existing courthouse.

The current facility standards can be found at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/#facility.

B. Authority

In the State of Michigan, circuit and probate court facilities are the financial responsibility of county government. [MCL 45.16, MCL 46.7] Depending upon the class type, district court facilities are the financial responsibility of either the county or the political subdivision(s) where the court sits. [MCL 600.8261, MCL 600.8262, MCL 600.8263]

Through administrative order 1983-2, the Michigan Supreme Court endorsed the use of the 1981 Design Guidelines for all future construction, remodeling, or renovation of court facilities in the state.[Mich Sup Ct AO 1983-2]

10-03 COUNTY LAW LIBRARIES

A. Authority

The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships, and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law. [Const 1963, Art 8, Sec 9]

B. Funding; County Law Library Fund

In each county the county treasurer shall credit semi-annually to a fund to be known as the county law library fund, from the library fund, an amount as follows:

1. In counties having a population of 250,000 or more, but less than 1,000,000 inhabitants, the sum credited shall not exceed for each year $8,500.00.

2. In counties having a population of 50,000 or more, but less than 250,000 inhabitants, the sum credited shall not exceed for each year $6,500.00.

3. In counties of 35,000 or more, but less than 50,000 inhabitants, the sum credited shall not exceed for each year $4,500.00.

4. In counties of 20,000 or more, but less than 35,000 inhabitants, the sum credited shall not exceed for each year $3,500.00.

5. In counties of 10,000 or more, but less than 20,000 inhabitants, the sum credited shall not exceed for each year $2,500.00.

6. In counties of less than 10,000 inhabitants, the sum credited shall not exceed for each year $2,000.00.

[MCL 600.4851(1)]

There is no other state funding provided, and additional funds, if any, must be supplied by appropriations by the county board of commissioners of the individual counties.

C. Expenditures; Purpose and Approval by Chief Circuit Judge

All money credited to the county law library shall be paid out by the county treasurer only upon the order of the circuit judge in multiple county circuits or upon the order of the presiding judge in single county circuits for the purpose of establishing, operating, and maintaining a law library for the use of the circuit, district, and probate court in the county and for the officers of the courts and persons having business in the courts. [MCL 600.4851(2)]

D. Expenditure Report

The county law librarian, or other person as the circuit or presiding judge shall designate, shall make a detailed report before January 2 of each year of the sums expended for books for the county law library. The annual report shall be filed with the county clerk. [MCL 600.4851(3)]

E. Minimum Standards for County Law Libraries

The State Court Administrative Office, along with the State Law Library, has approved minimum standards for county law libraries. See the standards at the SCAO website at: http://courts.michigan.gov/scao/resources/standards/cllib_stds.pdf.

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Public Relations, Information, and Education

11-01 ANNUAL REPORT

A. Purpose

The chief judge should cause to be prepared a comprehensive account of the activities of the court on an annual basis. Format for annual reports may vary but should include:

1. an explanation of court organization and operations;

2. a summary of court activities;

3. an accounting of public funds; and

4. a discussion of court priorities, goals, and objectives.

The annual report should serve as a foundation for good relations with the press, taxpayers, and county commissioners. A sense of integrity and accountability can be fostered by a full report on court activities.

B. Distribution

County officials, court staff, judges, and the State Court Administrator should receive a copy of the report. For maximum impact the report could be subsequently released to the local bar president, media (newspaper, radio, television), and county and school libraries. Copies should be available for the public in the court office. The media copies may also be accompanied by a press release highlighting any interesting or significant points.

11-02 MEDIA RELATIONS

A. Structure and Psychology of Various Media

1. Working Definition of "News" and How it Relates to the Courts

What the reporter, the editor, or the news director estimates to be news is not what may seem logically newsworthy to the courts.

Since media is in business, they want to appeal to their particular market or audience and the demographics of that market will determine the reporter's, editor's, or the news director's decision as to what "news" is, how much coverage it should get, and how it should be covered.

News is a matter of subjective judgment and reflects elements brought out by the media in order to affect their market. Some of these elements are controversy, human interest, conflict, drama, entertainment, and timeliness.

2. Composing a News Story

a. Limits Imposed on the Reporter

Due to limited writing space and limited broadcast time, the reporter must simplify or oversimplify a story down to the most dramatic elements. As a result, the facts and details which point up the elements of controversy in a story are selected and the negative side is often concentrated on. The reporter is not necessarily biased; it is easier to find drama in bad news than in good news. Under the pressure of deadlines, what is easier is considered better.

b. Deadlines and Their Impact on the Facts

Reporters deal in fact, not eternal truths. If they are on deadline and cannot obtain quotes from everyone, they will use what they have even if the story is unbalanced. If reporters are denied communication with someone involved in a story, they are forced to interview another individual who might have a totally different perspective on the story. The result can often be rumors, half truths, distortions, and misrepresentations.

c. What Reporters Look for in a Source

Reporters like sources who can give them the following:

1) understandable, accurate information . . . <u>not</u> complicated facts couched in legalese.

2) colorful quotes . . . succinctly summarizing the idea.

3) authoritative comments on the effect of the news on their audience.

4) responses before their deadline.

3. Basic Differences Between Print and Electronic Media

There six built-in advantages and disadvantages between print and electronic media.

a. Print media are generally regarded as more accurate in reporting the news, primarily because the number of column inches allocated to print stories permits more facts to be presented there than on radio and television.

Television and radio are basically headline services. It is not unusual for them to reduce your comments on a breaking news story to one sentence; sometime no longer than 35 to 40 seconds.

b. With print media, you can usually count on a reporter who has a particular "beat", and therefore, has more background than a television reporter. It is unwise to take this for granted, however. It is wise to determine in advance how familiar the reporter is with a trial, issues, or whatever the subject of the interview is if possible.

64% of reporters in a recent survey for the American Management Association agreed that the greatest cause of inaccurate stories is their lack of thorough research of the topic.

c. With print media, what is said is usually more important than how it is said. With television, the emotional content is more powerful, as is the personal impression you leave.

Don't overlook, however, the impression that you personally make on the print reporter. S/he has a lot more time to spend with you, to get to know you, and maybe to "wear you down" to get the quote s/he is after. If you appear to be less than honest and open (uninformed, angry, etc.), that impression of you can be carried into the story.

d. With print media, you can usually take a moment to think, organize your thoughts, and even refer to your notes without detriment, making your job a little easier with statistical dates, etc. With television you have to have all the facts simplified at your fingertips. If you don't, you will look uninformed.

However, with print media, the reporter has far more opportunity to pursue lines of questioning, delve more deeply into your facts, and therefore, you run the risk of contradicting yourself or appearing uninformed if your facts aren't straight.

e. Print deadlines are usually a little longer than for television interviews, and facts given a reporter can often be verified or corrected by phone following the interview. To make major changes in information is dangerous, however, as it suggests a coverup or that you were uninformed.

f. With print media, you generally have more preparation time. It's usually easy to return a reporter's call in a few minutes. It is harder to refuse a television crew waiting for you in your lobby, a hallway, or as you get out of a car.

B. Effective Interaction with the Media

There are a number of tips for having a successful interchange with print reporters. Below are 26 suggestions.

1. Inform your secretary that you are always to be notified in the event of a media call. You can then decide how best to respond. Because of reporters' deadlines, it is important that media calls should never stop at your secretary's desk.

2. Before the interview, be sure that you determine how familiar the reporter is with the subject, what his/her previous stories indicate about possible biases, and what the reporter's "angle" appears to be on this story.

3. Determine the most likely questions and have answers prepared for them.

4. Decide which major points should be covered in relation to the topic.

5. Do your homework, and have the facts handy. With print media, you have the luxury of being able to go to your reference material should you have to.

6. If you don't know an answer or aren't sure, don't guess. Say, "I'll find that out and get back to you." And then get back. Remember, deadlines are everything to a reporter.

7. Be brief. Try to simplify the information for the reporter. S/he's going to have to simplify it anyway for readers. Avoid legalese or complex ideas. Better to present your information in a form that the reporter doesn't have to alter too much. Less gets lost in the translation that way.

8. Try to use anecdotes to illustrate your concepts. Anecdotes aid in getting your point across. Because they spice up the interview, reporters are likely to use them.

9. While a friendly, relaxed manner is desirable, a sense of humor is dangerous during an interview. Flip or funny remarks are the ones most likely to be taken out of context and put in the headline.

10. Don't volunteer information on sensitive subjects. Reporters are bound to ask you to go more deeply into any subject you bring up.

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11. If you can't talk about a subject, say so -- and then say why you can't talk about it. Offer to get back to the reporter when things change, or offer them something related that might be equally interesting. Never say "no comment." That sounds like a coverup, and the reporter is sure to think s/he's on to something.

12. Don't say anything you don't want to see in print. Even if you qualify it, chances are that your quote will appear out of context -- in bold type, right under the headline of the story. Reporters have a way of taking things out of context as part of the oversimplification process of the news. The best way to avoid this is to speak in simple, straightforward sentences. Avoid disclaimers tacked on to the beginning or end.

13. We all know that going "off the record" can be an invitation to disaster unless there's complete agreement between you and the reporter, you know the reporter, you trust the reporter, and the reporter is trustworthy. But sometimes we forget that small talk before or after the interview is always "on the record" unless otherwise specified. The safest thing is not to say anything to the reporter, at any time, that you don't want attributed to you directly or woven into the article, even without your name attached to it. The reporter will want to make small talk before the interview to relax you and build some rapport so that s/he can get a better story. That's his/her job. Don't confuse it with empathy or friendship. Don't confuse his/her interests with yours. They are different.

14. Beware of the "inside information" technique. Some media like to use "The Jack Anderson Trap." The reporter tries to make you believe s/he's got "inside information" which proves his/her hot, breaking story or premise. The way to handle this ploy is to say that you haven't heard the rumor but that you'll be glad to check it out and get back to him/her. Do not comment on the rumor because this immediately gives it credibility. This "inside information" technique is used by reporters to create conflict.

15. Beware, also, of the "negative choice" question. Some reporters try to pin you between two undesirable alternatives. This "either/or" ploy could well result in a quote from you being taken out of context for the story. Don't even repeat the "either/or". Just decide what points you want to make -- and make them directly.

16. Don't be tempted to throw your weight around. It usually backfires. It's better to establish a good rapport with reporters, to help them develop good stories, and to educate them.

17. Never intentionally humiliate reporters. If they've made a mistake, go back to them, courteously point out the mistake, establish the facts, and ask for a correction. Contact the editor directly only if the mistake is really serious and you can't get satisfaction from the reporter. These are very sensitive situations and should be considered on a case-by-case basis. Knee-jerk reactions are usually unproductive. Cool off before you contact reporters or their editors.

18. Try to be available whenever needed. Reporters have to file a story. They'd rather get a statement from you than print a prepared statement or go to other sources.

19. You can offer to review any technical information or provide additional information to the reporter, but never ask to see the story before it's printed. Reporters consider this demeaning and insulting.

20. Don't evade negative questions. Instead, restructure them so that you can "bridge" to the points you want to cover. Example: "It may appear that way to you, but the real issue here is . . ." and then go on to make your point. Remember that you needn't accept the reporter's premise and respond to it --especially if the premise is "loaded". You can restructure the question into one that you can answer fairly.

21. Listen to the reporter before you talk. Make sure you understand the question. Where is the reporter coming from? What does the reporter seem to be trying to get at? "Advocacy journalism", in which the reporter takes a position, is increasing and will continue to do so according to a recent survey of national editors. In fact, in the AMA survey cited earlier, 20% of the reporters polled agreed that by the time they made their first call, they usually had a slant on the story.

22. If reporters ask you a two- or three-part question, stop and make them ask each part one at a time. You should understand the question completely before making any response -- especially since such questions are often a ploy to throw you off balance.

23. If you're approached by a reporter, you have the right to know what publication the reporter represents and what the topic of the questioning will be before you consent to be interviewed. Although your press calls will be screened while you're at the office, you won't have that luxury when speaking or attending meetings outside. If you prefer not to be interviewed at the moment, ask the reporters when you can get back to them. And then follow up as agreed.

24. A point to remember while speaking in public is to always assume that there is a member of the news media in the audience. Then you won't say anything that you don't wish quoted.

25. Exclusive interviews can be granted judiciously to the news outlet that best covers your target audience. Exclusives must be respected and not given to other outlets until the exclusive story is run. Knowledge of the media is very important in deciding whether to grant exclusives. Exclusives are not usually given in the case of breaking news, and it is important to treat news media fairly in terms of response statements. In negative, breaking-news situations, when and to whom you respond must be planned very carefully.

26. When in doubt about any media inquiry or media-related situation, call on the State Bar's internal public relations staff for counsel.

In dealing with television, keep the following tips in mind:

1. First impressions are critical. Remember that reporters and interviewers are "well known" to their viewers. The viewers consider them as friends. So start studio interviews with a friendly smile and a "thank you" to the interviewer, addressing that person by first name. Project that you two are friends. This will help you establish your likability and share the interviewer's credibility with the viewers. In hard news interviews, get directly to the point but remain friendly.

2. Eye contact is essential to credibility. Maintain it through the interviewer's questions and into the first part of your answers. To the viewers, this indicates that you believe what you are saying; that you aren't evading the issue.

3. Speak up . . . clearly and distinctly. Keep your speaking pace even to avoid either slurring words together or hanging on any one of them too long.

4. Use gestures to visually punctuate important words. Keep the gestures high enough to be seen (shoulder level), then drop them after you've made your strong point.

5. Expand the range of your voice to color important points. Let your message sink in with a momentary pause.

6. If interviewed in a chair, don't swivel or lean to one side. Keep fairly erect with a slightly forward tilt. It will help you maintain your energy level and indicate your interest.

7. Keep your answers short, simple, and free of legalese. Start with the central point, then elaborate. Wherever possible, use comparisons or illustrations familiar to the public.

8. Anticipate negative questions and have answers prepared in advance when possible. If damaging issues surface, concede only what you must, in the briefest way, then describe what positive steps are now underway to handle the problem. Concentrate on the solution -- not the problem.

9. Prepare in advance two or three points you want to make. Rehearse them out loud and try to steer into them after answering other questions, using such transitional phrases as "and I'm often asked . . ." or "just as important is the fact that . . .".

Additional tips in handling radio telephone interviews are:

1. Ask whether the interview is to be aired live, taped, or as excerpted (edited) tape. If it is a tape to be edited for newscasts, it is essential to keep your answers within 10 to 20 seconds in length. Get right to the point!

2. Ask whether you can use the interviewer's name in your responses.

3. Turn off any noise makers like air conditioners in your office. Cut off other telephone calls and close your office door . . . all in the interest of clean sound and avoiding interruptions to your train of thought.

4. Pump up your energy level, sit up straight in your chair, and use gestures while you talk. Treat this just as you would a talk or an interview before a live radio or television audience.

5. Don't treat the telephone like a bull horn. Speak in normal tones over the mouthpiece, not directly into it, to avoid popping your "p's" or hissing your "s's".

6. Eliminate those audible pauses ("uh's"). They sound worse on radio then anywhere else. Silence sounds better.

7. Avoid statistics and numbers generally unless they are absolutely essential to your point. If you must use them, round them off and use them sparingly.

8. With broad or general questions, use the opportunity to include in your answer the points you want to stress. Be responsive, but steer your answer to whatever point you feel is important to make.

9. If you have reason to expect to be called for an interview, take the time to anticipate questions you could be asked, then prepare answers in advance. It will save many agonizing moments, you will give your interviewer a better interview, and you will avoid the risk of being misquoted through the editing of a long or wandering response.

10. Obtain agreement in advance to allow you to correct your taped answer while recording and/or to call the reporter back with updated information before airing in the interest of accuracy.

