

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

LOCAL ADMINISTRATIVE ORDER  
2018-02J, 17<sup>th</sup> Circuit Court  
2018-01J, Kent County Probate Court

FAMILY COURT PLAN

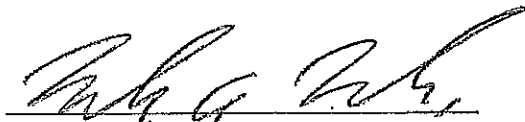
for the

17<sup>th</sup> CIRCUIT COURT

and the

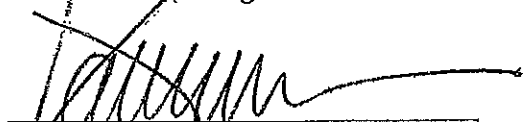
KENT COUNTY PROBATE COURT

The undersigned affirm that the information contained in this plan represents the full agreement of the chief judges involved in the development of the plan. This LAO would make the following LAO's no longer in effect: 03-07, 04-14, 05-03, 06-07, 07-05, 08-01, 08-03, 13-01, 16-03, 16-06, and 2017-04.



Mark A. Trusock  
Chief Circuit Judge

Dated: 2/12/18



David M. Murkowski  
Chief Probate Judge

Dated: Feb 13, 18

## I. FAMILY DIVISION ESTABLISHED

### A. Preamble

As required by, and on the authority of, MCL 600.1011, the Chief Judges of the 17<sup>th</sup> Circuit Court and the Kent County Probate Court do hereby establish the Family Division of the Circuit Court, with jurisdiction as provided by MCL 600.1021.

### B. Assignment of Judges

The following four Circuit and three Probate Judges are assigned to the Family Division: Circuit Judge Kathleen A. Feeney, Circuit Judge Daniel Zemaitis, Circuit Judge Paul Denefeld, Circuit Judge Deborah L. McNabb, Probate Judge Patricia D. Gardner, Probate Judge G. Patrick Hillary, and Probate Judge Terence J. Ackert. Circuit Judge Joseph J. Rossi will be partially assigned to the family division and criminal civil division.

The Chief Judge of the Circuit Court shall have the authority and flexibility to determine the duration of a judge's service in the Family Division, consistent with the goal of developing judicial expertise in family law and as workloads may require. Assignment to the Family Division is not deemed permanent

## II. ADMINISTRATION

### A. Authority of Chief Judge

Matters specific to the operation and administration of the Family Division will be decided in the first instance by the Presiding Judge of the Family Division. However, the Chief Judge of the Circuit Court will retain all authority granted by Michigan statutes and court rules, and will have supervisory authority over the administration of the Family Division, exercising that authority in an equitable manner, drawing upon the strengths and expertise of the other judges and the court staff.

As authorized by the Chief Judge Rule, MCR 8.110, and after consultation with the judges serving in the Family Division, the Chief Judge of the Circuit Court shall appoint the Presiding Judge of the Family Division under separate order, for a term to run concurrently with that of the Chief Judge.

## B. General Administrative Structure

The Circuit Court as a whole, including the Family Division thereof, shall be administered by the Circuit Court Administrator, under the general supervision of the Chief Judge. The Administrator is responsible for all areas of non-judicial activity, including such things as caseload management, jury management, budget and finance, personnel management, referee oversight, and the Friend of the Court office. In addition, the Administrator will be responsible juvenile detention, juvenile delinquency in-home care programs, juvenile intake and probation, permanency planning and adoptions, personal protection orders, pretrial supervision, and community service programs and the Office of Community Corrections. The Administrator may, with the approval of County government, appoint an appropriate number of deputy administrators to assist him with his duties.

The Administrator shall meet regularly with his administrative staff, and the Chief Judge of the Circuit Court and the Presiding Judge of the Family Division, to ensure effective communication and to promote the efficient operation of the Circuit Court.

