

Trial Court Services and Attendant Departments

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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 caseload 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 (1992 edition).
2. *Standards Relating to Court Organization*, American Bar Association (1990 edition).

See also Section 1-05.

C. Recommended Responsibilities

The Task Force on Racial/Ethnic and Gender Issues in the Courts recommended 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, § 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 or 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. (MCL 50.61)

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

2. The circuit judge may, at his or 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 and the circuit court commissioner have 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. (Const 1963, art 6, § 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. (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 or her records in each case must be transferred to the clerk of the court. See also Section 8-02. (MCR 8.108[D])

6. Jury System

The county clerk must perform certain duties for the jury system. See also Section 12-04.

7. Reports to the SCAO and Local and State Agencies

The county clerk must submit reports about the court's business to the SCAO and to local and state government entities. For further details, see Sections 3-04, 6-05, 7-02 and 8-05. (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 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 Michigan without charge certified copies of those orders. (MCL 600.913)

9. Other

Provide assistance to pro se litigants as required by statute. (MCL 600.2950a)

4-03 CIRCUIT COURT PROBATION/PAROLE

A. Probation

1. Appointment of Officers

The Michigan 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 Department of Corrections a department or bureau of probation is established. This bureau is 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 or 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 791.223a, OAG 1987-1988, No 6448 [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 Michigan Department of Corrections a bureau of pardons and paroles is established, which is administered by an assistant director within the state civil service. He or she 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 interviews, consultation of records, analysis of information, diagnosis, plan of treatment, correlation of effort by individuals and agencies, and methods of influencing human behavior. He or she 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)

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 or 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 791.231-791.245.

4-04 FRIEND OF THE COURT OFFICE

A. Function

The friend of the court office 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)

The friend of the court office also has an obligation to the Michigan Department of Human Services through its Cooperative Reimbursement Program (CRP), a contractual agreement between the two offices to perform federally-mandated child-support services. Reimbursement for these services is discussed in detail in Section 6-09.

B. Authority

The friend of the court office 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 and Enforcement Act

(MCL 722.1101 *et seq.*)

Payments of Support or Maintenance Collected by Friend of the Court or State Disbursement Unit

(MCL 600.2538)

Status of Minors and Child Support 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 (RURESAs)

(MCL 780.151 *et seq.*)

Uniform Interstate Family Support Act (UIFSA)

(MCL 552.1101 *et seq.*)

C. Appointment and Removal

The Friend of the Court Act establishes the appointment and removal process for the friend of the court office.

1. Filling Friend of the Court Vacancies

- a. If the friend of the court position 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. 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)

3. 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 at any time. 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)

D. Surety or Performance Bond Requirements

The friend of the court surety or performance bond requirements are covered in the Code of Federal Regulations. The Department of Human Services Office of Child Support 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. (45 CFR 302.19)

E. Duties and Responsibilities of Friend of the Court Office

The duties and responsibilities of the friend of the court office are detailed in the statutes cited on page 4-04-01 and in the Michigan Court Rules. The primary duties and responsibilities include the following.

1. Nontraditional Office Hours

An office of the friend of the court shall be open to the public making available all of the office's services not less than 20 hours each month during nontraditional office hours. (MCL 552.503)

2. Providing Information to Parties

Pursuant to MCL 552.505, the friend of the court office has a duty to provide certain information to parties.

a. Opting Out

Parties must be informed that, unless one party involved is required to participate in title IV-D child-support programs, they may choose not to have the friend of the court administer the case. (MCL 552.505[1][a])

Parties must be informed that, unless one party involved is required to participate in title IV-D child-support programs, they may direct the office of the friend of the court to close the friend of the court case that was opened in their domestic relations matter. (MCL 552.505[1][b])

b. Informational Pamphlet

An informational pamphlet shall be provided to the parties explaining the role and functions of the office, the duties of the office, the rights and responsibilities of the parties, the availability of and procedures used in domestic relations mediation, the availability of human services in the community, the availability of joint custody, and how to file a grievance regarding the friend of the court

office. See also Section 11-04. (MCL 552.505[1][c])

c. Mediation Services

The parties shall be informed of the availability of mediation services to assist them in resolving custody and parenting-time disputes. (MCL 552.505[1][e])

d. Joint Custody

The parties shall be informed of the option for joint custody if there is a dispute regarding custody. (MCL 552.505[1][f])

e. Forms

The friend of the court is to make available forms for motions, responses, and orders for requesting the court to modify child support, custody, or parenting time, or for responding to a motion for such modifications. (MCL 552.505[1][d])

f. Annual Statement

Upon request, the parties shall be provided an annual statement of account. (MCL 552.509[5])

3. 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 must also 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[1][g], [h])

4. Providing Mediation Services and Resolving Disputes

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.