C. Conclusion

Ninety percent of news interviews are basic fact-finding, non-threatening experiences. Go into the interview with the attitude that you are there to be helpful and that you share many of the reporter's interests and concerns. If you educate the reporter, you will end up with more balanced stories, with more knowledgeable reporters, with a public that better understands the issues, and with satisfaction on your part that you have helped advance the administration of justice. [Werba, Gabriel. "Dealing with the Media", 28th Annual Judicial Conference (September, 12, 1985), Detroit, Michigan.]

Two guides to effective court/media relations are:

1. National Association for Court Management Media Guide (see page 2-09-02 for address).
2. American Bar Association Guide to Educating the Public About the Courts.

11-03 MEDIA IN THE COURTROOM

The Supreme Court adopted Michigan Supreme Court Administrative Order 1989-1 governing film or electronic media coverage in all Michigan courts beginning March 1, 1989. Requests for film and electronic media coverage can be made through the use of SCAO Approved form MC 27, Request and Notice for Film and Electronic Media Coverage of Court Proceedings.

[Mich Sup Ct AO 1989-1]

11-04 PUBLIC INFORMATION PROGRAMS AND PAMPHLETS

A. Friend of the Court Informational Pamphlet

1. Authority

The friend of the court informational pamphlet, in accordance with the model pamphlet developed by the State Court Administrative Office, Friend of the Court Bureau, must be provided by each friend of the court office to the parties in a domestic relations matter at or near the commencement of each case.
[MCL 552.505(1)(a)]

At the time a complaint is filed or as soon as possible after the filing of a complaint, the plaintiff's attorney is required to provide a copy of the friend of the court informational pamphlet to the plaintiff and defendant. [MCR 3.203(D)]

2. Contents

The pamphlet is required to explain:

a. the procedures of the court and the office;

b. the duties of the office;

c. the rights and responsibilities of the parties;

d. the availability of and procedures used in domestic relations mediation;

e. the availability of human services in the community;

f. the availability of joint custody; and

g. how to file a grievance regarding the office.

(see also Section 4-04, page 4-04-04)

The Model Friend of the Court Handbook is located on the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/publications/manuals/focb/focb_hbk.pdf.

B. Access to Justice Program

The Access to Justice Program is located within the Trial Court Services Division of the State Court Administrative Office. The primary focus of the program is to identify and eliminate racial, ethnic, and gender bias in the courts; to assist courts and the state justice system with responsibly, effectively, and sensitively addressing the issues associated with family and domestic violence; to implement and enhance programs and procedures in the courts that positively impact self represented litigants; and to educate and inform citizens about what they can reasonably expect in terms of treatment and service in the courts. More specifically, the focus of this program includes:

1. Providing technical assistance to trial courts. This includes development and implementation of equal opportunity policies and programs, employment procedures, personnel policies and procedures (including sexual harassment and bias free court environment provisions), performance evaluation criteria, staffing plans, compensation plans, and access to justice reviews.

2. Collecting and analyzing employment demographic data, the nature and disposition of complaints.

3. Serving as a resource and liaison for the Supreme Court and State Court Administrative Office with local judges, court administrators, court employees, State Bar, other state court systems, special interest groups, and the general public.

4. Developing educational materials for the public and judicial employees.

5. Developing training programs and informational seminars for access issues.

6. Researching and reviewing legislation, publications and court decisions regarding Racial/Ethnic and Gender Bias.

7. Developing and implementing a state level testing and certification program for foreign language interpreters.

Information concerning the Access to Justice Program has been disseminated to the public via posters and brochures and is also available at the State Court Administrative Office website at: http://courts.michigan.gov/scao/services/access/access.htm.

C. Domestic Relations Public Information Project

Since 1987, the State Court Administrative Office has been providing information to citizens and court users on domestic relations issues. More than 20 brochures (many also written in Spanish) are available free of charge to anyone who wants them. In addition, posters, video and audio public service announcements and client orientation programs have been developed.

Michigan is still the only state in the nation that enforces visitation on a statewide basis. In an effort to provide important information to parents on how the courts decide matters of custody, support and visitation, models on custody investigation and visitation and change of domicile investigation were developed, as was a child support guideline manual. The materials are available for purchase at a nominal fee.

Also, since 1987, the State Court Administrative Office has published a quarterly newsletter (The Pundit) for judges, prosecutors, child support specialists, mediators and court employees in an effort to ensure that they are aware of all the latest information on domestic relations matters.

For domestic relations resources, see the State Court Administrative Office website at: http://courts.michigan.gov/scao/services/focb/focb.htm.

D. Pro Se Forms Project

The State Court Administrative Office has developed a number of forms and instruction materials desgined specifically for use by the pro se litigant in the following areas: 1) personal protection; 2) garnishment; 3) small claims; and 4) child support, parenting time, and custody. Future developments will be considered. Forms are available online at the State Court Administrative Office website at: http://courts.michigan.gov/scao/courtforms/index.htm.

E. AIDS Pamphlet

1. Authority

When an individual is arrested and charged with certain listed sex and drug offenses, the judge or magistrate responsible for setting an individual's conditions of release pending trial must give the individual an AIDS pamphlet provided by the Michigan Department of Community Health. [MCL 333.5129(2)]

2. Pamphlet Availability

The Michigan Department of Community Health has provided one copy of the pamphlet to each district and probate judge and a quantity of pamphlets to all district court administrator/clerks and all probate court registers. Reorder forms are available from:

Michigan Department of Community Health
HIV/AIDS Prevention and Intervention Section
PO Box 30035
Lansing, MI 48909
(517) 335-8371

A list of available public information pamphlets and other resources is at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/publications/.

F. Developing Comprehensive Public Information Programs for Courts

The National Association for Court Management has produced a guide, Developing Comprehensive Public Information Programs for Courts, (June, 1996) which can be obtained by writing to:

National Association for Court Management
300 Newport Avenue
Williamsburg, VA 23187-8798

11-05 CRIME VICTIM'S RIGHTS

A. Constitutional Authority

Crime victims, as defined by law, shall have the following rights, as provided by law:

1. The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

2. The right to timely disposition of the case following arrest of the accused.

3. The right to be reasonably protected from the accused throughout the criminal justice process.

4. The right to notification of court proceedings.

5. The right to attend trial and all other court proceedings the accused has the right to attend.

6. The right to confer with the prosecution.

7. The right to make a statement to the court at sentencing.

8. The right to restitution.

9. The right to information about the conviction, sentence, imprisonment, and release of the accused.

The legislature may provide by law for the enforcement of this section.
[Const 1963, Art 1, Sec 24]

B. Crimes Committed by Adults

1. Authority

The Crime Victim's Rights Act creates rights for defined victims of crimes and their families. [MCL 780.751]

2. Purpose

The purpose of the Act is to lessen the frustration and confusion experienced by victims with the criminal justice system. It provides for information to be given to victims within specified time frames as to the availability of emergency medical care, financial assistance, and continuing help through the process by which the case is disposed.

3. Role of Law Enforcement Agencies and Prosecuting Attorney Office

The courts are assigned responsibilities under only a few of the provisions of the Act, the performance of the majority of duties falling upon law enforcement agencies and prosecuting attorneys' office.

Within 24 hours of the victim's contact with a law enforcement agency investigating a reported crime, the law enforcement agency must provide the victim with information concerning immediate needs such as medical and financial services. The prosecuting attorney's office is responsible for advising victims concerning procedural steps throughout the disposition of the case, all rights of the victim under the Act, eligibility under the Crime Victim Compensation Act [MCL 18.351], and the right of the victim to present to the prosecutor his/her views on case disposition. [MCL 780.756]

4. Role of the Court

The chief judge must set a hearing on the prosecutor's motion for a speedy trial within 10 days in instances where the victim has suffered child abuse or criminal sexual conduct. [MCL 780.759] Ancillary rights during the course of trial and at disposition post-trial also attach to crime victims generally, including the victim's right to make an "oral impact statement" to the court concerning sentencing and the courts' availability of restitution orders in favor of the victim at the time of sentencing. If full restitution is not ordered, the record shall indicate the reasons why. [MCL 780.765-766]

Within 48 hours after an arraignment for a serious misdemeanor, the court shall notify the prosecuting attorney of further proceedings.
[MCL 780.816] (See SCAO Approved form DC 255)

C. Offenses Committed by Juveniles

1. Authority

The Crime Victim's Rights Act creates rights for defined victims and their families in all cases where a juvenile is accused of any of the following offenses: [MCL 780.781]

a. any felony

b. assault

c. aggravated assault

d. entry without breaking

e. soliciting of a child

f. unlawful discharge of a firearm without injury

g. unlawful discharge of a firearm with injury

h. failure to stop at a personal injury accident

i. drunk or impaired driving when a personal injury accident results

2. Purpose

The purpose of the act is to lessen the frustration and confusion experienced by victims with the criminal justice system. It provides for information to be given to victims within specified time frames as to the availability of emergency medical care, financial assistance, court procedure, and continuing help through the process by which the case is disposed.

3. Role of Law Enforcement Agencies

Within 24 hours of the victims contact with a law enforcement agency investigating a reported crime, the law enforcement agency must provide the victim with information concerning immediate needs such as medical and financial services, the address of the crime victims compensation board, how to contact the prosecuting attorney, and advice that the victim can contact the law enforcement agency for the status of the case. [MCL 780.782]

4. Role of the Prosecuting Attorney's Office

The prosecuting attorney's office may request detention of a juvenile based on a victim's affidavit asserting acts or threats of physical violence or intimidation. The prosecuting attorney must offer the victim an opportunity to consult with the prosecutor regarding dismissal, waiver, trial, and disposition. The prosecutor may request an in-camera hearing to suppress information regarding the victim's address, place of employment, or personal identification. Upon the request of the victim, the prosecutor must also notify the victim whether the juvenile has appealed, of the appeal process, whether the juvenile has been released on bail, and the time and place of appellate court proceedings as well as the results of an appeal.
[MCL 780.785, MCL 780.786, MCL 780.788, MCL 780.796]

5. Role of the Court

a. Notice of Detention Facility Phone Number

If a juvenile is detained, the court must advise the victim within 24 hours after the preliminary hearing of the phone number of the detention facility and tell the victim that s/he may contact the facility to determine whether the juvenile has been released. [MCL 780.785]

b. Notice Within 72 Hours of Complaint or Petition

Within 72 hours after the complaint or petition, the court must give each victim a written notice in plain English of:

(1) a brief statement of the procedural steps in the processing of a juvenile case, including the fact that the juvenile may be waived to the criminal division of circuit court.

(2) the victim's rights and procedures under Article II of the Crime Victim's Rights Act.

(3) details and eligibility requirements under the crime victim's compensation law.

(4) suggested procedures if the victim is subjected to threats or intimidation.

(5) the person to contact for further information.

[MCL 780.786]

c. Notice of Hearings

If the victim requests, the court must notify the victim of any scheduled court hearings in the case including adjournments. [MCR 6.931(C)]

d. Provision of Waiting Area

The court must provide a waiting area for the victims separate from the juvenile, the juvenile's relatives, and the juvenile's witnesses if such an area is available and it's use is practical. If such an area is not available or practical, the court must provide other safeguards to minimize the victims contact with the juvenile, the juvenile's relatives, and the juvenile's witnesses. [MCL 780.787]

e. Notice Regarding Location of Juvenile After Adjudication/Trial

If the victim requests, the court must make a good faith effort to notify the victim before the juvenile is dismissed from court jurisdiction or transferred from a secure detention or treatment facility to a non-secure residential treatment facility located in the county in which the victim resides. The Michigan Family Independence Agency must do the same for state wards. If the victim requests, the court or the Michigan Family Independence Agency shall give the victim immediate notice of the juvenile's escape from a secure detention or treatment facility.

f. Ancillary Rights

Ancillary rights during the course of trial and at disposition post-trial also attach to crime victims generally, including the victim's right to make an oral impact statement to the court concerning disposition and the court's availability of restitution orders in favor of the victim at the time of sentencing.

(See also Section 6-15, page 6-15-01)
[MCL 780.785 - .799] and MCR 6.931(C)]

11-06 ADOPTION SUPPORT GROUPS

A. Authority

Under Public Act 175 of 1990 and Public Act 374 of 1996, circuit courts are required to provide parties to an adoption with a copy of a list of adoption support groups in certain circumstances. [MCL 710.26(3), MCL 710.68(8), MCL 710.68a(3]

B. Responsibilities

1. Before or At Time of Hearing

Before or at the time of the hearing on the adoption petition, the court shall provide the adoptee, if he or she is 14 years old or older, and the adoptive parents with a list of adoption support groups. This subsection also applies to a stepparent adoption and the adoption of a child related to the petitioner within the fifth degree by marriage, blood, or adoption. [MCL 710.26(3)]

2. Before Executing Release

A release by a parent shall be executed only after the Family Independence Agency or child placing agency has provided that parent with a list of adoption support groups. [MCL 710.28(2)]

3. Upon Receipt of Written Request for Identifying Information

Once identifying information is released to an adult adoptee, and upon the request of the adult adoptee, biological parent, adult biological sibling, or adoptive parent, the child placing agency, court, or the Family Independence Agency shall provide for counseling or shall provide a list of adoption support groups to that person.
[MCL 710.68(8)]

4. When Contacted

If the Family Independence Agency, a child placing agency, or the court is contacted by an adoptee, adult biological sibling, biological parent, or adoptive parent, within 14 days after the date of the contact, it shall provide the adoptee, adult biological sibling, biological parent, or adoptive parent with all of the following:

a. a copy of the information pamphlet described in subsection (1).

b. a list of adoption support groups.

c. information about the provisions described in this section and section 68.

[MCL 710.68a(2)]

Each court should develop a list of available adoption support groups in Michigan and update the list at regular intervals. Multiple copies should be available at the court to provide to those individuals specified in the Act.

11-07 ACCESS, GENDER, AND RACIAL/ETHNIC ISSUES

In December, 1989, the Michigan Supreme Court was presented with two major reports concerning racial/ethnic and gender issues in the courts. The reports came from the Racial/Ethnic and Gender Issues Task Forces which had been created by the Court in 1987 to investigate the treatment of females and minorities in the courts. Each report contained over 150 recommendations and called for significant changes in the justice system. The recommendations were addressed not only to the judiciary but to law schools, the private bar, county prosecutor operations and other law enforcement agencies, and the state legislature.

In response to the Racial/Ethnic and Gender Issues Task Forces' recommendations, the Supreme Court is committed to eliminating all forms of biased behavior from the courts. A substantial number of the recommendations made by the bias task forces have either been implemented or are in the process of being implemented. Many of the implementation efforts are continuous or ongoing (for example, court rule revision, training, public education, and management assistance).

In addition, the Supreme Court has urged trial courts and other external organizations including the State Bar Association to review and continually emphasize bias free behavior. All forms, written communications, and brochures provided by courts should be examined and updated to ensure gender and racial/ethnic neutrality. (see also Section 1-07, page 1-07-01 and Section 5-01, pages 5-01-02 and 5-01-03)

In response to the recommendations, the State Court Administrative Office has:

1. Created models and guidelines for courts on child support, visitation, and custody issues.

2. Included review of issues on race and gender bias when conducting management studies and investigations.

3. Developed model policies for courts on sexual harassment, family leave, equal opportunity employment, and employee performance evaluations.

4. Created and distributed a poster and brochure on the importance of bias-free behavior in the courts.

5. Created pro se forms and instructions for use in circuit courts to facilitate the process of review of applications for domestic violence and stalking protection orders and provided training to court and county clerk staff.

6. Established staff positions within the State Court Administrative Office and the Michigan Judicial Institute to continue the process of implementing recommendations of the Citizen's Commission and the Michigan Supreme Court Task Forces on Gender and Racial/Ethnic Issues in the Courts.

