

STATE OF MICHIGAN

IN THE SIXTEENTH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF MACOMB
IN THE PROBATE COURT FOR THE COUNTY OF MACOMB

In re: Family Court Plan and Case Assignment in the Family Division

Circuit Court Joint Local Administrative Order #2018-13J
Probate Court Joint Local Administrative Order #2018-03J

(Rescinds Circuit Court Joint Local Administrative Order #2014-04J and Probate Court Joint Local Administrative Order 2014-03J)

IT IS ORDERED:

The following Family Court Plan is adopted by the Sixteenth Judicial Circuit Court and Macomb County Probate Court. This plan comports with MCL 600.1001-600.1043 and Michigan Supreme Court Administrative Order 2003-2.

I. General

- A. The Chief Judge of the Circuit Court has supervisory authority over the administration of the Family Division of the Circuit Court.
- B. The Chief Judge may appoint a Presiding Judge of the Family Division, after consulting with the judges serving in the Family Division, who shall fulfill such functions as the Chief Judge assigns pursuant to MCR 8.110(B)(2).
- C. Policy decisions on all Family Division matters shall be made by the judges of the Family Division, subject to the approval of the Chief Circuit Judge.
- D. The Chief Judge may delegate administrative responsibilities to the Circuit Court Administrator or others, as provided in MCR 8.110(C)(6).
- E. The County Clerk has been afforded the opportunity to participate in the development of this plan for the management of court records.
- F. There will be periodic review and revision of the Family Court Plan, as necessary, by the Chief Judge of the circuit and probate courts. MCL 600.1011(7).
- G. This Family Court Plan supersedes prior plans that have been approved for the operation of the Family Division.

II. Judicial Resources/Service

- A. The Chief Judge of the Circuit Court has the authority and flexibility to determine the duration of a judge's service in the Family Division. MCL 600.1011(3).
- B. The Family Division shall be comprised of a sufficient number of Circuit Court Judges and Probate Judges as determined by the Chief Judge to meet the workload of the division. The names of the judges assigned to the Family Division, which may vary from time to time, are listed in Exhibit A.
- C. Assignment to the Family Division shall be made by the Chief Judge in furtherance of the goal that judges of the Family Division will have sufficient judicial expertise in Family Division Matters.
- D. The judges serve full-time in the Family Division when practicable and where sufficient caseload and judicial resources exist.

III. Caseflow Management

A. General

- 1. Each Family Division Judge will hear and decide all aspects of the cases within the jurisdiction of the Family Division of the Circuit Court. Family Division cases will be divided among the assigned judges.
- 2. To the extent practicable, all matters within the jurisdiction of the Family Division involving a family will be assigned to the same judge to further the concept of "one judge-one family." MCL 600.1021; MCL 600.1023.
- 3. For purposes of this plan a "family" includes individuals who are related as husband or wife, parent, step-parent, guardian, child or sibling. An action may still be deemed to involve a "family" even when an unrelated individual is involved as a complainant or a party.
- 4. Whenever a new case is filed, the responsible clerk will determine whether a prior action is pending or open which involves a member of the same family.
- 5. The Family Division will make full use of Referees as allowed by Statute and Court Rule. Referees will be assigned pursuant to MCR 3.215 and MCR 3.913. Referees may be assigned to any matter within the Family Division jurisdiction, unless a Referee hearing is prohibited by law.

B. Assignment of Cases

Assignment shall occur at the time the case is filed unless otherwise provided by court rule, administrative order or written directive of the Chief Judge. Family Division cases will be assigned to a Family Division Judge on a random basis pursuant to MCR 8.111, except as set forth herein. The cases will be assigned evenly by lot among the Family Division judges.

1. Juvenile Division staff shall perform the blind draw for juvenile cases, which include juvenile delinquency offenses, abuse and neglect, adoption, juvenile guardianships, emancipation, voluntary foster care, and parental waiver cases, which include AB, AC, AD, AF, AG, AM, AN, AO, AY, DJ, DL, EM, ID, JG, NA, NB, PJ, PW, RB, RL, TL, VF case types.
2. The County Clerk staff shall perform the blind draw on domestic relations cases, which include DC, DM, DO, DP, DS, DZ, NC, PH, PP, UD, UE, UI, UF, UN, UM, UW, UT, VP case types.

C. Exceptions to Blind Draw

1. Juvenile Cases

- a. Prior Action – When a search for a prior action discloses an existing case, the new filing will be assigned to the same judge. If the search for a prior action discloses more than one prior judge assignment, the case will be assigned to the judge with the oldest case. An open juvenile NA case involving one or more of the same children who are subject(s) of an adoption filing takes precedence over any other prior action. The search for a prior action includes the records of domestic relation cases and juvenile cases. This section shall not apply to an adult who becomes a party to a domestic relations matter who was involved as a minor in his/her own, parents' or guardians' Family Division case.

b. Codefendants

- i. Where only one codefendant has a judge previously assigned, all codefendant cases will be assigned to that judge.
- ii. Where two or more codefendants have judges previously assigned, all codefendant cases will be assigned to the judge with the oldest case which has had activity in the past two years. If no case has had activity in the past two years, subsection (c) applies.

