

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

In 2004, 63,262 cases were filed in the probate court. Almost forty percent of these filings pertained to the administration of decedent estates and small estates. Another 34 percent were guardianships and conservatorships.

In 1998, the Legislature enacted the Estates and Protected Individuals Code (EPIC), effective April 1, 2000. Since then the number of estates requesting supervised administration continues to be lower and the number of estates requesting unsupervised administration continues to be higher. Between 2001 and 2004, an average of 656 estates per year requested supervised administration in the initial petition. By contrast, the number of estates requesting unsupervised administration in the initial petition increased to an average of 18,233 per year for the same period.

In addition to new filings, the active pending caseload is used to assess the probate court’s judicial and administrative workload. Of the 38,446 active estates and trusts at the end of 2004, 4,542 were supervised at some point during the year. In 641 of these estates, supervision was requested when the case was filed. The probate court also conducted follow-up procedures associated with the administration of these open estates.

The number of petitions filed for guardianships and conservatorships continued to decrease. The number of petitions for adult and minor guardianships decreased by an average of 3.8 percent per year between 1999 and 2004. The number of petitions for adult and minor conservatorships decreased by an average of 6.2 percent per year during the same time period. The number of petitions filed for protective orders did not fluctuate between 2003, when 425 were filed, and 2004, when 427 were filed.

Between 1999 and 2004, an annual average of 14,203 petitions were filed seeking commitment of persons with a mental illness. In 2004, in addition to petitions for new commitments, the probate court received 572 petitions for a second order and 1,407 petitions for a continuing order of commitment. The probate court granted 568 petitions for a second order and 1,394 petitions for a continuing order.

TRENDS IN NEW FILINGS OF CASES IN THE PROBATE COURT 2000-2004

Case Type	2000	2001	2002	2003	2004
Supervised Estates	2,269	644	665	672	641
Independent Estates	16,453	18,625	18,448	18,130	17,728
Trusts	825	788	920	916	991
Guardians	18,166	17,301	17,704	17,176	16,322
Conservators	7,492	6,552	6,375	6,084	5,441
Civil Actions	302	367	374	384	365
Judicial and Administrative Admissions .	57	85	96	74	90
Mentally Ill Petitions	14,819	14,914	13,660	13,707	13,893
Small Estates	7,568	7,656	7,401	6,897	6,828
Protective Orders	381	478	465	425	427
Trusts and Wills	9,826	8,982	13,211	13,195	12,543
Determine Heirs	50	43	24	20	25
Total	78,208	76,435	79,343	77,680	75,294

MICHIGAN PROBATE COURTS
AND PROBATE COURT DISTRICTS



Constitution of Michigan of 1963
Article VI, Sec. 15

“In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question . . .”

2005 Courts and Judgeships

LEGEND	TOTALS
Ⓢ - Probate Court Districts	103 - Judgeships
(#) - Number of Probate Court Judgeships	78 - Number of Probate Courts