7. Offered a training program for judges and court administrators on the use of interpreters in the courts.

8. Developed pro se forms and instructions that can be used to modify a child support order, and is currently pilot testing pro se forms and instructions for child visitation.

Additionally, the Supreme Court has: 1) directed chief judges to develop Equal Employment Opportunity plans and directed that the plans and other information on court employment and appointments be provided to the State Court Administrative Office; and 2) strengthened the Rules of Professional Conduct and the Code of Judicial Conduct regarding discrimination.

The Michigan Judicial Institute has provided a number of training seminars since the Task Force reports were issued in 1989.

For a report on the specific recommendations implemented, see the 1997 Summary Report on Supreme Court's Efforts to Implement Recommendation of Citizens Commission to Improve Michigan Courts and the Race/Ethnic and Gender Issues Task Forces at the SCAO website at: http://courts.michigan.gov/scao/resources/other/biassum.pdf.

To help in determining accessibility of a courthouse, see a checklist at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/aj_checklist.pdf.

Jury Management

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Jury Management

12-01 INTRODUCTION

A. Management of the Jury System

Management of the jury system includes every aspect of selecting jurors and using their services - from managing the jury board's work to devising accurate techniques for forecasting the number of jurors who will be needed; from automating the jury records to providing for the comfort and convenience of jurors during their term of service.

As with other aspects of court management, the chief judge of each trial court has the responsibility to manage the jury system. The chief judge must be committed to efficient use of court resources including efficient use of jurors.

The court should promulgate administrative policies for effective management of the jury system. These policies should be formulated through the same consultative process - involving court staff, the bar, and other interested agencies - as is used in all court policy-making.

Centralized and effective management of the jury system should be implemented. There should be full-time administration of the jury system at the top managerial level of the court, with delegation of day-to-day operating responsibilities to a clerical or administrative staff member. Operating responsibilities should include:

1. supervising all aspects of juror selection;

2. setting up liaison between the jury management system and other court personnel to ensure two-way information flow about:

    a. anticipated trial activities; and

    b. the number of jurors available.

3. integrating management of juror selection and use so that the operation of each complements the other;

4. maintaining statistical records on:

    a. response and qualification rates for persons sent questionnaires or summoned;

    b. numbers of jurors used (and not used) daily; and

    c. other statistics necessary to determine how many questionnaires to send out, how many jurors to summon, etc., in the future;

5. predicting both on a long-range and day-to-day basis the number of jurors needed at court;

6. managing the activities of jurors while at court;

7. maintaining attendance records;

8. notifying jurors to come to court;

9. preparing panels of jurors to be sent for voir dire;

10. arranging for payment of jurors;

11. planning for better management and recommending improvements when needed.

[Excerpted from "Management of the Jury System", ABA Commission on Standards of Judicial Administration by Maureen Solomon, 1975]

B. Goals

The jury system used by each trial court should implement these goals:

1. Minimize inconvenience to citizens serving as jurors.

2. Broaden citizen participation in the jury system.

3. Distribute the responsibility for participation in the jury system among the people in as fair a manner as possible.

4. Minimize the term of service of a juror.

5. Minimize the number of trials on which an individual juror serves during the juror's term.

6. Courteous and helpful treatment of jurors by all trial court personnel.

[MCL 600.1301b]

C. Authority

Michigan laws governing the jury system include:

1. Chapter 13 of the Revised Judicature Act (RJA)
[MCL 600.1300 et seq.]

2. Michigan Court Rules
[MCR 2.508, 2.509, 2.510, 2.511, 2.512, 2.513, 2.514, 2.515, 2.516, 5.911, 6.401, 6.402, 6.410, 6.411, 6.412, 6.414, 6.419, and 6.420]

With respect to the selection and impaneling of jurors, any examination, challenge, replacement, oath, or other practice not otherwise governed by Chapter 13 of the RJA shall be governed by rules adopted by the Michigan Supreme Court. [MCL 600.1355]

3. Code of Criminal Procedure
[MCL 768.8, 768.9, 768.10, 768.12, 768.13, 768.14, 768.15, 768.18]

4. Circuit Court Rules

The judges of each circuit court may establish rules, consistent with and necessary to implement the provisions of Chapter 13 of the RJA. [MCL 600.1353]

12-02 JURY SYSTEMS IN MICHIGAN

Chapter 13 of the Revised Judicature Act (RJA) authorizes two types of jury systems in Michigan. All trial courts must operate one of the authorized jury systems. In many counties the circuit, district, and probate courts all use the same jurors. [MCL 600.1300 et seq.]

A. Traditional System

The traditional jury system in Michigan is a term of jury duty which may last as long as three months. Certain sections of Chapter 13 of the RJA apply only to the traditional system (see MCL 600.1301a(2)).

The term of service of petit jurors shall be determined by local court rule but shall not exceed the term of court, unless at the end of this period a juror is serving in connection with an unfinished case, in which event the juror shall continue to serve until the case is finished. [MCL 600.1343] The judges of each circuit court may provide by rule that the terms of jury service need not commence at the same time for all members of a panel (see MCL 600.1353).

Many courts use the statutory language which authorizes the traditional system and have shortened the term of jury duty to one month, two weeks, or even one week.

B. One Day/One Trial System

The one day/one trial jury system is a term of jury duty which ends when the first trial to which the juror is sworn ends or when a juror remains unseated, and is not involved in voir dire, at the end of the first day of service. Certain sections of Chapter 13 of the RJA apply only to the one day/one trial system (see MCL 600.1372).

C. Mass Jury Select or Multiple Voir Dire/Single Day Empanelment System

This selection process, in place in a number of Michigan trial courts, employs a system in which several successive juries are selected from a jury pool during a single day, to serve on trials scheduled sequentially for future days. Under this process, following check-in and orientation of the jury pool, a sufficient number of jurors are drawn and the first jury is voir dired and selected. This selection and empanelment process continues until all juries are selected for all jury trials scheduled during the month or term.

12-03 JURY BOARD

A. Authority and Purpose

Appointment of the jury board is governed by MCL 600.1301. All Michigan trial courts are served by a jury board whose primary duty is to provide the court with a list of citizens qualified to serve as jurors.

B. Appointment, Term of Office, Oath

1. Counties Having Population Less Than 2,000,000

In counties having a population of less than 2,000,000 the jury board shall consist of three qualified electors of the county appointed by the county board of commissioners on recommendation of the circuit judges in the county. Not more than two jury board members may be members of the same political party. The board members serve six year staggered terms.

2. Counties Having Population of 2,000,000 or More

In counties having a population of more than 2,000,000 the jury board shall consist of seven qualified electors of the county appointed for six year terms by the county executive, with the concurrence of the county board of commissioners, on recommendation of the circuit judges in the county. Not more than four jury board members may be members of the same political party. The executive secretary and stenographer shall receive compensation in an amount fixed by the county board of commissioners.

[MCL 600.1301(1),(2)]

3. Oath

Before members of jury board enter upon their duties, they shall take the constitutional oath of office before the chief circuit judge and file it with the county clerk.
[MCL 600.1303a]

C. Compensation and Officers

Jury board members are paid an annual salary or per diem fixed by the county board of commissioners. In Wayne County compensation is paid by the state and fixed by the State Judicial Council. Annually the board shall elect a president and secretary from its members.
[MCL 600.1302]

D. Jury Board Assistants

The county board of commissioners of each county may authorize assistants to the jury board and fix their salaries. [MCL 600.1303]

E. Rules Governing Work of Jury Board

The judges of each circuit may establish rules, not inconsistent with the jury statute, to ensure the proper conduct of the work of the jury board. [MCL 600.1353]

F. Meetings of the Jury Board

1. Annual Meeting

The jury board shall meet annually in the month of May at the courthouse. The chief circuit judge shall fix the time and place of the annual meeting.

2. Other Meetings

The jury board may meet at other times and places necessary to carry out its duties. The chief circuit judge may direct the board to meet at other times and places.

3. Record of Meetings

The secretary of the board shall keep a record of the proceedings of the board in a book. Members of the board shall sign the record, attested by the secretary. The record shall be evidence in all courts and places of the proceedings of the board.

[MCL 600.1305]

G. Duties and Responsibilities

1. Automation

The jury board may use electronic and mechanical devices in carrying out its duties. [MCL 600.1304a]

2. Estimate of Jurors Needed

On or before each May 1 the chief judge of each trial court shall estimate the number of jurors needed for the court for a one year period beginning the following September. The estimate shall be entered on the journal of the court and a copy shall be certified by the clerk of the court and delivered to the jury board. [MCL 600.1308]

3. List of Jurors From Preceding Year

The jury board shall secure from the clerk of each trial court and each clerk shall provide a list of persons who have served as jurors in their courts during the preceding one year. [MCL 600.1309]

4. Juror Source List

The juror source list is a list which combines the driver's license list and personal identification cardholder list of persons residing in a county.
[MCL 600.1310(4), MCL 600.1375(5)]

a. Driver's License List

The "driver's license list" is a compilation of names of individuals who are 18 years of age or older, addresses, zip codes, dates of birth, and sexes of persons licensed to drive in Michigan. [MCL 600.1300(a)]

b. Personal Identification Cardholder List

The "personal identification cardholder list" is a compilation of names of individuals who are 18 years of age or older, addresses, zip codes, dates of birth, and sexes of Michigan residents who have received an official state personal identification card. [MCL 600.1300(b)]

5. Obtaining the Juror Source List

a. Request from Jury Board

The Secretary of State provides the juror source list. The jury board may, before March 1, request the Secretary of State to transmit only a first jury list consisting of the names and addresses of persons selected at random based upon the total number of jurors required. Otherwise, the Secretary of State will transmit a full juror source list.

b. Request from County Clerk

The county clerk may request the Secretary of State to provide the juror source list printed on paper or on computer tape or another electronically produced medium under specifications prescribed by the Secretary of State.

[MCL 600.1310(4),(5), MCL 600.1375(6)]

c. Annual Survey by Secretary of State

The Secretary of State annually surveys county clerks to determine:

1) whether the county clerk desires a list printed on paper or a list on computer tape.

2) whether the jury board has requested only a first jury list.

Based on the responses to this survey, the Secretary of State transmits the juror source list annually, before April 15, to each county clerk at no expense.

[MCL 600.1300, MCL 600.1310(4), MCL 600.1375(5)]

6. First Jury List

If the jury board has not requested a first jury list from the Secretary of State, the board must create a first jury list by creating a key number, selecting a random starting number and applying them to the complete juror source list. The persons selected constitute the first jury list. The jury board then removes from the first jury list the names of persons who have served as jurors in any court of the county during the preceding one year. [MCL 600.1311, MCL 600.1312]

7. Juror Qualification Questionnaires

a. Supplying Questionnaires

The jury board shall supply a juror qualifications questionnaire to each person on the first jury list. The questionnaire shall contain blanks for the information the board desires concerning qualifications for and exemptions from jury service. Persons on the first jury list are required to return the questionnaire, fully answered, to the jury board within 10 days after it is received. [MCL 600.1313]

b. State Court Administrator Approved Questionnaire

The State Court Administrator has approved a "Juror Qualification Questionnaire" MC 321a for use by all jury boards. The purpose of this questionnaire is to provide the jury board with qualification and exemption information.

c. Qualifications and Exemptions

Qualifications and exemptions for potential jurors are prescribed by MCL 600.1307a.

d. Excusing Unqualified and Exempt Persons from Jury Service

On the basis of answers to the juror qualifications questionnaire, the board may excuse from service persons on the first jury list who claim exemption and give satisfactory proof of such right and all persons who are not qualified for jury service. The board may investigate the accuracy of the answers to the questionnaires and may call upon all law enforcement agencies for assistance in the investigation. [MCL 600.1314]

e. Records

The board shall keep a record showing the qualifications to serve as a juror of each person on the first jury list. [MCL 600.1319]

f. Questionnaire Retention

Juror qualifications questionnaires shall be kept on file by the jury board for a period of three years but the chief circuit judge may order them to be kept on file for a longer period. [MCL 600.1315]

g. Access to Juror Qualification Questionnaire

The answers to the qualifications questionnaires shall not be disclosed except that the chief circuit judge may order that access be given to the questionnaires. (see also page 12-04-02 and Section 1, page 1-06-02 and Section 8-03, page 8-03-01) [MCL 600.1315]

8. Appearance to Testify About Qualifications

In addition to completing the questionnaire, the chief circuit judge, or the jury board, may require any person on the first jury list to appear before a board member, at a specified time, for the purpose of testifying under oath or affirmation concerning the person's qualification to serve as a juror.

a. Notice to Appear

Notice shall be given, personally or by mail, to a person required to appear, not less than 7 days before the scheduled appearance. The board shall hold evening sessions as necessary for the examination of prospective jurors who are unable to attend at other times. [MCL 600.1316]

b. Dispensing with Personal Appearance

A board member may dispense with the personal appearance under certain circumstances. [MCL 600.1317]

c. Administering Oath or Affirmation

A board member may administer an oath or affirmation in relation to the examination of a person on the first jury list. [MCL 600.1318]

d. Records

The board shall keep a record of the board member's report on each person examined and that person's qualification to serve as a juror.
[MCL 600.1319]

9. Second Jury List

a. Preliminary Screening

The jury board shall made a preliminary screening of the qualifications and exemptions of prospective jurors and shall not include in the second jury list the names of persons it finds not qualified or exempt.
[MCL 600.1320(1)]

b. Excusing Prospective Jurors for Hardship

With the written approval of the chief circuit judge, the jury board may exclude a prospective juror from the second jury list when it appears that the interests of the public or of the prospective juror will be materially injured by his or her attendance, or that the health of the prospective juror or the health of a member of the prospective juror's family requires his/her absence from court.
[MCL 600.1320(2)]

c. Creating Second Jury List

The names of the persons on the first jury list whom the jury board accepts as qualified and not exempt shall comprise the second jury list.
[MCL 600.1321(1)]

The board shall make additional lists consisting of the names on the second jury list grouped by the geographical area of the jurisdiction of each district court within the county. If there are not sufficient names on any list, the board shall again apply the key number to that district only and obtain as many additional jurors as needed for that district court. [MCL 600.1321(2)]

d. Manual System

The statutes describe in detail the manual system for creating the second jury list and additional lists for each district court. [MCL 600.1321, MCL 600.1322, MCL 600.1323]

e. Automated System

Many jury boards have automated this process as authorized by MCL 600.1304a using the statutory concept for the manual system as part of the computer program.

10. Drawing Jurors for Service

a. Order to Draw Jurors

From time to time the chief judge of each trial court in the county shall order the jury board to draw jurors for jury service. The order to draw jurors shall contain:

1) a time limit within which the drawing shall be completed;

2) the number of jurors to be drawn for a panel;

3) the number of panels to be drawn;

4) the court or courts in which each panel shall serve;

5) the period of service of each panel.

[MCL 600.1324(1)]

b. Procedure

1) Place, Time, and Witnessing

The drawing of jurors shall take place in public within the time limit fixed by the chief circuit judge and at a time and place designated by the board. The county clerk or deputy, and a judge or an elected official, other than the county clerk, as designated by the chief circuit judge shall attend the drawing to witness and assist in the drawing of jurors.
[MCL 600.1327]

If the board fails to meet and return the second jury list at the time prescribed, the chief circuit judge may order the board to meet and make the second jury list. [MCL 600.1342]

2) Manual System

The statutes describe in detail the manual system for drawing jurors from the second jury list.
[MCL 600.1328, MCL 600.1330]

3) Automated System

Many jury boards have automated this process as authorized by MCL 600.1304a using the statutory concept for the manual system as part of the computer program.

c. List of Names and Addresses of Jurors Drawn

The jury board shall deliver to the county clerk lists containing the names and addresses of the jurors drawn for jury duty. [MCL 600.1331]

d. Attempts to Tamper With Drawing

A board member shall report to the prosecuting attorney and chief circuit judge the name of any person who in any manner seeks by request, hint, or suggestion to influence the board members in the selection of any juror.
[MCL 600.1345]

e. Need for Additional Jurors

1) Order For New List

If any list of jurors become exhausted or declared illegal, the chief circuit judge may order the board to meet and make a new list of jurors.
[MCL 600.1342]

2) Order for Additional Jurors by Chief Judge

The chief judge of a court may order additional jurors drawn by the board for service during the period of service of a jury panel or a part thereof. The order shall specify the number to be drawn, and the time and place of drawing.

