

PROBATE COURT

In 1818, the court of probate was established in each county, the members of which were appointed by the governor, and from which appeals might be taken to the supreme court. These courts continued in operation until Michigan became a state.

The Revised Statutes of 1838 made the office of Judge of Probate elective for a term of 4 years. The Constitution of 1850 provided for a probate court in each county.

Jurisdiction

The Constitution of 1908 and subsequent acts of the legislature have provided for the jurisdiction of the probate court.

The Constitution of 1963 provides that “the jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.” Law currently provides that the probate court has jurisdiction over the administration of decedents’ estates and of trusts, over guardianships and conservatorships, and over the involuntary commitment of mentally ill persons. As of the January 1, 1998 creation of the family division of the circuit court, many now former probate court matters, such as juvenile delinquency, neglect/abuse, and adoption proceedings, were transferred to the jurisdiction of the circuit court. Appeals may be taken from probate court to the circuit court or to the Court of Appeals. MCR 5.801 lists which orders are appealable as of right to each court.

Probate judges are elected on a nonpartisan ballot for six-year terms, subject to the same requirements as other judges. The legislature sets their salaries, which may be supplemented by counties.

Under Act 271 of 1969, 20 proposed probate districts were created. However, at a special election held on November 4, 1969, only 4 counties voted to approve and establish probate districts. The counties of Charlevoix and Emmet were joined as the 7th Probate District and Gladwin and Clare counties were joined as the 17th Probate District. Under Act 253 of 1974, the voter-approved 5th Probate District, consisting of Alger and Schoolcraft counties, was established. Under Act 45 of 1976, the voter-approved 18th Probate District, consisting of Mecosta and Osceola counties, was established. Luce and Mackinac counties comprise the 6th Probate District.

Caseload

Since the Estates and Protected Individuals Code became effective April 1, 2000, decedent estates involving supervised administration have decreased, as unsupervised and non-administered estates have increased. In 2006, only 535 new decedent estates involved supervised administration, while 16,687 did not.

In addition to new filings, probate courts’ active pending caseload is used to assess the courts’ judicial and administrative workload. Of the 36,769 active estates and trusts at the end of 2006, 3,235 were supervised at some point during the year. Probate courts also conducted follow-up procedures associated with the administration of these open estates.

In 2006, 16,730 guardianship and 4,983 conservatorship petitions were filed. There were an additional 430 protective orders requested separately from conservatorship petitions.

At the end of 2006, there were 28,295 adults with a full or limited guardian, 31,487 minors with a guardian, and 20,139 developmentally disabled persons with a guardian. At the end of 2006, there were 14,525 adults and 14,430 minors with a conservator.

In 2006, 14,421 petitions were filed in probate court under the mental health code. Probate courts also received 520 petitions for a second order of commitment and 1,755 petitions for a continuing order of commitment. The courts granted 488 petitions for a second order and 1,586 petitions for a continuing order.

The number of supplemental petitions presented to the court for court ordered examination on an application for hospitalization and the number of petitions presented to the court for court-ordered transportation of a minor totaled 3,118. There were 135 matters filed involving judicial admission of individuals with developmental disabilities.

In 2006, 457 civil actions were filed in probate court. There were also 594 filings for miscellaneous matters, including petitions seeking judicial decisions regarding death by accident or disaster, kidney transplants, review of drain commission proceedings, review of mental health financial liability, secret marriages, etc.

**TRENDS IN NEW FILINGS OF CASES IN THE PROBATE COURT
2002-2006**

| Case Type | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|---------------|---------------|---------------|---------------|---------------|
| Supervised Estates | 665 | 672 | 641 | 661 | 535 |
| Independent Estates | 18,448 | 18,130 | 17,728 | 17,417 | 16,687 |
| Trusts | 920 | 916 | 991 | 1,018 | 1,098 |
| Guardians | 17,704 | 17,176 | 16,322 | 16,624 | 16,730 |
| Conservators | 6,375 | 6,084 | 5,441 | 5,255 | 4,983 |
| Civil Actions | 374 | 384 | 365 | 381 | 457 |
| Judicial and Administrative Admissions .. | 96 | 74 | 90 | 119 | 135 |
| Mentally Ill Petitions | 13,660 | 13,707 | 13,893 | 13,758 | 14,421 |
| Small Estates | 7,401 | 6,897 | 6,828 | 6,371 | 6,048 |
| Protective Orders | 465 | 425 | 427 | 478 | 430 |
| Trusts and Wills | 13,211 | 13,195 | 12,543 | 11,457 | 10,777 |
| Determine Heirs | 24 | 20 | 25 | 19 | 23 |
| Total | 79,343 | 77,680 | 75,294 | 73,558 | 72,324 |