The Friend of the Court, who is appointed by the Chief Judge of the Circuit Court, will report directly to the Court Administrator, and to the Presiding Judge of the Family Division.

## C. Case Assignment

The judges assigned to the Family Division shall cooperate with the Presiding Judge of the Family Division regarding issues pertaining to the operation and administration of the Family Division, and all Family Division Judges shall report to the Chief Judge of the Circuit Court. Assignment of cases to the Family Division shall comply with MCR 8.111, except as authorized by local administrative order adopted pursuant to MCR 8.112. Disqualification and reassignment of cases will be handled by the Chief Judge of the Circuit Court pursuant to MCR 2003 and 8.111.

Family Division will hear third party custody cases where the Probate Court appointed a guardian and the guardian has subsequently filed a petition for custody.

Further, all of Judge Yate's cases in which domestic post judgment motions are filed will be reassigned to Judge McNabb.

The Probate Judges assigned to the Family Division will assist with the docket of the Probate Judge not assigned to the Family Division, as provided in a separate order agreed to by the Chief Judges of the Circuit and Probate Courts, in consultation with the Presiding Judge of the Family Division. When assisting with the probate docket

under this provision, the Family Division Probate Judges will report directly to the Chief Probate Judge.

The Probate Judge not assigned to the Family Division will hear ancillary matters for certain Family Division cases from time to time, in cooperation with the Presiding Judge of the Family Division.

The Probate Court shall accept for filing, process and hear Petitions for Change of name under MCLA 711.1 and shall maintain records in connection with the name change petitions.

The Register of Probate, who holds a law degree and is a member of the bar, may be assigned to assist the Family Division in such matters as are authorized by statute or court rule, with the consent of the Chief Probate Judge.

#### D. One Family/One Judge

**WHEREAS** MCLA 600.1023 requires that all pending matters involving the same family be assigned, to the extent practicable, to the same judge; and in accordance with Section II.B. of this Court's Family Court Plan as adopted in Administrative Order 2004-09; and

**WHEREAS** this order will clarify and make consistent the process of case assignment in the Family Division with the "one family, one judge" rule;

**IT IS HEREBY ORDERED** that the following shall be the procedure for judicial case assignment in domestic relations cases and proceedings under the juvenile code as listed in MCR 8.117(A)(6) and (7):

1. Membership in the same family will be determined through the identity of the mother.
2. Whether or not there is a previous case involving the same family shall be determined at the time that a new case is initiated through a search of the mother's name.
3. If there is a previous case, the same judge shall be assigned to the new case, provided that there has been judicial involvement during the preceding two years. "Judicial involvement" does not include
  - A. Proceedings to collect past due child support initiated by the Friend of the Court; or
  - B. A reassignment of the case, without further action, due to LAO 2003-07J, dated June 16, 2003

4. If more than one judge has had involvement with the family during the previous two years, the case shall be assigned to the judge on the most recent case.
5. If there is no previous / pending case with judicial involvement during the last two years, the case shall be assigned randomly to a judge of the family division.
6. If Judge Kathleen A. Feeney is determined to have prior involvement, and is not allocated that case type, Judge Zemaitis shall be assigned.
7. If Judge Zemaitis is determined to have prior involvement, and is not allocated that case type, Judge Feeney shall be assigned.
8. If Judge Joseph Rossi is determined to have prior involvement and is not allocated that case type, the new case will be randomly assigned.
9. In child protective cases, if there is no previous / pending cases for the mother in the last two years, the father's name shall be searched. If the father has recent child protective proceedings, the case shall be assigned to the same judge as father's previous / pending case. If there is no previous / pending case for the father, the case shall be assigned randomly to a judge of the family division.
10. This LAO will not pertain to DO and PH case types. All DO and PH cases will be randomly assigned except in cases where previous judicial involvement existed between the parties.

If, after assignment, the judge assigned to the case determines that the case should have been assigned to another judge by virtue of this procedure, the judge assigned to the case shall prepare and submit an order of reassignment, setting forth the specific reason for said reassignment, to the Chief Judge for signature.