3) Order for Jurors for Immediate Service in Particular Case

A trial judge may order additional jurors drawn by the board for immediate service in a particular case. The order shall specify the number to be drawn and the time and place of drawing.

If additional jurors are needed for immediate service in a particular case, any member of the jury board may conduct the drawing if witnessed by the clerk or his/her deputy and by the judge ordering the drawing.

4) Notice to Attend

Jurors whose names are so drawn shall be given notice to attend court in such manner as the court directs. Additional jurors so drawn shall become members of the panel then serving unless otherwise directed by the chief judge.

[MCL 600.1341]

11. Limitations on Challenges to Jury Draw

a. Persons not Qualified to Serve

The legality or regularity of the drawing shall not be questioned if the minutes of the drawing are properly signed. If the name of any person not qualified to serve as a juror is included in the names drawn, this fact shall not be a ground of challenge to the array, but only a ground of personal challenge to the person shown to be so disqualified.

b. Drawing Performed by Interested Party, Counsel, or Relative

If the jurors were drawn in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that the person who drew them was a party or interested in the cause, or was counsel or attorney for, or related to, either party therein.

(see also Section 12-08, Challenges to the Jury System, page 12-08-01)
[MCL 600.1329(1),(2)]

12-04 JURY SERVICE

A. Summoning Jurors for Court Attendance

1. Who May Summon

The court clerk, the court administrator, the sheriff, or the jury board, as designated by the chief judge, shall summon jurors for court attendance at the time and in the manner directed by the chief judge, the presiding judge, or the judge to whom the action in which jurors are being called for service is assigned.

2. Service of First Notice

For a juror's first required court appearance, service must be by written notice addressed to the juror at his/her residence as shown by the records of the court clerk or jury board. The notice may be by ordinary mail or by personal service.

3. Service of Subsequent Notices

For later service, notice may be in the manner directed by the court. The person giving notice to jurors shall keep a record of the notice and make a return if directed by the court. The return is presumptive evidence of the fact of service.

4. Summons Performed by Sheriff as Interested Party or Relative

If the jurors were drawn in accordance with this act and the rules of the court, it is not a ground of challenge to a panel or array of jurors that they were summoned by the sheriff who was a party, or interested in the cause, or related to either party therein, unless it is alleged in the challenge and satisfactorily shown that some of the jurors drawn were not summoned, and that this omission was intentional. (see also Section 12-08, Challenges to the Jury System, page 12-08-01)
[MCL 600.1329(3)]

[MCR 2.510(D)]
(Note: This court rule provision closely parallels MCL 600.1332)

B. Juror Personal History Questionnaire

1. Form

The State Court Administrator has approved a "Juror Personal History Questionnaire" MC 321b for use by all court clerks and jury boards. The purpose of this questionnaire is to provide the judge, lawyers, and litigants with information to assist in conducting effective jury selection. [MCR 2.510(A)]

2. Completion of Questionnaire

a) The court clerk or the jury board, as directed by the chief judge, shall supply each juror drawn for jury service with a questionnaire in the form adopted by the State Court Administrator. The court clerk or the jury board shall direct the juror to complete the questionnaire in the juror's own handwriting before the juror is called for service. [MCR 2.510(B)(1)]

b) Refusal to answer the questions on the questionnaire, or answering the questionnaire falsely, is contempt of court. (see also Section 12-07, Contempt of Court, page 12-07-01) [MCR 2.510(B)(2)]

3. Filing the Questionnaire

a) On completion, the questionnaire shall be filed with the court clerk or the jury board, as designated by the chief judge. The only persons allowed to examine the questionnaire are:

1) the judges of the court;

2) the court clerk and deputy clerks;

3) parties to actions in which the juror is called to serve and their attorneys; and

4) persons authorized access by court rule or by court order.

b) The attorneys must be given a reasonable opportunity to examine the questionnaires before being called on to challenge for cause. [MCR 2.510(C)]

4. Access to Juror Personal History Questionnaire

a. The State Court Administrator has developed model procedures for providing attorneys and parties reasonable access to juror questionnaires. [MCR 2.510(C)(2)(a)] Copies of the models are available at the SCAO website at: http://courts.michigan.gov/scao/resources/other/lao/lao2a-model.pdf).

b. Each court shall select and implement one of these procedures by local administrative order adopted pursuant to MCR 8.112(B). If the State Court Administrator determines that, given the circumstances existing in an individual court, the procedure selected does not provide reasonable access, the State Court Administrator may direct the court to implement one of the other model procedures. [MCR 2.510(C)(2)(b)]

c. If the procedure selected allows attorneys or parties to receive copies of juror questionnaires, an attorney or party may not release them to any person who would not be entitled to examine them under the rule. [MCR 2.510(C)(2)(c)]

(see also Section 12-03, page 12-03-05 and Section 8-03, page 8-03-01)

5. Record Retention

The questionnaires must be kept on file for three years from the time they are filled out. [MCR 2.510(C)(3)]

C. Excusing Jurors From Service

1. Unqualified and Exempt Jurors

The court may decide upon the qualifications and exemptions of jurors upon a written application and satisfactory legal proof at any time after the jurors attend court. [MCL 600.1320(1)]

When the court finds that a person is not qualified to serve as a juror, or is exempt and claims an exemption, the court shall discharge the juror from further attendance and service as a juror. [MCL 600.1337]

When any person is excused from serving on the ground that the juror is exempt or not qualified to serve as a juror, the clerk of the court shall destroy the slip containing the name of the person. [MCL 600.1338(1)]

2. Request to be Excused

A person who is notified to attend as a juror may apply to the chief judge of the court to be excused on any ground provided by statute. The prospective juror may apply in person or by a person capable of making the necessary proof of the claim. An entry of the action of the chief judge upon the application and of the reason shall be made on the records of the court. [MCL 600.1333]

3. Grounds for Excuse

The chief judge may excuse the juror from serving when it appears that the interests of the public or of the individual juror will be materially injured by the juror's attendance or the health of the juror or the health of a member of the juror's family requires the juror's absence from court. [MCL 600.1335(1)]

If the chief judge finds that the number of jurors in attendance is greater than that needed, the chief judge may order the entire panel or any part of the panel discharged for the balance of its term or excused until a day certain within the term. Any person discharged, but not excused, shall be deemed to have served the term of service but shall receive compensation only for the time of the juror's actual service on the panel. [MCL 600.1336]

4. Authority to Excuse

The chief judge may excuse any juror or jurors from attendance without pay for any portion of the term. [MCL 600.1334(1)]

The judge presiding at the trial of an action may excuse jurors at such trial for cause. [MCL 600.1334(2)]

D. Postponing a Juror's Service

1. Request for Postponement

A person who is notified to attend as a juror may apply to the chief judge to have the term of service postponed on any ground provided by statute. The prospective juror may apply in person or by a person capable of making the necessary proof of the claim. An entry of the action of the chief judge upon the application and of the reason shall be made on the records of the court.

2. Grounds for Postponement

The chief judge may postpone a juror's service when it appears that the interests of the public or of the individual juror will be materially injured by the juror's attendance or the health of the juror or the health of a member of a juror's family requires the juror's absence from court. [MCL 600.1335(1)]

The chief judge shall postpone the juror's term of service to the end of the school year if the person is a full-time student attending high school.
[MCL 600.1335(2)]

3. Authority to Postpone

The chief judge may postpone the service of a juror to a later term of court if the juror has not been called for voir dire examination in any action.
[MCL 600.1334(1)]

The slip containing the name of any person whose time of service is postponed shall not be returned to the board box. [MCL 600.1338(2)]

4. Report to Jury Board

The chief judge shall report to the jury board the names of all jurors whose service has been postponed to a subsequent time. The names shall be placed upon the list of jurors drawn for that time. No more names shall be drawn from the board box than are sufficient to make up the number ordered by adding the names of the jurors so postponed to the names then drawn. [MCL 600.1339]

E. Jury Orientation

1. Orientation Program

On the first day of jury service, an orientation program should be conducted by the chief judge, court administrator, clerk of the court, and/or jury clerk. The orientation program should be designed to place the jurors at ease and to provide the jurors with adequate information to perform their duties and to be comfortable in the courthouse.

a. Facilities for Orientation Program

The orientation program should be conducted either in a courtroom, auditorium, or jury assembly area. The facility should be comfortable. Smoking should not be allowed in the orientation facility. The facility should be secure and used exclusively for juror orientation during the program to avoid contamination of the panel by outside influence. The persons conducting the orientation program should be courteous and should treat the jurors in a dignified manner.

b. Juror Badges

At the orientation jurors should be provided juror badges which they are required to wear at all times while in the courthouse. Jurors are not allowed to converse with trial participants or court personnel except for social civilities and communications necessary for transacting court business. Jurors should be instructed to remain in the assembly room when not in a courtroom. Jurors should not wait in the halls, coffee shop, or other places that attorneys, witnesses, and parties may be present.

c. Use of Various Forms of Media in Orientation Program

Many orientation programs incorporate professional quality film or slide presentations explaining clearly the nature and responsibility of jury duty. The Michigan Judicial Institute has a film and other media available for use by trial courts.

2. Jury Instructions

Jury instructions should be continually monitored to ensure gender neutrality. Some jury instructions should be amended to include specific examples of the types of bias jurors must guard against and the ways in which such bias might influence their decision making. [Recommendation VII-4, Gender Bias Task Force]

F. Juror Compensation

1. Juror Per Diem and Mileage

A juror shall be reimbursed for his or her traveling expenses at a rate, determined by the county board of commissioners, that is not less than 10 cents per mile for traveling from the juror's residence to the place of holding court and returning for each day or 1/2 day of actual attendance at sessions of the court. Jurors also shall be compensated at a rate, determined by the county board of commissioners, as follows:

(a) Until October 1, 2003, not less than $15.00 per day and $7.50 per 1/2 day of actual attendance at the court.

(b) Beginning October 1, 2003, a rate determined as follows:

(i) For the first day of 1/2 day of actual attendance at the court, not less than $25.00 per day and $12.50 per 1/2 day.
(ii) For each subsequent day or 1/2 day of actual attendance at the court, not less than $40.00 per day and $20.00 per 1/2 day.

2. Cases Removed to District Court

If an action is removed from the circuit court to a lower court, the jury fee shall be paid to the circuit court whether paid before or after removal of the action to the lower court, and the circuit court shall be responsible for payment of the compensation to the juror involved.

3. Court Employee Liability

A clerk or deputy clerk of the court who fraudulently issues a certificate of attendance of a juror on which the juror receives pay, except as allowed by law, is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than $500.00, or both.

[MCL 600.1344(1),(2),(3)]

G. Juror Liability

1. Penalties for Accepting Gift or Gratuity

A person drawn or summoned as a juror who takes anything to give his verdict or receives any gift or gratuity from any party to an action for the trial of which s/he has been drawn or summoned is liable to the party aggrieved for actual damages sustained plus ten times the amount or value of the thing which s/he has taken, in addition to any criminal punishment to which s/he may be subject by law. [MCL 600.1347(1)]

2. Penalties for Acting as Juror's Agent for Gain or Profit

An embracer who procures a person drawn or summoned as a juror to take gain or profit contrary to the provisions of MCL 600.1347(1) is liable to the aggrieved party for the actual damages sustained plus ten times the amount or value of the thing which was taken. [MCL 600.1347(2)]

3. Juror Protection from Civil or Criminal Action as a Result of Verdict

No juror may be subject to an action, civil or criminal, on account of any verdict except for corrupt conduct in rendering such verdict in the cases prescribed by law. [MCL 600.1349]

H. Employer/Juror Relationship

1. Discharge or Discipline by Employer

An employer or an employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined, a person because that person is summoned for jury duty, serves on a jury, or has served on a jury, is guilty of a misdemeanor, and may also be punished for contempt of court. (see also Section 12-07, Contempt of Court, page 12-07-01) [MCL 600.1348(1)]

2. Working Hours Required by Employer

An employer or the employer's agent who requires a person having jury duty to work any number of hours during a day which, if added to the number of hours which the person spends on jury duty during that day, exceeds the number of hours normally and customarily worked by the person during a day, or the number of hours normally and customarily worked by the person during a day which extends beyond the normal and customary quitting time of that person unless voluntarily agreed to by that person, or as provided in a collective bargaining agreement is guilty of a misdemeanor, and may also be punished for contempt of court. (see also Section 12-07, Contempt of Court, page 12-07-01) [MCL 600.1348(2)]

I. Court Clerk's Certificate

Within ten days after the close of each term for which jurors have been drawn, the clerk of the court shall deliver to the board his/her certificate specifying distinctly and in detail as follows:

a. the name and residence of each juror who was excused or discharged by the court, with the reason;

b. the name and residence of each person notified who did not attend or serve;

c. the name and residence of each person punished for contempt as provided in chapter 13 of the Revised Judicature Act. (see also Section 12-07, Contempt of Court, page 12-07-01)

[MCL 600.1340]

12-05 CONDEMNATION AND GRADE SEPARATION JURIES

Juries for condemnation cases and grade separation damage cases shall be selected and impaneled from the persons summoned to serve as petit jurors at that term of the court having jurisdiction over such proceedings in the same manner as petit juries are selected and impaneled in other civil cases in the same court. Juries for such cases shall not be selected and impaneled in the manner prescribed by the provisions of the statute under which the proceedings were instituted. A jury for such cases shall consist of six persons. [MCL 600.1350]

12-06 GRAND JURIES

If a grand jury is ordered by the court, or required by statute, the jury board shall draw the names of a sufficient number of persons, as determined by the chief circuit judge to serve as grand jurors in accordance with MCL 767.11. The names shall be drawn in the same manner and from the same source as petit jurors. The term of grand jurors shall be as prescribed by MCL 767.7a.
[MCL 600.1326]

12-07 CONTEMPT OF COURT

The following acts are punishable by the circuit court as contempt of court:

A. Failing to answer the juror qualification questionnaire provided for by MCL 600.1313.

B. Failing to appear before the board or a member of the board, without being excused at the time and place notified to appear.

C. Refusing to take an oath or affirmation.

D. Refusing to answer questions pertaining to his/her qualifications as a juror, when asked by a member of the board.

E. Failing to attend court, without being excused, at the time specified in the notice, or from day to day, when summoned as a juror.

F. Giving a false certificate, or making a false representation, or refusing to give information which s/he can give affecting the liability or qualification of a person other than him/herself to serve as a juror.

G. Offering, promising, paying, or giving money or anything of value to, or taking money or anything of value from, a person, firm, or corporation for the purpose of enabling him/herself or another person to evade service or to be wrongfully discharged, exempted, or excused from service as a juror.

H. Tampering unlawfully in any manner with a jury list, board box, jury box, or slips.

I. Wilfully doing or omitting to do an act with the design to subvert the purpose of this act.

J. Wilfully omitting to put on the jury list the name of a person qualified and liable for jury duty.

K. Wilfully omitting to prepare or file a list or slip.

L. Doing, or omitting to do, an act with the design to prevent the name of a person qualified and liable to serve as a juror from being placed in the board or jury box, or from being drawn for service as a juror.

M. Wilfully placing the name of a person upon a list, or preparing a slip with the name of a person, or placing a slip in the jury box with the name of a person, who is not qualified as a juror.