If a written objection to an ex parte parenting time order is filed within 14 days of the order, the friend of the court office must attempt to resolve the dispute within 14 days of the objection. (MCL 722.27a[12])

If the friend of the court office is unable to resolve the dispute, it must provide the requesting party with form pleadings and written instructions, and must schedule a hearing with the court. (MCL 722.27a[12], MCR 3.207[B][5])

5. Handling 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[1], [2]) A surcharge 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 one month's support for purposes of assessing the surcharge. (MCL 552.603a[1])

6. Enforcing and Reviewing Support 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.

The friend of the court shall review support orders in FIP (Family Independence Program) cases or medical assistance cases once every 36 months. In all other cases, the friend of the court shall review support upon the request of either party made at least 36 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)

The friend of the court must take the necessary steps to enforce and review child-support cases in accordance with UIFSA. (MCL 552.1101 *et seq.*) This may involve assisting with the registration of Michigan support orders in other states, and assisting in enforcing and reviewing other states' child-support orders registered in Michigan.

7. Makeup Parenting-Time Policy

Each circuit court shall establish a makeup parenting-time policy pursuant to which a parent who has been wrongfully denied parenting time is able to make up the parenting time at a later date. The policy does not apply until it is approved by the chief circuit judge. (MCL 552.642[1], Model LAO-24)

F. Referees for Friend of the Court Office

The chief judge names persons to serve as 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 to be the referee. If no employee of the office is a

lawyer, the chief judge 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])

The domestic relations referee shall conduct hearings on those matters referred by the court and recommend an order on those issues. In many instances, the court has designated the types of cases which are automatically referred to the referee. In other courts, referral is made on a case-by-case basis

G. Annual Review of Friend of the Court Office

The chief judge conducts the annual review of the friend of the court office's performance and submits a report to the State Court Administrative Office using SCAO-Approved form FOC 17, Friend of the Court Annual Statutory Review, which can be accessed at <http://courts.michigan.gov/scao/courtforms/domesticrelations/focgeneral/foc17.pdf>. Notice of the review shall be given to allow for public comment. (MCL 552.524)

H. Grievances against Friend of the Court

1. A party to a friend of the court case may file a written grievance with the friend of the court office. The friend of the court office will investigate grievances and respond within 30 days or issue a statement to the party filing the grievance stating the reason a response is not possible within that time. (MCL 552.526[1][a])
2. A party to a friend of the court case may file grievance with the chief judge if the party is not satisfied with a friend of the court grievance response. The chief judge will investigate grievances filed with his or her office and respond within 30 days or issue a statement to the party filing the grievance stating the reason a response is not possible within that time. (MCL 552.526[1][b])
3. The chief judge biannually submits to the State Court Administrative Office a report of the grievances filed with the chief judge and their disposition. For more information, see SCAO-Approved form SCAO 28 at <http://courts.michigan.gov/scao/courtforms/scao/scao28.pdf> (MCL 552.526[2])
4. A party to a domestic relations matter may file at any time a grievance concerning friend of the court operations with the appropriate citizen advisory committee, which shall, at its discretion, conduct a review. (MCL 552.526[3])
5. If the county has established a citizen advisory committee in accordance with MCL 552.504, the friend of the court shall provide the friend of the court citizen advisory committee grievance information. (MCL 552.504b)

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 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 used to evaluate cases where custody or parenting time is 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 that address establishing or operating a bail information service program.

B. Establishment

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

C. Implementation

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

1. the laws that 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 Sections 15-05 and 15-06.

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 36th District Court, 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 he or she 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])

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.

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 Section 8-02. (MCR 8.119) For more information, see also *Michigan Trial Court Case File Management Standards* at http://courts.michigan.gov/scao/resources/standards/cf_stds.pdf.

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. (MCR 8.108[D])

e. Jury System

The district court clerk must perform duties for the jury system. See also Section 12-04.