- iii. Where no codefendants have a judge previously assigned, there will be one blind draw and all codefendant cases will be assigned to that judge.

2. Domestic Cases

- a. Prior Action – When a search for a prior action discloses an existing case, the new filing will be assigned to the same judge. If the search for a prior action discloses more than one prior judge assignment, the case will be assigned to the judge with the oldest case. The search for a prior action includes the records of domestic relation cases and juvenile cases.
- b. Name changes are assigned randomly unless the requested change is on behalf of a minor and/or there is a prior domestic matter involving one of the parents.

3. The Chief Judge may determine a singular judge who will handle all cases involving Support (Child or Spousal): Failing to Pay – Felony.

4. Personal Protection Order Cases

- a. A Personal Protection Order case is assigned to the Family Division, except Personal Protection Order cases involving stalking, case suffix “PH” shall be assigned by blind draw to the judges of the Civil/Criminal Division who are assigned civil cases.
- b. When a Personal Protection Order action is filed and the court records indicate a prior domestic relations or juvenile case involving the same parties, the Personal Protection Order action shall be assigned to the judge who was assigned the previous domestic relations or juvenile case.
- c. When a domestic relations case is filed and court records indicate a prior Personal Protection Order action involving the same parties, the new case shall be assigned to the judge who was assigned the previous Personal Protection Order action unless two or more years have passed without activity on the Personal Protection Order action.

D. Consolidation

Motions to consolidate are brought before the judge who would receive the case. If the motion is granted and the files are assigned to different judges, an Acceptance and Order of Reassignment will be prepared assigning the consolidated files to the judge with the lowest case number or the judge that granted the motion and will be submitted to the judge receiving the file and the Chief Judge. Additionally, a

Consolidation Order will be prepared. These files are not equalized and the new judge is not incremented. The Case Management Division and the Court Clerk's Office will conform to the State Court Administrator's standards as set forth in the Michigan Trial Court Case File Management Standards, Component 13 of Area 1.1.1: Establishing and Maintaining Case Files.

E. Reassignment of Cases

1. If it appears to any two judges that the interests of justice would better be served by reassignment of any case, and in accordance with the legislative intent expressed in MCL 600.1001 *et seq.*, any case may be reassigned from one judge to another with their consent and approval of the Chief Judge.
2. A request for reassignment is sent to the Case Management Division when multiple Domestic Relations cases are found to be active but assigned to multiple judges.
3. An order reassigning the later filed case to the judge with the earlier case number shall be entered. Equalization occurs as outlined in Section H.
4. MCR 8.111 provides that any successor judge reassigned due to a Family Court Plan or Concurrent Jurisdiction Plan should hear post-judgment motions. MCR 8.111(C)(2).
5. Any dispute as to the proper reassignment of any case shall be resolved by the Chief Judge.
6. If a previously filed case has been closed, and the judge who handled the previously filed case is no longer handling that case type, specifically due to a Family Court Plan or Concurrent Jurisdiction Plan, any new or subsequent case arising out of the same transaction or occurrence will be assigned to the successor judge. MCR 8.111(C)(2). If the successor judge cannot be determined, the case will be assigned by blind draw.

F. Procedure for Order of Reassignment

1. All Orders of Reassignment shall be on forms prepared by the Case Management Division for domestic relation cases and Juvenile Division for juvenile cases and approved by the Chief Judge. The order shall contain the reason for reassignment. If the reason for reassignment is based upon an Order for Consolidation or Disqualification of a Judge, such order shall be attached to the Order for Reassignment.
2. All Orders of Reassignment shall be initiated by the Case Management Division for domestic relations cases and Juvenile Division for juvenile cases, and noted prior to circulation for signature.

3. All Orders for Reassignment shall first be presented to the judge transferring the case, second to the judge to whom the case will be reassigned, and finally to the Chief Judge for signature.
4. After approval by the Chief Judge, the Order for Reassignment shall be returned to the County Clerk's Office for domestic relation cases and Juvenile Division for juvenile cases for filing.

G. Disqualification

1. Voluntary

When a Judge disqualifies himself/herself, the Caseload Manager will be contacted for a new random judge assignment. The reason for the disqualification will be provided and stated on the Order of Disqualification and Reassignment. The Order of Disqualification and Reassignment is submitted to the disqualified judge, newly assigned judge, and Chief Judge for signature. Equalization occurs pursuant to Section H.