(see also Section 12-04, Completion of [Juror Personal History] Questionnaire, page 12-04-02; Employer/Juror Relationship, page 12-04-06; Working Hours Required by Employer and Court Clerk's Certificate, page 12-04-07)

12-08 CHALLENGES TO THE JURY SYSTEM

A. Failure to Comply with Jury Statute

Failure to comply with the provisions of Chapter 13 of the Revised Judicature Act shall not be grounds for a continuance nor shall it affect the validity of a jury verdict unless the party requesting the continuance or claiming invalidity has made timely objection, the party demonstrates actual prejudice to his/her cause, and the noncompliance is substantial. An objection made at the day of a scheduled trial shall not be considered timely unless the objection, with the exercise of reasonable diligence, could not have been made at an earlier time.

B. Data Processing Errors

If a data processing error occurs, that error shall not constitute grounds for questioning the entire list selected but only the specific person affected.

(see also Section 12-03, Limitations on Challenges to Jury Draw, page 12-03-09 and Section 12-04, Summons Performed by Sheriff as Interested Party or Relative, page 12-04-01)

[MCL 600.1354]

Risk Management

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Risk Management

13-01 LIABILITY PROTECTION FOR THE COURT

A. Introduction

Potential claims and liability for judges and court employees is an important consideration of the chief judge and court administrator. In anticipation of potential claims, an investigation should be conducted about obtaining attorney representation and indemnification or insurance coverage for liability protection of judges and court employees. If a claim arises, there are two important considerations; attorney representation and liability coverage by way of insurance or indemnification.

B. Legal Representation

1. Authority

Since October 1, 1984 the Attorney General has been required to defend judges of all state courts in certain situations. This obligation first appeared in the General Government Appropriations Act for Fiscal Year 1984-85. [1984 PA 222, Sec 27] The language continues to appear in the General Government Appropriations Act for each fiscal year and provides:

> The attorney general shall defend judges of all state courts whenever a claim is made or a civil action is commenced for injuries to persons or property caused by the judge through the performance of the judge's duties while acting within the scope of his or her authority as a judge.

There are several situations in which legal representation of judges may be sought but are outside the scope of the language in these public acts, such as representation before the Judicial Tenure Commission, representation to defend criminal charges, or where there are no injuries alleged.

2. Who May Represent

Courts and judges may be provided legal representation by the attorney general. If court employees are co-defendants in actions against courts or judges, they may receive representation by the Attorney General as well, at the request of the State Court Administrator. Courts, judges, or court employees may also receive representation by prosecuting attorneys, by an attorney employed by a county board of commissioners, by an attorney employed by a governmental agency, or by a judicial assistant. [OAG, 1979-1980, No. 5572, p 421, 423 (October 4, 1979), MCL 49.71-.73, MCL, MCL 600.1481, MCL 691.1408]

3. Scope of Representation

The obligation of the Attorney General to defend courts and judges of all state courts is administered through State Court Administrative Office Guidelines for Securing Attorney General Representation for Courts dated 7/98 (revised from 3/19/92) (see the SCAO website at: http://courts.michigan.gov/scao/resources/standards/ag_stds.pdf). A judge or court may request and will receive representation by the Attorney General in civil actions requesting monetary damages based on actions by the judge in his or her judicial or administrative capacity. Exempted are civil actions brought by a local government agency, mandamus, superintending control actions, and disciplinary proceedings. The mechanics by which requests for representation are made are also set forth in these guidelines.

4. Procedure for Providing Representation

a. Determination of Insurance Coverage or Other Means for Addressing Representation

A determination should be made as to whether there is any insurance coverage for a judge or court employee. If a judge or court employee has obtained insurance, counsel representation is generally part of the coverage. Selection of attorney is governed by the insurance policy terms. A determination should also be made as to whether there is representation for judges and/or court employees in employee handbooks, collective bargaining agreements, or resolutions or official action of county commissions.

b. Attorney General

In the event a court or judge is a defendant or respondent in a matter covered by the SCAO Guidelines for Securing Attorney General Representation, a letter should be sent **immediately** after service of the summons and complaint to the State Court Administrator asking for Attorney General representation. The original copy of the summons and complaint should be included with the request along with the date of service and how service was made.

C. Insurance Coverage or Indemnification

1. Entitlement to Indemnification

Courts and judges receiving representation pursuant to the SCAO Guidelines for Securing Attorney General Representation for Courts (see appendix) between the State Court Administrator and the Attorney General, and who has asked the Attorney General to provide a defense, are **not** entitled to indemnification from the State.

Payment of any settlement or judgment is **not** the responsibility of the State of Michigan or any of its agencies or boards - payment is the responsibility of the court's local funding unit. [MCL 600.591(12), MCL 600.837(11), and MCL 600.8271(17), Cameron v Monroe County Probate Court, 457 Mich 423 (1998)]

2. Indemnification Through Other Means

A determination should also be made as to whether there is indemnification for judges and/or court employees in employer/employee handbooks, collective bargaining agreements, or resolutions or official action of county commissions.

3. Representation/Indemnification Authorized; Not Required

State law authorizes, but does not require, a government agency to pay for, engage, or furnish an attorney for an officer or employee sued for injuries to persons or property caused by negligence while acting in the cause of employment and scope of authority. The government agency may, but is not required to, indemnify its officers or employees. [MCL 691.1408]

4. Liability Insurance

If a court or judge has obtained judicial liability insurance, then the damages, interest, costs, and taxable fees are payable to the extent of the coverage.

13-02 SURETY BOND REQUIREMENTS

A. Bonds Required for Court Personnel

COURT	POSITION TITLE	BLANKET OR INDIVIDUAL	AMOUNT	FOR BENEFIT OF OR GIVEN TO	APPROVED BY	FILED WITH	CITATION
District	Magistrate	Individual (See Note 5, following)	$50,000 Amount set by State Court Administrator	District Court and State of Michigan	Chief Judge	County Treasurer and Chief Judge	MCL 600.8507; MSA 27A.8507, MCR 8.204
District	Clerk or Deputy Clerk	Blanket or Individual	$50,000 Amount set by State Court Administrator	District Court and State of Michigan	Chief Judge	Chief Judge	MCR 8.204
District	Process Server - MCR 2.103(A) Appointed by court	Blanket or Individual	$10,000 Amount set by State Court Administrator	District Court and State of Michigan	Chief Judge	Chief Judge	MCR 8.204
District	Process Server - MCR 3.106 (B)(1)(a) Appointed by court	Independent Contractor: Individual	$50,000 Amount set by State Court Administrator	District Court and State of Michigan	Chief Judge	Chief Judge	MCR 8.204
		Court Employee: Blanket or Individual					
Probate	Probate Register	Individual	$1,000	Chief Judge	Chief Judge	County Clerk	MCL 600.833; MSA 27A.833
Circuit	Circuit Court Clerk (County Clerk)	Blanket or Individual determined by Board of Commissioner	$2,000	People of State of Michigan	Chief Judge	County Treasurer	MCL 50.61; MSA 5.831
Circuit	Friend of the Court	%	%	%	%	%	%

B. Notes

1. Where the court rules and statutes cited are silent or vague, specifications indicated above represent the position of the State Court Administrator.

2. The amounts stated are the minimum amounts. A higher amount may be appropriate depending upon individual court circumstances.

3. All positions require faithful performance and honesty bond coverage which should be effective before assuming and/or performing the duties of office.

4. "Boiler Plate" language in some blanket bonds appears to exclude performance and/or honesty bond coverage for the very people for whom it is required: therefore, it is strongly recommended that each court obtain a copy of all documents, including riders relating to its bond coverage and review them carefully to insure satisfactory compliance.

5. An individual bond is the preferred bond type. If a blanket bond is used, any pre-existing language which excludes employees required to give statutory bonds must be modified to specifically allow coverage for the district court magistrate in the amount of $50,000. (See Section 4-09, page 4-09-01 and Section 6-05, page 6-05-03.)

6. MCL 600.8507 requires that the bond for magistrates shall apply to temporary service in another county as described in this statute (see Section 4-09, page 4-09-01).

7. MCL 700.585 requires the county treasurer to post bonds with the judge of probate under certain circumstances; it is recommended that probate judges review this statute.

8. MCL 600.572b requires the court clerk to file a bond with the county treasurer conditioned that the clerk shall, in all respects comply with the requirements of law and the court rules in the handling and management of such funds, and to faithfully account for same (see Section 4-02, page 4-02-01).

9. The friend of the court surety bond requirements are covered in the Code of Federal Regulations. Child and Family Services, in the Michigan Department of Social Services, must have and use written procedures for compliance with 45 CFR 302.19. Within these procedures are regulations requiring that every person who has access to child support collections is covered by a bond against loss resulting from employee dishonesty. This provision applies to state and local IV-D agency employees. Individual counties can have self-bonding/insuring provisions. (see also Section 4-04, Item E8, page 4-04-06) [45 CFR 302.19]

13-03 COMMUNITY SERVICE PROGRAMS

A. Authority

Where probation is an authorized sentence, in most, but not all felonies and misdemeanors, the court may require the probationer to engage in community services as a condition of probation. [MCL 771.3(2)(e)]

As part of the sentence for a violation of operating a vehicle under the influence of intoxicating liquor (OUIL), unlawful blood alcohol level (UBAL) and impaired driving, a court may order a person to perform community service as designated by the court without compensation for a period specified by statute. [MCL 257.625(6),(10)]

In juvenile cases, where probation is the disposition of the court, the court may, as a condition of probation, require the child to engage in community service or with the victim's consent, perform services for the victim. [MCL 712A.18(7)]

B. Liability

The Attorney General has issued opinions that persons placed in community service programs are not employees of the governmental unit under the Michigan Workers Compensation Disability Act. It appears that participants injured in community service programs would not be entitled to workers compensation benefits. [OAG, 1983-1984, No. 6158, P. 129 (June 24, 1983), OAG, 1971-1976, No. 5061, P. 522 (June 28, 1976)]

Another consideration is governmental liability for injuries or damages to persons performing community service, third parties, or property. There may be governmental immunity if the community service program is a governmental function, that is, an activity which is expressly or impliedly mandated or authorized by constitution, statute, local charter or ordinance, or other law. [MCL 691.1407, Ross v Consumers Power Co., 420 Mich 567; 363 NW2d 641 (1984)]

C. Insurance

Since governmental immunity may not provide complete coverage, the possibility of accident and health insurance for the participant and liability insurance for the governmental agency should be explored. There are insurance policies that provide coverage for community service programs.

There is also the possibility that insurance premiums can be recovered from probationers. A court may impose as a cost, expenses specifically incurred for providing supervision to the probationer. [MCL 771.3(4)]

In OUIL, OUID, UBAL, and impaired driving cases the statute authorizes reimbursement for the cost of supervision for defendants sentenced to community service. Arguably, the cost of providing insurance for community service programs is such an expense.
[MCL 257.625(6)(e), MCL 257.625(10)(g)]

D. Safety Considerations

Any community service program should take into consideration the safety of the participant and the public. The program should be tailored to minimize risk. This can be done by incorporating the following suggestions into any community service program.

1. The candidates for the program should have a physical to determine the ability to perform anticipated work.

2. Participants should be supplied with safety equipment including, but not necessarily limited to, gloves, goggles, safety helmets, safety shoes, or whatever else may be deemed appropriate.

3. Injuries to participants should receive immediate attention by a medical doctor and the doctor should make a written report.

4. Incidents resulting in injury or damage to participants, third parties, or property should be the subject of a narrative report.

5. Participants should not be allowed to operate power equipment or vehicles.

6. Participants should not be involved in programs that have contact with the general public.

7. Special care should be used to develop programs that do not require the participants to work on or around dangerous areas, such as roads, utilities, or water.

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Court Security

14-01 COURT SECURITY

Court security has become one of the Michigan Supreme Court's highest priorities. In October of 2001, the Supreme Court asked every court to undertake immediate steps to improve their security status. Each court was asked to provide emergency contact information, review current security plans, appoint both a court security coordinator and emergency services coordinator, and cooperate with local emergency management officials.

At the request of the Chief Justice, the Michigan Emergency Management Act was amended to include the judiciary in the State Emergency Operations Center. These changes formally integrate the judiciary into the state's emergency management structure for both state and local activities. These proposals were incorporated into the anti-terrorism legislation enacted in 2002.

The State Court Administrative Office has adopted court security standards and developed a Security Handbook and Manual. The Office has also provided training for every court security coordinator in the state. See the standards and resources in the manual located at the State Court Administrative Office website at: http://courts.michigan.gov/scao/resources/standards/index.htm#sec.

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Miscellaneous Administrative Duties

15-01 APPOINTMENTS

A. Probate Judge

1. Vacancies in Elective County Offices

a. County Office

If a vacancy shall be in any county office, either elective or appointive, other than county clerk or prosecuting attorney, the presiding or senior judge of probate, the county clerk, and the prosecuting attorney shall appoint some suitable person to fill such vacancy. (See B.1.b., page 15-01-02) (see also Section 4-11, page 4-11-01) [MCL 168.209, MCL 201.35]

b. Register of Deeds

In the event of vacancy in the office of register of deeds, or absence or inability to perform the duties of office, and in the absence of the deputy register, the probate judge may appoint some suitable person to perform the duties of the register of deeds for the time being. [MCL 53.93]

c. County Drain Commissioner

When a county drain commissioner is disqualified because of conflict of interest or otherwise, the probate judge shall appoint a disinterested commissioner of an adjoining or nearby county to make the apportionment of benefits on said drain. [MCL 280.382]

2. Other Appointments

a. Appointment to State Boundary Commission

The presiding probate judge in each county shall appoint two persons and two alternates for those persons residing in that county to serve on the State Boundary Commission during such time as the commission shall have under consideration municipal boundary adjustments for territory lying within his/her county.
[MCL 123.1005]

b. Reorganization of School Districts

The probate judge appoints five members to the intermediate district committee for the reorganization of school districts. [MCL 388.685]

c. Soldiers' Relief Commission

The judge of probate in each county shall appoint three honorably discharged veterans to be known as the "Soldiers' Relief Commission". The judge shall have the authority to remove any such member for cause. This does not apply in counties with a county department. [MCL 35.22]

d. County Tax Allocation Board

The probate judge shall select one of the members of the County Tax Allocation Board according to the provisions of MCL 211.205(e). This does not apply in counties that have voted a fixed allocation. [MCL 211.205(e)]

B. Circuit Judge

1. Vacancies in Elective Offices

a. Prosecuting Attorney or County Clerk

If there becomes a vacancy in the office of county clerk or prosecuting attorney, it shall be filled by appointment by the judge or judges of that judicial circuit. An appointee holds office for the remainder of the unexpired term and until a successor has been elected and qualified. However, if the general election is more than 150 days after the vacancy occurs, the appointee only holds until either the appointee or another successor is elected and qualifies at the general election. (see also Section 4-02, page 4-02-02) [Const 1963, Art 6, Sec 14, MCL 168.209(1),(3), MCL 201.35]

If a temporary vacancy exists in the office of county clerk or prosecuting attorney, the judge or judges of the circuit court may make a temporary appointment. If there is more than one judge in the county where there is a vacancy, the chief judge shall promptly call a meeting of all of the judges in the county to make the appointment to vacant office. In counties where there is more than one judge, a majority vote of the circuit judges makes the appointment. [MCL 201.15, MCL 201.35]

b. Special Prosecutor

If the prosecuting attorney of a county is disqualified by reason of conflict of interest or is otherwise unable to attend to the duties of the office, the circuit court for that county may appoint an attorney at law as a special prosecuting attorney. This is a statutorily created process requiring findings of fact and certain limitations if an assistant prosecuting attorney has been or can be appointed by the prosecuting attorney. (see section A. 1. a., page 15-01-01) [MCL 49.160]

2. Other Appointments

a. County Jail Monitor

Case law has recognized the right of a circuit court judge to appoint a jail monitor. A circuit court judge can appoint a monitor to help effect relief given in a lawsuit brought to determine whether a statutory duty to provide a suitable and sufficient county jail has been established. (See also Section 15-06, Jail Overcrowding Act, page 15-06-01) [Wayne County Jail Inmates v Wayne County Sheriff, 391 Mich 359; 216 NW2d 910 (1974)]

3. Approval of Others' Appointments

a. Deputy County Clerks

MCL 50.63
MCL 600.571(c)
MCL 600.579

(see also Section 4-02, page 4-02-01)

b. Assistant Prosecuting Attorneys

1) The prosecuting attorney of any county is authorized and empowered to appoint an assistant prosecuting attorney, by and with the consent of the circuit judge of the judicial circuit in which the county is situated, which appointment shall be in writing and filed with the county clerk. [MCL 49.41]

2) The prosecuting attorney of any county in this state having a population of over 60,000 inhabitants and less than 350,000 inhabitants is authorized and empowered to appoint a second assistant prosecuting attorney, by and with the consent of the circuit judge of the judicial circuit in which the county is situated, which appointment shall be in writing and filed with the county clerk. [MCL 49.51]

15-02 APPOINTMENT OF COUNSEL/REPRESENTATIVES IN CIRCUIT COURT

A. Introduction

Any consideration to appoint counsel in circuit court must be divided into two classes, 1) trial court and 2) appellate court. For trial court appointments the type of cases, the method used, and the manner of payment vary in the circuit courts. Appointment of appellate counsel by circuit courts and the manner of practice by appointed appellate attorneys is controlled by state law, regulations, and an administrative order of the Michigan Supreme Court. Chief judges should review their courts' practices in appointing counsel and selecting guardians ad litem and next friends to assure that those appointed reflect the racial, ethnic, and gender composition of the community being served. Appointment of counsel generally is regulated by MCR 8.123.