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.

g. Reports to the SCAO and Local and State Agencies

The clerk must submit reports about the court's business to the State Court Administrative Office and to local and state government entities. See also Sections 3-04, 6-05, 7-02, and 8-05. (MCR 8.119[G])

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. 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 that 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. All 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) that, individually or in the aggregate, contain more than 50 percent 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 the 36th District may appoint one 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 pursuant to 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 pursuant to 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 pursuant to MCL 600.8507(2). See also Section 13-02.

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 or 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

Generally, the duties of a magistrate include conducting arraignments (MCL 600.8512 and 600.8513), issuing warrants (MCL 600.8511), setting bail (MCL 600.8511, MCL 764.15b, and MCR 3.708[C]), presiding over civil infractions (MCL 600.8512 and MCL 600.8512a), trying small-claims cases (MCL 600.8427 and MCL 600.8514), and conducting marriage ceremonies and maintaining a book of marriages performed (MCL 551.7 and MCL 551.104). See the Model Local Administrative Orders for attorney and nonattorney magistrates at <http://courts.michigan.gov/scao/resources/other/lao.htm#mdc>.

1. Magistrate Determinations Appealable

Every determination that a magistrate makes regarding responsibility is appealable to the district court judge as a matter of right. (MCR 4.401[D]) 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 to conduct a show-cause hearing or to issue a contempt order. A magistrate does not have the authority to issue a bench warrant.

2. Other Miscellaneous Duties

The magistrate provides nonlegal advice and assistance to 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, prosecuting officials, judicial officers, etc. A magistrate may also perform the following duties or activities.

- a. 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. See Section 6-05.

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

For more information, see Chapter 85 of the Revised Judicature Act at [http://www.legislature.mi.gov/\(S\(mhyuqp55jilsfx45gsegogvq\)\)/mileg.aspx?page=getobject&objectname=mcl-236-1961-85](http://www.legislature.mi.gov/(S(mhyuqp55jilsfx45gsegogvq))/mileg.aspx?page=getobject&objectname=mcl-236-1961-85).

F. 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])

For more information, see MJI's *Traffic Benchbook* (Volumes 1, 2, and 3) at <http://courts.michigan.gov/mji/resources/traffic/traffic.htm> and the *Juvenile Traffic Benchbook* at http://courts.michigan.gov/mji/resources/traffic/juv_traffic.htm.

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])

B. Requirement for Employment

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

C. Compensation

The compensation of law clerks is set by statute. (MCL 600.1471[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])

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])

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 two or more probate judges, may appoint a probate register at a reasonable salary fixed by the county board of commissioners. The probate register so appointed shall take and subscribe the oath of office prescribed by the Michigan Constitution of 1963 and give bond to the probate judge or chief judge in the penal sum of \$1,000 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 Sections 13-02 and 15-01. (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 one 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 chief judge of a probate court by a general 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 set the time and place for hearings in all matters; take acknowledgements; administer oaths; sign notices to fiduciaries, attorneys and sureties; sign citations and subpoenas; conduct conferences with fiduciaries required to ensure prompt administration of estates; and take testimony as provided by law or court rule; and
 - b. to sign or by device indicate the name of a judge to all orders and letters of authority of the court with the same force and effect as though the judge had signed them. In such cases, the register or deputy register must place his or her initials under the name of the judge. See also Section 1-06. (MCR 5.162[B], MCR 8.301[B][2], MCL 600.834)

D. Other Authority

In addition to the powers that may be granted by order of the chief judge, the probate registers and deputy registers have the authority granted by statute and may take acknowledgments 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. (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. (MCR 8.108[D])

e. Jury System

The court clerk must perform duties for the jury system. See also Section 12-04.

f. Reports to the SCAO and Local and State Agencies

The clerk must submit reports about the court's business to the State Court Administrative Office and to local and state government entities. See Sections 3-04, 6-05, 7-02, and 8-05. (MCR 8.119[G])

4-12 PUBLIC GUARDIAN OF PROBATE COURT

A. Authority

No statutes or case law 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 if the appointment is in the ward's and/or estate's best interest and if there is no other competent, suitable, and willing person 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. The public guardian/conservator is subject to the provisions in MCL 700.5106.

D. Proposed Standards for Individuals and Guardianship Programs

The Center for Social Gerontology, through 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 Michigan. The standards and the report are available from the Center of Social Gerontology, Inc., 2307 Shelby Avenue, Ann Arbor, MI 48103, telephone 734-665-1126, e-mail tcs@tcs.org. The organization's website is at <http://www.tcs.org/>.