2. By Chief Judge pursuant to MCR 2.003

If the Chief Judge determines that a judge should be disqualified pursuant to MCR 2.003, the Caseload Manger will be contacted for a new random judge assignment. The reason for the disqualification will be provided and stated on the Order of Disqualification and Reassignment. The Order of Disqualification and Reassignment is submitted to the disqualified judge, newly assigned judge, and Chief Judge for signature. Equalization occurs pursuant to Section H.

3. By Motion

- a. When a motion for disqualification is filed by one of the parties and the assigned judge denies their request, the challenged judge shall refer the motion to the Chief Judge, who shall decide the motion de novo. MCR 2.003(D)(3).
- b. When a motion for disqualification is filed by one of the parties and the assigned Judge grants their request, the Court shall contact the Caseload Manager for a new random judge assignment. The reason for the disqualification will be provided and stated in the Order of Disqualification and Reassignment. The Order of Disqualification and Reassignment is submitted to the disqualified judge, newly assigned judge, and the Chief Judge for signature. Equalization is done pursuant to H as outlined in this order.

4. Out-of-County Assignment

Upon the disqualification of a judge of the Family Division, the case or cases shall be randomly reassigned to another judge of the Family Division. If all judges of the Family Division disqualify themselves, the case or cases may be reassigned randomly to one of the judges of the Civil/Criminal Division. If all judges of the Family and Civil/Criminal Division disqualify themselves, the case or cases may be reassigned randomly to one of the judges of the Probate Court. If all Circuit and Probate Judges are disqualified, the Chief Judge shall request assignment of a visiting judge from another court from the Region I State Court Administrative Office pursuant to State Court Administrative Office guidelines.

H. Equalization

1. The Case Management Division will transfer a case of similar type and age from the receiving judge to the transferring judge.
2. The Caseload Manager prepares the Order of Equalization and submits it to the Chief Judge for signature.

I. Upon the assignment of a new judge to the Family Division, Family Division cases shall be transferred to that judge as determined by the Chief Judge in furtherance of the goals of the Family Division. Judges transferring cases may retain specific designated cases to further the goal of “one family-one judge” and to complete ongoing matters. Judges shall consult and cooperate to create an orderly transition from one judge to another.

J. Computer Outage

1. Heat sealed, pre-numbered blind draw packs containing an equal number of cards per judge with his/her name printed thereon shall be prepared by the Case Management Division and provided to the County Clerk’s Office and the Juvenile Division of the Circuit Court in the event the computerized blind draw is unavailable.
2. When a case is filed, the bottom card bearing a judge’s name shall have the case number recorded thereon in permanent ink. Once recorded, the card will be detached and the name of the judge disclosed. Upon restoration of the computerized blind draw, the cards will be returned to the Case Management Division for record retention.

IV. Administration

The Chief Judge may delegate administrative responsibilities to the Circuit Court Administrator or others, as provided in MCR 8.110(C)(6). The Circuit Court Administrator has overall supervisory authority over the employees of the Family Division. Please see attached organizational chart, Exhibit B.

- A. The Juvenile Administrator is responsible for monitoring the Juvenile Division budget and day-to-day operations, supervising staff, and preparing and implementing the Juvenile Division budget.
- B. The Friend of the Court is responsible for monitoring and implementing the Friend of the Court budget and day-to-day operations, supervising staff, and preparing and implementing the Friend of the Court budget.
- C. The Probate Administrator is responsible for monitoring the Probate Court budget and day-to-day operations, supervising staff, and preparing and implementing the Probate Court budget.

V. Records Management

- A. Court documents for domestic relations cases are filed at the County Clerk's Office.
- B. Court documents for juvenile cases are filed at the Juvenile Division.
- C. The majority of court documents for the Friend of the Court are filed with the County Clerk's office. Objections to recommended orders for support are filed directly with the Friend of the Court office.
- D. The central access point for information about the Family Division is the Circuit Court Administrator's Office. It will provide the public, citizens, litigants and attorneys with information regarding access to courts and court related activities, such as where to file documents, how records are stored and how records may be accessed.
- E. The management of the Family Division domestic relations case files is handled by the County Clerk's office. The management of the Family Division juvenile case files is handled by the Juvenile Division.
- F. The County Clerk has participated in the development of this plan for management of Court records.
- G. There is a process for the internal transfer for files. Additionally, there is an imaging system that allows authorized users of the Court Case Management Information System to view court documents electronically.

This Order shall be effective immediately upon approval of the State Court Administrator's Office.

Dated: 8-27-18



James M. Biernat, Jr.
Chief Judge
16th Judicial Circuit Court and
Macomb County Probate Court

EXHIBIT A

Judges serving in the Family Division:

Judge Matthew S. Switalski (Presiding Judge)

Judge Mark S. Switalski

Judge Tracey A. Yokich

Judge Rachel Rancilio

and 42nd District Courts