B. Appointment of Counsel in Criminal Cases

1. Applicable Law for Appointment in Felony Cases

The majority of appointments made at the trial level by circuit courts relate to appointing counsel for indigents in felony cases.

a. Michigan Court Rule

1) Advice of Right

At the arraignment on the warrant or complaint, the court must advise the defendant of entitlement to a lawyer's assistance at all subsequent court proceedings, and that the court will appoint a lawyer at public expense if the defendant wants one and is financially unable to retain one. The court must question the defendant to determine whether the defendant wants a lawyer and, if so, whether the defendant is financially unable to retain one.[MCR 6.005(A)]

2) Appointment of a Lawyer

If the defendant wants a lawyer and if the court determines that the defendant is financially unable to retain a lawyer, it must promptly appoint a lawyer and promptly notify the lawyer of the appointment. [MCR 6.005(D)]

(See also MCR 6.905(A),(B) and page 15-03-03)

3) Advice at Subsequent Proceedings

If a defendant has waived the assistance of a lawyer, the record of each subsequent proceeding need show only that the court advised the defendant of the continuing right to a lawyer's assistance (at public expense if the defendant is indigent) and that the defendant waived that right. [MCR 6.005(E)]

4) Multiple Representation

When two or more indigent defendants are jointly charged with an offense or offenses or their cases are otherwise joined, the court must appoint separate lawyers unassociated in the practice of law for each defendant except under certain conditions as specified in court rule. [MCR 6.005(F)]

b. Case Law

The trial court has the right to determine or deny fees to appointed counsel. [In the Matter of Attorney Fees of Burgess, 69 Mich App 689, 691-992; 245 NW2d 348 (1976)]

The legislature has authorized the trial judge to exercise discretion in determining reasonable compensation for the services performed. [In the Matter of the Attorney Fees of Ruth Ritter and Raymond E. Willis, 63 Mich App 24, 28; 233 NW2d 876 (1975), rev'd on other grounds 399 Mich 563 (1977), In the Matter of Attorney Fees of Burgess, supra, 692]

The trial judge has wide discretion to determine the value of services rendered by appointed counsel. [In the Matter of Attorney Fees of William J. Hayes, 55 Mich App 30, 33; 222 NW2d 20 (1974), Iv den 394 Mich 794 (1975)]

However, ordering a fee grossly below scheduled fees or consistently refusing to award fees even approximating those in an established fee schedule might lead to the conclusion that there was not the proper exercise of discretion. [In the Matter of Attorney Fees of Ruth Ritter and Raymond E. Willis, supra, 28]

A court may remove appointed counsel for gross incompetence, physical incapacity or contumacious conduct. [People v Fox, 97 Mich App 324, 328; 293 NW2d 814 (1980), rev'd on other grounds 410 Mich 871 (1980)]

c. Statutes

The chief judges of the circuit courts have the responsibility for appointment in felony cases or they may direct the magistrate, as defined in MCL 761.1(f), to appoint counsel in felony cases. [MCL 775.16]

An attorney appointed to represent an indigent is not required to follow the case into another county or into the Supreme Court, but if the attorney does so, compensation may be increased as fixed by the court. [MCL 775.17]

2. Reimbursement of Court Appointed Attorney Fees

Court costs including costs of providing legal assistance may only be imposed pursuant to statutes cited or a specific penal statute under which a defendant is convicted. Costs may be authorized as a condition of probation but are limited by the defendant's ability to pay. (see also Volume 1, Trial Court Bench Guides, p. 95. and SCAO Approved Form CC 402, Order Regarding Appointment of Appellate Counsel and Transcript)[MCL 769.3, MCL 771.3(4)]

A person does not have to be completely without financial means in order to be considered "indigent" for purposes of determining ability to pay for competent defense counsel. [People v Bohm, 393 Mich 129 (1974)]

If a defendant (in a criminal felony case) is able to pay part of the cost of a lawyer, the court may require contribution to the cost of providing a lawyer and may establish a plan for collecting the contribution. [MCR 6.005(C)]

See also MCR 6.905(D) and MCL 769.1(7), Section 6-14, page 6-14-01, and Section 15-03, pages 15-03-03 through 15-03-04)

C. Appointment of Counsel for Postappeal Relief in Criminal Cases

The appointment of counsel for indigents seeking postappeal relief under MCR Subchapter 6.500 is controlled by MCR 6.505. If the defendant has requested appointment of counsel, and the court has determined that the defendant is indigent, the court may appoint counsel for the defendant at any time during the proceedings under subchapter 6.500. Counsel must be appointed if the court directs that oral argument or an evidentiary hearing be held. [MCR 6.505(A)]

D. Appointment of Counsel at Appellate Level in Criminal Cases

1. Applicable Law for Appointment of Counsel

The appointment of appellate counsel for indigents in criminal cases is controlled by MCR 6.425(F)(1), the Appellate Defender Act [MCL 780.711 et seq.], the Michigan Appellate Assigned Counsel System Regulations (MAACS Regulations) effective November 15, 1985, amended January 28, 1988, and Minimum Standards for Indigent Criminal Appellate Defense Services set forth in Michigan Supreme Court Administrative Order 1981-7 and Michigan Supreme Court Administrative Order 1989-3 In re the Appointment of Appellate Assigned Counsel.

2. Procedure for Appointment of Appellate Counsel

The Appellate Defender Commission was created by the Appellate Defender Act. The Commission is responsible for compiling and keeping current a statewide roster of attorneys eligible to accept criminal appellate defense counsel appointments for indigents. [MCL 780.711 et seq.]

a. Appellate Assigned Counsel System

Section 1 of the Michigan Appellate Assigned Counsel System Regulations requires the Commission to establish an Appellate Assigned Counsel System to compile and maintain a statewide roster of attorneys eligible and willing to accept criminal appellate defense appointments. It is called the Michigan Appellate Assigned Counsel System (MAACS). Michigan Supreme Court Administrative Order 1989-3 requires the judges of each circuit court to comply with section 3 of the MAACS Regulations.

1) Selection of Counsel

The MAACS administrator is required to provide each circuit court a list of local attorneys eligible and willing to accept appellate appointments from each court's jurisdiction under Section 2(2) of the MAACS Regulations.

Under Section 3(1) of the MAACS regulations the judges of each circuit court must appoint a local designating authority who may be responsible for the selection of assigned appellate counsel from the local list provided by the MAACS administrator. Section 3(1) also makes the local designating authority responsible for such other tasks in connection with the operation of the list as may be necessary at the trial court level.

Pursuant to section 3(4), in each circuit court, the chief judge shall determine whether appellate counsel are to be selected by the chief judge or the local designating authority. If a chief judge decides to retain the discretion to select counsel, the discretion must be personally exercised and not delegated.

The rules for selecting appellate assigned counsel for both the chief judge and the local designating authority are set forth in Section 3(5), (6), and (7) of the MAACS Regulations. As a general rule, each circuit court will appoint the State Appellate Defenders Office in every third, fourth, or fifth case, depending upon a formula adopted by the Commission. Most other appointments will be made by systematically rating the local list. However, there are some exceptions set forth in the MAACS Regulations.

2) Determining Eligibility

MAACS has also developed a classification of common criminal offenses by which the local designating authority can determine which of three levels of attorneys are eligible to handle an appeal.

3) Record of Appointments

The local designating authority is also responsible for keeping a record of appointments made and for providing certain information to MAACS on a regular basis.

4) Fee Schedule

Although the fee schedule is set by circuit court, it is good management practice to consult with the funding unit. (see page 15-02-04)

Operations directions for the local designated authority and copies of MAACS Regulations can be obtained from MAACS,1375 South Washington, Suite 300, Lansing, Michigan 48913, (517) 373-8002.

E. Appointment of Counsel in Child Support Contempt Proceedings

In child support enforcement matters, circuit courts are required to provide legal counsel at public expense to any indigent person who is cited for civil contempt if the court is considering incarceration. Courts should take the necessary steps to ensure that counsel is available in these cases. [Mead v Batchlor, 435 Mich 480 (1990)]

F. Appointment of Counsel in Personal Protection Contempt Proceedings

In personal protection violation hearing, circuit courts are required to provide legal counsel at public expense to any indigent person who is cited for criminal contempt because the penalty if found guilty, is incarceration. Courts should take the necessary steps to ensure that counsel is available in these cases. [Mead v Batchlor, 435 Mich 480 (1990), MCR 3.708(D)]

G. Authority for Appointment of Attorneys; Reimbursement; Discharge, Juveniles (Family Division)

1. Delinquency Proceedings [MCL 712A.4(5), MCR 5.915(A)]

a. Advice; the court must advise the juvenile of the right to an attorney at each stage of the proceedings on the formal calendar.

b. Appointment; the court shall appoint an attorney for a juvenile if:

1) the parent refuses or fails to appear and participate in the proceedings,

2) the parent is the complainant or victim,

3) the juvenile and those responsible for the support of the juvenile are found financially unable to retain an attorney and the juvenile does not waive an attorney,

4) those responsible for the juvenile refuse or neglect to retain an attorney for the juvenile and the juvenile does not waive an attorney, or

5) the court determines that the best interest of the juvenile or the public require appointment.

c. Waiver; the juvenile may voluntarily and understandingly waive an appointed attorney under (1) through (4) above if no objection to the waiver is made by the juvenile's parent or guardian ad litem.

2. Child Protective Proceedings [MCL 722.630, MCR 5.915(B)]

a. Respondent

1) Advice; a respondent in a child protective proceeding shall be advised of right to counsel at the first court appearance.

2) Appointment; a respondent financially unable to retain counsel may request a court appointed attorney at the first court appearance or at any later stage of the proceedings. The court shall appoint an attorney to represent a respondent who is financially unable to retain an attorney.

3) Waiver; a respondent may waive right to counsel. The court may not accept a waiver by a respondent who is a minor when a parent or guardian ad litem objects to the waiver.

b. Child

1) Appointment; the court must appoint an attorney to represent the child at every hearing.

2) Waiver; the child's right to an attorney may not be waived.

3. Indian Child Welfare Act [25 USC 1912b]

In any case in which the court determines indigence, the parent or Indian custodian shall have the right to court appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon finding that such an appointment is in the best interest of the child.

4. Reimbursement of Court Appointed Attorney Fees

Court appointed attorney fees are chargeable against the party for whom the attorney was appointed or against those persons responsible for support of the individual for whom the attorney was appointed. Enforcement of an order for reimbursement of attorney fees is enforceable through contempt proceedings. (see also Volume 1, Trial Court Bench Guides, p. 95. and SCAO Approved Form JC 38, Order for Reimbursement) [MCR 5.915(D), MCL 712A.4(5)]

5. Discharge of Counsel

Court appointed attorneys serve the clients whom they represent until they are discharged by the court. [MCR 5.915(E)]

H. Authority for Appointment of Attorneys, Adoption Proceedings (Family Division)

Step-Parent Adoptions [Matter of Sanchez, 422 Mich 758 (1985)]

In cases which may result in non-consensual termination of parental rights of non-custodial parent, under the step-parent adoption provisions of the Adoption Code, the probate court has discretionary authority to appoint counsel to assist the indigent non-custodial parent in contesting termination.

I. Appointment of Attorneys in Emancipation Proceedings [MCL 722.4b]

After a petition for emancipation is filed, the court may appoint legal counsel for the minor. The court may also appoint legal counsel for the minor's parents or guardian if they are indigent and oppose the petition.

J. Appointment of Attorneys and Guardians Ad Litem for Ancillary Proceedings in Family Division

See Section 15-04, items C. and E. for information on probate court proceedings over which the circuit court has ancillary jurisdiction.

K. Appointment of Attorneys in Infectious Disease Proceedings [MCL 333.5205]

An individual who is the subject of a petition filed under this section or an affidavit filed under MCL 333.5207 shall have the right to counsel at all stages of the proceedings. If the individual is unable to pay the cost of counsel, the probate court shall appoint counsel for the individual.

L. Appointment of Guardians Ad Litem and Next Friends

1. Civil Procedures, Generally

If a minor or incompetent person does not have a conservator, the court shall appoint either a next friend to appear on the person's behalf as a plaintiff or a guardian ad litem if the person is named as a defendant. [MCR 2.201(E)]

2. Divorce, Separate Maintenance, or Annulment

Although not required by court rule or statute, the court may order the appointment of a next friend or guardian ad litem for a legally married minor who is permitted to prosecute or defend an action for divorce, separate maintenance, or annulment in his/her name.

If it is alleged in any such action that the marriage was not lawful, then appointment of a next friend or guardian ad litem is required. In addition, if an action is brought by or against an incompetent person, the appointment of a guardian ad litem is required.

[MCL 551.251, MCR 2.201(E), MCR 3.203]

3. Personal Protection Proceedings

If the petitioner in a personal protection action is a minor or a legally incapacitated person, the petitioner must proceed through a next friend. The petitioner shall certify that the next friend is not disqualified by statute and that the next friend is an adult. Unless the court determines appointment is necessary, the next friend may act on behalf of the minor or legally incapacitated person without appointment. However, the court shall appoint a next friend if the minor is less than 14 years of age. The next friend is not responsible for the costs of the action. [MCR 3.703(F)]

4. Child Custody Act

If a child custody dispute has been submitted to the circuit court as an original action under the Child Custody Act or has arisen from another action in the circuit court or as a result of an order or judgment of the circuit court, the court <u>may</u> appoint a guardian ad litem or counsel for the child.
[MCL 722.27(1)(e)]

5. Paternity Act

Although not required to do so, the circuit judge may appoint a next friend or guardian ad litem for the minor child. [MCL 722.714(7)]

6. Family Division Juvenile and Adoption Proceedings

The court may appoint a guardian ad litem for a party if the welfare of the party requires it. [MCR 5.916]

7. Disinterment of War Veterans

The court shall appoint a guardian ad litem, upon petition of any party in interest, for minors who are surviving children or next of kin of a war veteran. The procedure for appointment of the guardian is governed by MCR 2.201(E). [MCL 35.842]

8. Taxation of Inheritances

A proceeding to enforce a lien under this Act is brought in the circuit court. The Act provides if an insane, infant, or mentally incompetent person has an interest in the property upon which a lien exists, the court may appoint a guardian ad litem for the person upon motion of the Attorney General or upon the request of the infant or at the request of the insane or otherwise incompetent person's general guardian.
[MCL 205.203(7)]

9. Separate Grades for Highways and Railroads

In proceedings under MCL 253.1 et seq., if a minor or person of unsound mind is a respondent, the court may appoint a guardian for the person using the procedures set forth at MCL 600.2415 for purposes of accepting service of the summons and representation of the person in the proceedings. [MCL 253.10, MCL 253.63]

In proceedings brought under MCL 253.61 et seq., in an action for determination of damages, the court shall appoint a guardian ad litem to represent any minor or insane or incompetent person.