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 of a decedent's estate subject to the provisions of MCL 700.3203(1). (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. Implementation of family division of the circuit court has resulted in various plans for the position of the juvenile register. (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 by the probate judge. 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. (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. (MCR 8.108[D])

e. Jury System

The court clerk must perform duties for the jury system. See also Section 12-04.

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

Juvenile probation officers serve 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, which can be accessed at <http://coa.courts.mi.gov/rules/documents/3AdministrativeOrders.pdf>.

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)

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

According to statute and 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 pursuant to MCL 712A.2(a)(1). (MCR 3.913[A][2][a])

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 pursuant to MCR 3.974(A), or an emergency removal hearing pursuant to MCR 3.974(B). (MCR 3.913[A][2][b])

3. Designated Cases

Only a referee licensed to practice law in Michigan may preside at a hearing to designate a case or to amend a petition to designate a case and to make recommended findings and conclusions. (MCR 3.913[A][2][c])

4. Minor Personal Protection Actions

A nonattorney referee may preside at a preliminary hearing for enforcement of a minor personal protection order. Only a referee licensed to practice law in Michigan

may preside at any other hearing for the enforcement of a minor personal protection order and make recommended findings and conclusions. (MCR 3.913[A][2][d])

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. (MCL 400.251[2])

The county juvenile officers and assistant county juvenile officers appointed pursuant to MCL 400.251-400.254 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 Department of Human Services, the county juvenile agency, or the superintendent of any state institution regarding the welfare of any juvenile. (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-Care/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 Department of Human Services. 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 pursuant to MCL 712A.2(a) or MCL 712A.2(h) for a supplemental petition, the court may place a juvenile in 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 pursuant to MCL 712A.2(b), the court shall not 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-care 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. This section does not alter or diminish the legal responsibility of the state Department of Human Services 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-care 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 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 pursuant to 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 Department of Human Services

Further information regarding child/foster care can be obtained from the Michigan Department of Human Services.

Michigan Department of Human Services
Individual and Family Services
235 South Grand Avenue
PO Box 30037
Lansing, MI 48909
517-373-0093

http://www.michigan.gov/dhs/0,1607,7-124-5452_26744---,00.html

4-20 DELINQUENCY PREVENTION PROGRAMS

A. Establishment

The family division of the circuit court has the authority to establish or 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 pursuant to MCL 712A.2(a). These services shall be used only if they are voluntarily accepted by the child and his or 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 in 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 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], [4])

4-22 SHERIFF'S DEPARTMENT

A. Authority

The office of sheriff for each county is created by the Michigan Constitution. The sheriff's duties are prescribed by statute and court rule. (Const 1963, art 7, § 4)

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 or 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 or 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 or 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. (MCL 600.587 *et seq.*, MCR 2.510[D])

4. Order for Arrest in Civil Matters

Process in civil proceedings that requires 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 ensure 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, one 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 one district court certified court recorder or court reporter for each judge of the district court. (MCL 600.8601)

Pursuant to 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 he or she is appointed and he or she 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 ruled 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 pursuant to 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 pursuant to 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 he or she 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 with the Secretary of State's Office. (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 county 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 prepares and files transcripts, and maintains 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.

c. Priority of Transcript Production/Exhibits

Transcripts should be prepared in the manner they are ordered. Transcripts should be filed within the time limits prescribed by the Michigan Court Rules. (MCR 7.101[F], 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 at <http://courts.michigan.gov/scao/courtforms/appeals/mc503.pdf>.

d. Order to Show Cause

If a reporter/recorder is ordered by an appellate court to show cause why he or she 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 and the *Michigan Trial Court Case File Management Standards* at http://courts.michigan.gov/scao/resources/standards/cf_stds.pdf.

3. Videotape Record Transcripts

If an appeal is taken in an action which has been videotaped, a transcript of the proceedings must be prepared in the same manner as in the case of proceedings recorded in other ways. However, a court reporter or recorder need not certify attendance at the proceedings being transcribed from the videotaped record, but need only certify that the transcript represents the complete, true, and correct rendition of the videotape of the proceeding as recorded.

4. Exhibit Maintenance

Exhibit maintenance is regulated by MCR 2.518, MCR 3.930 and the *Michigan Trial Court Case File Management Standards*, which can be accessed on-line at http://courts.michigan.gov/scao/resources/standards/cf_stds.pdf. 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*. See <http://courts.michigan.gov/scao/resources/publications/manuals/crr.htm>.