10. Michigan Community Property Act

While this Act was generally repealed effective May 10, 1948, its provisions may still apply under certain circumstances as more fully set forth in the Repealing Act found at MCL 557.252 et seq. In an action brought under this proceeding, the court must appoint a guardian ad litem for any spouse who is non-compos mentis and has no guardian. [MCL 557.211(b)]

11. Unborn Persons

In any action or proceeding where it appears an unborn person may become entitled to a property interest, real or personal, legal or equitable, involved in or affected by the action, the court may, at its own motion, or motion of any party, appoint a guardian ad litem of the unborn person. [MCL 600.2045]

12. Lands of Infants and Incompetents; Court Order Sale, Lease or Exchange

The court may appoint a guardian ad litem to represent any infant or incompetent person governed by this provision of law. The process for appointing the guardian is as provided in MCR 2.201(E). [MCL 600.2928]

M. Reimbursement of Court Appointed Attorney Fees

Court costs including costs of providing legal assistance may only be imposed pursuant to statutes cited or a specific penal statute under which a defendant is convicted. Costs may be authorized as a condition of probation but are limited by the defendant's ability to pay. (see also Volume 1, Trial Court Bench Guides, p. 95. and SCAO Approved Form CC 402, Order Regarding Appointment of Appellate Counsel and Transcript) [MCL 769.3, MCL 771.3(4)]

A person does not have to be completely without financial means in order to be considered "indigent" for purposes of determining ability to pay for competent defense counsel. [People v Bohm, 393 Mich 129 (1974)]

If a defendant (in a criminal felony case) is able to pay part of the cost of a lawyer, the court may require contribution to the cost of providing a lawyer and may establish a plan for collecting the contribution. [MCR 6.005(C)]

See also MCR 6.905(D) and MCL 769.1(7)

(See also Section 6-14, page 6-14-01 and Section 15-03, pages 15-03-03 through 15-03-04)

N. Procedure for Appointment of Trial Counsel for Indigents

The appointment of trial counsel for indigents in circuit court varies greatly among the court with respect to the method used, qualifications for appointment, standards of practice, the manner of appointment, payment, the type of cases for which appointments are made, and record systems.

Each trial court must adopt a local administrative order that describes the court’s procedures for selecting, appointing, and compensating counsel who represent indigent parties in that court. The trial court must submit the local administrative order to the State Court Administrator for review pursuant to MCR 8.112(B)(3). The State Court Administrator shall approve a plan if its provisions will protect the integrity of the judiciary. [MCR 8.123(B), (C)]

1. Elements of an Adequate Appointment System

An adequate system should establish training requirements, qualification and/or experience requirements, standards of practice, a fair selection system, a payments schedule, and a record keeping system.

2. Methods

There are three methods for appointing trial counsel used in Michigan:

a. Appointment of Counsel From the Bar

An appointment of counsel system operates where private attorneys either solicit appointments from judges or are placed upon a list from which appointments are made. The manner of appointment varies among the circuits with some courts relying upon appointment by the judge and others using rotating lists.

b. Defender System

A defender system is a public or private nonprofit organization with full-time or part-time salary staff handling a percentage of the assigned cases. The percentage of cases handled by the defender varies from court to court. It is not possible for a defender office to handle all assigned cases because of possible conflicts of interest.

c. Contract System

A contract system is one in which an attorney, law firm, or a bar association agree to provide particular services for a specified dollar amount.

Some counties use a variation of one or more of the systems.

3. Payment

There are almost as many methods of payment as there are circuits in Michigan. Fee schedules include, but are not limited to, hourly rates, daily rates, and types of cases. Normally, the fee schedule is established by circuit court with the approval of the funding unit. Although the court has the right to set the fee schedule, it is good management practice to consult with the funding unit. (see also Section 15-02, page 15-02-06)

4. Types of Cases

The types of cases handled also varies among the courts. They include felonies, misdemeanors, juvenile offenses, civil commitments, line-ups, probation violations, diversion review hearings, extraditions, paternity, and for witnesses that may be giving self incriminating testimony. It appears that indigents may be entitled to appointment of counsel in show cause hearings relating to the failure to pay child support. [See McKinstry v Genesee County Circuit Court, 669 F Supp 801 (ED Mich, 1987)]

O. Record Keeping and Reporting

1. Required Records

At the end of each calendar year, a trial court must compile an annual written or electronic report of: 1) the number of appointment given to each attorney by that court; 2) the number of appointments given to each attorney by each judge of that court; 3) the total public funds paid to each attorney for appointments by that court; and 4) the total public funds paid to each attorney for appointments by each judge of that court.

Trial courts that contract for services to be provided by an affiliated group of attorneys may treat the group as a single entity when compiling the required records of appointments and compensation.

These required records must be retained for the period specified by the State Court Administrative Office's General Schedule 16. [see the schedule on the SCAO's website at: http://courts.michigan.gov/scao/resources/standards/cf_schd.pdf]

[MCR 8.123(D)]

When requested by the State Court Administrator, a trial court must provide a copy of its most recent annual report on appointment of counsel and provide data on an individual attorney or judge for a period specified by the request.

[MCR 8.123(F)]

2. Public Access to Records

The records must be available at the trial court for inspection by the public, without charge. The court may adopt reasonable access rules, and may charge a reasonable fee for providing copies of the records. [MCR 8.123(E)]

15-03 APPOINTMENT OF COUNSEL IN DISTRICT/ MUNICIPAL COURT

A. Constitutional Authority

The right to assistance of counsel to any person charged with a crime is a fundamental right made applicable to state court proceedings by the Fourteenth Amendment of the United State Constitution. [Gideon v Wainwright, 335 US 355; 9 L Ed 2d 799]

Absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, unless represented by counsel at trial. [Argersinger v Hamlin, 407 US 25; 32 L Ed 2d 530, People v Studaker, 387 Mich 698; 199 NW 2d 177 (1972)]

B. Michigan Court Rules and Statutes Regarding Felony Cases

1. Advice of Right

At the arraignment on the warrant or complaint, the court must advise the defendant of entitlement to a lawyer's assistance at all subsequent court proceedings, and that the court will appoint a lawyer at public expense if the defendant wants one and is financially unable to retain one. The court must question the defendant to determine whether the defendant wants a lawyer and, if so, whether the defendant is financially unable to retain one. [MCR 6.005(A)]

2. Appointment of a Lawyer

If the defendant wants a lawyer and if the court determines that the defendant is financially unable to retain a lawyer, it must promptly appoint a lawyer and promptly notify the lawyer of the appointment. [MCR 6.005(D)]

3. Advice at Subsequent Proceedings

If a defendant has waived the assistance of a lawyer, the record of each subsequent proceeding need show only that the court advised the defendant of the continuing right to a lawyer's assistance (at public expense if the defendant is indigent) and that the defendant waived that right. [MCR 6.005(E)]

4. Appointment by Magistrate

The chief judge of the circuit court may direct the magistrate, as defined in MCL 761.1(f), to appoint counsel in felony cases. [MCL 775.16]

Note: **Under MCL 761.1(f) a "magistrate" is a district court judge and does not include a district court magistrate**. A district court magistrate may only exercise the

powers, jurisdiction, and duties explicitly provided by law. MCL 600.8513 allows that a district court magistrate, when authorized by the chief judge of the district, may "approve and grant petitions for the appointment of an attorney to represent an indigent defendant accused of any misdemeanor punishable for not more than 1 year or ordinance violation punishable by imprisonment". [emphasis added]

C. Michigan Court Rules and Statutes Regarding Misdemeanor Cases

1. An indigent defendant has a right to an appointed attorney whenever

   a. the offense charged is punishable by more than 92 days in jail;

   b. the offense charged requires on conviction a minimum term in jail; or

   c. the court determines that it might sentence the defendant to jail.

   [MCR 6.610(D)(2),(E)(2)]

   If any of these circumstances exist, the court must inform the defendant of the right to have an attorney appointed at public expense if the defendant is indigent:

   1) whenever a defendant is arraigned on an offense over which the district court has jurisdiction; [MCR 6.610(D)(1)]

   2) whenever a defendant is arraigned on felony or a misdemeanor not cognizable by the district court; [MCR 6.610(G)]

   3) before accepting a plea of guilty or no contest on a misdemeanor within the district court's jurisdiction; [MCR 6.610(E)(2)]

   4) before proceedings with a probation revocation hearing or sentencing of a probationer, even though the probationer has waived the assistance of an attorney at arraignment. [MCR 6.445(B)(2)]

   The right to the assistance of an attorney appointed by the court is not waived unless the defendant has been informed of the right and has waived it in a writing that is made part of a file or orally on the record (see SCAO Approved Form DC 213). [MCR 6.610(D)(3)]

   If an indigent defendant is without an attorney and has not waived the right to an appointed attorney, the court may not sentence the defendant to jail. [MCR 6.610(D)(2)]

2. District court magistrates, when authorized by the chief district judge, may appoint counsel to represent indigent defendants accused of misdemeanors punishable by imprisonment for not more than 1 year or ordinance violations punishable by imprisonment. [MCL 600.8513]

D. Michigan Court Rules Regarding Juvenile Cases

A juvenile charged with a life offense subject to the jurisdiction of the district court and the circuit court has the right to an appointed attorney under MCR 6.905. (See also page 15-02-01 and Section 6-14, page 6-14-01)

1. Advice of Right

If the juvenile is not represented by an attorney, the magistrate or court shall advise the juvenile at each stage of the criminal proceedings of the right to the assistance of an attorney. If the juvenile has waived the right to an attorney, the court at later proceedings must reaffirm that the juvenile continues to not want an attorney to represent the juvenile. [MCR 6.905(A)]

2. Court Appointed Attorney

Unless the juvenile has a retained attorney, or has waived the right to an attorney, the magistrate or the court must appoint an attorney to represent the juvenile. [MCR 6.905(B)]

(See also page 15-02-01 and Section 6-14, page 6-14-01)

E. Miscellaneous References

1. Compensation of Court Appointed Attorneys
   [MCL 775.16, MCR 8.202]

2. Petition and Order for Court Appointed Attorney
   [SCAO Approved Form MC 222]

3. Statement of Service and Order for Payment of Court Appointed Counsel
   [SCAO Approved Form MC 221]

F. Procedures, Record Keeping, and Reporting for Appointment of Trial Counsel

The procedures for appointment of counsel (see Section 15-02, Appointment of Counsel in Circuit Court) and record keeping and reporting requirements is the same as specified for the circuit court. (see Section 15-02, page 15-02-12) In addition, chief judges should review their courts' practices in the assignment of counsel to assure that those appointed reflect the racial, ethnic, and gender composition of the community being served. [MCR 8.123]

G. Reimbursement of Court Appointed Attorney Fees

1. Cases Not Involving Juveniles

Court costs including costs of providing legal assistance may only be imposed pursuant to statutes cited or a specific penal statute under which a defendant is convicted. Costs may be authorized as a condition of probation but are limited by the defendant's ability to pay. (see also Volume 1, Trial Court Bench Guides, p. 95 and People v Bohm, 393 Mich 129 (1974)) [MCL 769.3, MCL 771.3(4)]

2. Cases Involving Juveniles

The court may assess cost of legal representation, or part thereof, against the juvenile or against a person responsible for the support of the juvenile, or both. The order assessing cost shall not be binding on a person responsible for the support of the juvenile unless an opportunity for a hearing has been given and until a copy of the order is served on the person, personally or by first class mail, to the person's last known address. [MCR 6.905(D)]

(See also page 15-02-05 and Section 6-14, page 6-14-01 and MCL 769.1(7)]

15-04 APPOINTMENT OF REPRESENTATIVES IN PROBATE COURT

A. Introduction

Court appointed representatives in probate court include attorneys, guardians ad litem, and visitors. Chief judges should review their courts' practices in the assignment of counsel, selection of guardians ad litem, and visitors to assure that those appointed reflect the racial, ethnic, and gender composition of the community being served. See MCR 8.123.

B. Procedures, Record Keeping, and Reporting for Court Appointed Attorneys

The procedures for appointment of counsel (see Section 15-02, Appointment of Counsel in Circuit Court) and record keeping and reporting requirements is the same as specified for the circuit court. (see Section 15-02, page 15-02-12), except that the Supreme Court may, by court rule, establish compensation to be paid for counsel of indigents and may require that counsel be appointed from a system or organization established for the purpose of providing representation in proceedings under the Mental Health Code.
[MCL 330.1454, MCL 330.1615, MCR 5.732, MCR 8.123]

There is no statute or court rule applicable to appointment of appellate counsel. In cases where a party qualified for an attorney at the initial hearing, case law indicates that person, assuming no change in financial circumstances, is entitled to appointment of appellate counsel on appeal. [Matter of Sanchez, 422 Mich 758 (1985)]

Chief judges should review their courts' practices in the assignment of counsel to assure that those appointed reflect the racial, ethnic, and gender composition of the community being served.

C. Authority for Appointment of Attorneys (applies to Circuit Court Ancillary Proceedings)

1. Guardian, Conservator, Protective Order - Minor

The court may appoint an attorney on filing of a petition for appointment or removal of a guardian, appointment or removal of a conservator, or petition for a protective order for a minor not represented by an attorney and whose interests are or may be inadequately represented. In making the appointment, the court must give preference to the wishes of a minor age 14 and over. [MCL 700.427, MCL 700.437, MCL 700.490]

2. Guardian - Adult

The alleged legally incapacitated person is entitled to be represented by counsel. The same procedural safeguards apply for removal as for appointment. By implication, the ward is entitled to be represented by counsel.
[MCL 700.443, MCL 700.447]

If a petition for modification or written request for modification comes from the legally incapacitated person who does not have an attorney, the court shall immediately appoint an attorney. [MCR 5.768(B)(1)]

3. Mental Health Rules [MCR 5.732(A),(D)]

a. Discharge; the attorney of record represents the subject of the petition in all proceedings until discharge by the court or until another attorney has filed an appearance on respondent's behalf.

b. Waiver; a respondent may voluntarily and understandingly waive right to an attorney in open court after consultation with an attorney.

4. Mental Health Code

a. Civil Admission as Mentally Ill [MCL 330.1454]

1) Appointment; every person subject to a petition for civil admission as mentally ill is entitled to be represented by legal counsel. Counsel for the subject of the petition must be appointed within 24 hours of hospitalization or within 48 hours after receipt of a petition by the court. The court shall replace appointed counsel with counsel of respondent's preference. (see also page 15-04-06)

2) Waiver; the subject of the petition may waive the right to counsel in writing after consultation with counsel.

3) Compensation; court appointed counsel are compensated from court funds. The court determines the amount that is reasonable based on time and expenses.

b. Judicial Admission of Developmentally Disabled Persons
[MCL 330.1516, MCL 330.1517]

Appointment, waiver, and compensation; the subject of a petition has a right to legal counsel at the preliminary hearing for judicial admission. The individual asserted to meet the criteria for judicial admission is entitled to be represented by legal counsel in the same manner as counsel provided pursuant to MCL 330.1454. (see also MCR 5.746(C)]

c. Guardianship of Developmentally Disabled Persons
[MCL 330.1615]

1) Appointment; a respondent is entitled to be represented by legal counsel. Within 48 hours of receipt of a petition, the court shall appoint counsel to represent the respondent. The court shall replace appointed counsel with counsel preferred by respondent.

2) Compensation; court appointed counsel are compensated from court funds in an amount which is reasonable based upon time and expenses.

D. Appointment of Guardians Ad Litem and Visitors (applies to Circuit Court Ancillary Proceedings)

1. Temporary Guardian
[MCR 5.763(C)]

For the purpose of an emergency hearing for appointment of a temporary guardian of an alleged legally incapacitated person, the court shall appoint a guardian ad litem unless such appointment would cause delay and the alleged legally incapacitated person would likely suffer serious harm if immediate action is not taken.

2. Guardian - Adult
[MCL 700.443;, MCL 700.447, MCR 5.201]

Upon filing a petition for guardianship, the court shall appoint a guardian ad litem to represent the person who is the subject of the petition unless the alleged legally incapacitated person has legal counsel of his/her own choice. The same rights and procedures apply to a petition for removal of a guardian as apply to a petition for appointment. The court may appoint a visitor.

3. Conservator, Protective Order - Adult
[MCL 700.467, MCL 700.490, MCR 5.201(A)(1)]

The court shall appoint a guardian ad litem to represent the subject of the petition where no private counsel has filed an appearance unless the subject of the petition is mentally competent, but aged and infirm. The same rights and procedures in an original proceeding apply in termination proceedings. The court may appoint a visitor.

4. Conservator, Protective Order - Minor
[MCL 700.467(1), MCR 5.201(A)(2)]

An attorney appointed by the court to represent a minor has the same responsibilities as a guardian ad litem.

5. Substance Abuse Treatment and Rehabilitation Programs - Minor
[MCL 333.6124-.6126]

The court shall appoint a guardian ad litem to represent the minor for purposes of hearing on petition to determine necessity of treatment and rehabilitation, periodic program review, and hearing on objection to minor's treatment plan

6. Other Proceedings [MCL 700.24, MCR 5.201]

The court may appoint a guardian ad litem to appear for and represent a minor, a protected person, one who is or is alleged to be a legally incapacitated person or a developmentally disabled person. The court may appoint a visitor.

7. Kidney Transplants [MCL 700.407]

If the prospective donor does not have a guardian, the court shall appoint a guardian ad litem to protect the prospective donor's interests.

8. Mental Health Rules [MCR 5.732]

The court may appoint a guardian ad litem if the subject of a petition or respondent has waived right to an attorney.

9. Mental Health Code [MCL 330.1616, MCR 5.201]

The court shall appoint a guardian ad litem for an alleged developmentally disabled person where the court determines that respondent requires a person to represent his/her best interest and to assist legal counsel.

15-05 BAIL BOND

A. Authority

A person charged with a crime, except as provided in Article I, Section 15 of the Michigan Constitution of 1963, is entitled to release on his/her own recognizance, conditional release, or release on money bail (surety, 10%, or cash). Michigan law further provides that a person charged with treason or murder shall not be admitted to bail under certain conditions [MCL 765.5]; and, a person charged with a crime alleged to have occurred while on bail pursuant to a bond personally executed by him/her, or a person who has been twice convicted of a felony within the preceding five years, shall be required to post a cash bond or a surety other than that applicant [MCL 765.6a]. The court may also release a defendant subject to conditions reasonably necessary for the protection of 1 or more named persons [MCL 765.6b]. No attorney may post a bond on behalf of a criminal defendant. [MCL 765.8] Bonds are not subject to garnishment or attachment. [MCL 765.16]

B. Types of Bond/Release

The following statutes and court rules provide more specific information in regard to bail/bond and release of persons charged with crimes/offenses.

1. Michigan Motor Vehicle Code [MCL 257.728]

2. Support and Parenting Time Enforcement Act (civil contempt)
   [MCL 552.632]

3. Civil Arrest [MCL 600.6076]

4. Non-resident Traffic Offenses and Misdemeanors
   [MCL 600.8311, MCL 600.8511]

5. Code of Criminal Procedure - Bail [MCL 765.1 et seq.]

6. Extradition - Bail [MCL 780.14]

7. Bail for Traffic Offenses or Misdemeanors [MCL 780.61]

8. Release of Misdemeanor, Municipal Ordinance, and Traffic Offense Prisoners
   [MCL 780.581]

9. Release of Defendant Subject to Protective Conditions
   [MCL 765.6b]

10. Arrest without Warrant; Defendant Violating Conditional Release [MCL 764.15e]

11. Out-of-state residents may post a driver's license in lieu of bond on traffic violations or misdemeanors with a penalty under one year. [MCL 257.749, MCL 780.64(4)]

12. Security for cost may be required when a citizen files a criminal complaint. [MCR 6.101(C), MCL 764.1]

13. Habeas Corpus Proceedings [MCR 3.303]

14. Bonds [MCR 3.604]

15. Forfeited Recognizance [MCR 3.605]

16. Contempt [MCR 3.606]

17. Juvenile Proceedings [MCR 5.935]

18. Release of Minors in Protective Proceedings [MCR 5.970]

19. Pretrial Release - Criminal Procedure [MCL 765.6b, MCR 6.106, MCR 6.610, MCR 6.909]

20. Probation Violations - Criminal Procedures [MCR 6.445(B)(4)]

C. Alternative Bond Documents

1. Driver License

Law enforcement or the court may require a person to surrender their driver license as security for the defendant's appearance in court. Upon conclusion of the trial or imposition of sentence, as applicable, the court shall return the license to the defendant unless other disposition of the license is authorized by law. [MCL 780.64, MCL 257.729, MCR 6.106(D)(2)(f)]

2. Guaranteed Appearance Certificate

In lieu of a driver license a person may leave a guaranteed appearance certificate with the law enforcement officer or the court. The certificate must contain a printed statement that a surety company authorized to do business in Michigan guarantees the appearance of the person whose signature appears on the card or certificate, and that if the defendant fails to appear in court, the company will pay any fine, costs, or bond forfeiture imposed on the person not to exceed $200.00. Upon conclusion of the trial or imposition of sentence, as applicable, the court shall return the certificate to the defendant. [MCL 257.749]

3. Passport

As a condition of bond the court may require surrender of a passport. A person without a passport might surrender a Refugee Travel Document, which can serve in lieu of a national passport. It may be useful to acquire signature of the owner of the passport or travel document upon return as a receipt. Expired passports or travel documents and notification of conviction should be sent to US Immigration, Investigations Bureau, 333 Mt. Elliott Street, Detroit, Michigan 48207-4381. For further information, contact US Immigration at (313) 568-6036. [MCR 6.106(D)(2)(f)]

D. Forfeiture

If a defendant or juvenile fails to comply with the conditions of the bail bond, the court can order the bail bond forfeited and subsequently render judgment for the state or local unit of government against the accused. Instructions for entry of an order to forfeit bail bond are contained on SCAO Approved Form MC 218. Instructions for entry of judgment are contained on SCAO Approved Forms MC 238. [MCL 765.15, MCR 5.935(C)(7), MCR 6.106]

If a defendant is in the military and the commanding officer refuses to surrender the defendant to the court, the bond may not be forfeited. [Attorney General Opinion 1737 (1/18/44)]

E. Return of Bond

If a defendant or juvenile has performed the conditions of a 10% bail bond <u>and</u> is discharged from all obligations in the case, the court is required to return 90% of the deposited sum and retain as costs the remaining 10%. If a cash or surety bond was deposited, the court must return the full amount. For further information on return of 10% bail, see MCL 780.66(6). [MCR 5.935(C)(6)(b), MCR 6.106(F)(1)]

F. Application of Bail Money to Payments of Fines and Costs

If a convicted defendant deposited bail money, prior to returning the money, any deposited sum must first be applied to fines and costs and the balance, if any, returned. However, in the case of a 10% bond, the 10% retention provided for at MCR 6.106(F)(1) is retained prior to determining the balance for further distribution. [MCR 6.106(F)(3)]

In juvenile proceedings, if disposition of a case imposes reimbursement of costs, bail money posted by a parent must first be applied to the amount of reimbursement and costs, and the balance, if any returned. [MCR 5.935(C)(6)(a)]

In the case of <u>People</u> v <u>Wesley</u>, 148 Mich App 758, the Court of Appeals has stated that a trial court may order the cash bond of a convicted criminal defendant be retained and applied to the payment of defendant's court appointed attorney fees as well as to fines and costs.

In support cases, the court must use information from the show cause hearing to determine how much of the money is to be paid to a recipient of support. The balance of the bond is to be returned to the support payer. [MCL 552.632(5)]

G. Bond/Bail Pending Appeal/Sentencing

Unless otherwise provided by law, the court may continue, terminate, or require bail on appeal or while the defendant is awaiting sentencing. If an appeal is taken on behalf of the people, the defendant may post a personal recognizance pending the outcome of the appeal unless the court determines that bail is required. [MCL 765.7]

H. Bail Bondsman

The circuit judge is required to annually compile a list of persons authorized to act as bail bonds persons in the county. The list must be sent to jail and the place of custodial detention within the county. Several courts have adopted administrative orders which establish local policies to assist in compiling the list. The State Court Administrative Office will provide any court with further information on this subject. [MCL 750.167b]

MCR 3.604 applies to bonds given under the Michigan Court Rules and the Revised Judicature Act, unless a rule or statute clearly indicates that a different procedure is to be followed. See rule for details.

A surety's obligation regarding the defendant is terminated at sentence. [People v Brow, 253 Mich 140 (1931)] The court's right to refuse a surety bond without the power of attorney requirement being met is discussed in Attorney General Opinion 3139 (7/12/58). A judge or magistrate may require a surety to pledge real estate owned by the surety and located in the county in which the court sits. [MCL 765.20-.765.24]

I. Third Party Bonds

A third party may post a cash bond on behalf of a defendant. The third party may surrender the defendant to the court in lieu of continuing the bond, or prior to bond forfeiture. [MCL 765.18, MCL 765.26] Bonds posted by a third party are to be returned after sentencing. [People v Brow, 253 Mich 140 (1931)]

J. Interest Bearing Account

If bond is placed in an interest bearing account, the interest accrued follows the disposition of the bond (for example, interest on an individual bond is returned or forfeited, whatever the disposition of the bond is). [MCL 765.17]

K. Forms

The following forms have been approved by the State Court Administrator for use in bail bond and related activities.

1. Order Revoking Release and Forfeiting Bond, Notice of Intent to Enter Judgment - Form MC 218

2. Order and Receipt for Drivers' License Held as Security - Form MC 224

3. Judgment After Bond Forfeiture - Form MC 238

4. Removal of Entry From LEIN - Form MC 239

5. Order Regarding Pretrial Release/Custody - Form MC 240

6. Bond - MC 241

7. Cash Bond (Support and Parenting Time Enforcement Act) - FOC 4

8. Bond for Appearance - JC 08

9. Authorization of Return of Bond - JC 31

15-06 JAIL OVERCROWDING ACT

A. Authority

The chief judge has statutory responsibility relating to rules and regulations and jail overcrowding for the county jail. Case law has also recognized the right of a circuit court judge to appoint a jail monitor.

B. Rules and Regulations

Any rules and regulations in the county jail relating to the conduct or guidance of prisoners or inmates must be submitted to and approved by the chief judge of circuit court.
[MCL 51.281, MCL 8.41, 1979 AC, R 791.644]

C. Jail Overcrowding

After a county sheriff has declared a jail overcrowding state of emergency and attempted to reduce the jail population and this proves insufficient, the chief judge of circuit court must classify prisoners in two categories, those who release would present a high risk to the public safety, and those whose release would not present such a risk. The sheriff is then directed to reduce the sentences of the low risk prisoners by an equal percentage, set by the chief circuit judge, until the overcrowding is alleviated.
[MCL 801.56, Kent County Prosecutor v Kent County Sheriff, (On Rehearing), 428 Mich 314; 409 NW2d 202 (1987)]

D. Jail Monitor

A circuit court judge can appoint a monitor to help effect relief given in a lawsuit brought to determine whether a statutory duty to provide a suitable and sufficient county jail has been established. (see also Section 15-01, Appointments, page 15-01-03)
[Wayne County Jail Inmates v Wayne County Sheriff, 391 Mich 359; 216 NW2d 910 (1974)]

15-07 OTHER MISCELLANEOUS DUTIES

A. Marriage Assignments

1. Circuit Court

If a judge without marriage jurisdiction (circuit, Court of Appeals, Supreme Court) wishes to perform a marriage, an assignment for that purpose will be made by the State Court Administrative Office. (see also Section 7-06, page 7-06-02)

2. District and Probate Court

If a judge with marriage jurisdiction (district or probate) wishes to perform a marriage outside the territorial jurisdiction of the court, an assignment for that purpose will be made by the State Court Administrative Office. (see also Section 4-09, page 4-09-04)

B. Notary Public

Either a probate judge or a circuit judge may endorse an application for appointment of notary public prior to transmission of the application to the governor. [MCL 55.107]

C. Recovery of Costs Where Venue Change for Convenience of Parties and Witnesses

When venue has been changed for the convenience of parties and witnesses, the transferee court may recover from the transferor court all expenses of the trial which would be chargeable to the county in which the action originated as determined by the circuit judge of the transferee court. [MCL 600.1655] (see also MCR 5.221 and 5.926(C)]

D. Deaf Persons' Interpreter Act

In any action before a court or a grand jury where a deaf person is a participant in the action, either as a plaintiff, defendant, or witness, the court shall appoint a qualified interpreter to interpret the proceedings to the deaf person, to interpret the deaf person's testimony or statements, and to assist in preparing the action with the deaf person's counsel.

The Michigan Department of Labor, Division of Deaf and Deafened, has available the Michigan Interpreter Directory. For questions or a copy of the directory, contact:

Michigan Department of Labor
Division of Deaf and Deafened
PO Box 30015
Lansing, Michigan 48909
(517) 373-0378

E. Miscellaneous Duties Specific to Probate Court

1. Deposit With County Treasurer of Money that Cannot be Distributed

The probate court shall order a fiduciary to deposit with the county treasurer the moneys or personal property that belong to (1) an heir, devisee or claimant whose whereabouts, after diligent inquiry cannot be ascertained, (2) an heir, devisee or claimant who declined to accept the funds awarded; or (3) a person when the right of the person is the subject of appeal from the orders of the court. [MCL 700.584]

The judge of probate is required to fix a bond for such sums turned over to the county treasurer. [MCL 700.585(3)]

2. Deposit of Wills

The probate court shall receive and safely keep a will and give a certificate of the deposit of the will. [MCL 700.142(1)]

3. Bond for Railroad Survey

A railroad shall post a bond with the judge of probate before entering private property for the purpose of making a survey. [MCL 464.9]

4. County Election Commissions

The chief judge of probate, with the county clerk and county treasurer, constitute a board of county election commissioners, two of whom shall be a quorum for the transmission of business. The judge of probate shall be chairperson. [MCL 168.23]

5. Petitions for Recall

The board of county election commissioners shall determine whether or not the reasons for recall stated in the petition for recall are of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct claimed to be the basis for the recall. [MCL 168.952]

6. Delivery of Election Results on Election Night

Election returns are to be delivered to the probate judge on election night. The probate judge shall deliver the returns received by him/her to the board of canvassers when it meets to canvass the returns. [MCL 168.809]