#### E. After Hours Plan

It is expected that any attorney or other person seeking extraordinary or emergency judicial relief of any kind will do so during the normal and customary business hours of the court, if, given the circumstances then existing, such relief need be sought at some other time, the just from whom such relief should be sought shall be determined as follows:

1. A bona-fide effort should be made to contact the assigned judge for a decision.
2. If for whatever reason the assigned judge cannot be located, or if no judge has been assigned, or if the judge cannot be reasonably determined, matters under

the jurisdiction of the Family Division of the Circuit Court, the presiding judge of the Family Division shall be contacted for a decision.

3. If, for whatever reason the presiding judge cannot be located, or cannot with reasonable diligence be determined, then the Chief Judge of the Circuit Court shall be contacted for a decisions.
4. If for any reason the Chief Judge cannot be located, then any judge of the Family Division can be contacted for a decision.
5. Before presenting any petition for emergency relief, the attorney or person seeking such relief shall inform the judge whether another judge previously has been consulted. If another judge has been contacted, a subsequent judge shall decline to act upon said matter, absent extremely emergency or extremely compelling reasons.
6. No judge contacted for such relief shall be assigned to then preside over the case in question unless he or she is determined to be the assigned judge in the customary manner. This provision for emergency contact does not impact the one judge/one family section of this order.
7. Judicial contact, unless indicated otherwise by the judge(s) involved shall be through the dispatch center of the Kent County Correctional Facility.

### III. FAMILY DIVISION REFEREES

The Family Division shall make full use of referees to the extent authorized by statute and court rule. To the extent practicable, first contact with domestic relations cases (e.g., setting of temporary support, custody, parenting time; etc.) will be with a judge, but once orders are set, referees are authorized to modify or enforce them.

Assignment of cases to referees will be pursuant to MCR 3.215 and MCR 3.913. Specific duties of referees will include, but not be limited to:

- Settlements on the record
- Modification and enforcement of custody, parenting time, and support.
- Hearings on change of domicile
- Trials
- Hearing testimony and recommending judgments of divorce be entered
- Scheduling conference

- Settlement conferences
- Parenting time or other civil order to show cause hearings
- Assessment of attorney fees and sanctions on motions
- Paternity cases
- Spousal support determinations upon stipulation of the parties
- Emancipation of minors
- Personal protection order objections
- Select pre-judgment Family Division motions
- Any other motion referred to the referee by the circuit court judge
- Administrative assistance as requested by the Chief Judge, Presiding Judge, or Court Administrator
- Any juvenile code hearings other than jury trials or waiver proceedings, preliminary examinations, or sentencings in a designated case

The Circuit Court attorney referees, who are appointed by the Chief Judge of the Circuit Court, will report directly to the Court Administrator and the Presiding Judge of the Family Division.

#### IV. FACILITIES AND RECORDS MANAGEMENT

##### A. Court Files

As provided by court rules, there shall be two files in child protective and juvenile delinquency cases. The public file (also known as the legal file) is open to public inspection. The confidential file (also known as the social file) is open only to those determined by the court to have a legitimate interest in the material contained therein. The confidential (social) files in pending child protective and juvenile delinquency Cases, which are utilized frequently by the judges, their judicial clerks, and juvenile probation officers, are to be kept in the physical custody of judicial clerks and/or probation officers until closed.

##### B. Role of the County Clerk

In accordance with Const 1963, art 6, sec 14, and MCL 600.571 and MCL 600.1007, the County Clerk will have the care and custody of the records for the Circuit Court, including those of the Family Division, as the Chief Judge shall direct. The County Clerk shall take all steps necessary to ensure that staff are properly trained, court records are correctly maintained and made accessible to judges, attorneys, and members of the public, and that confidential records are protected from disclosure.

All documents, and access to appropriate court records and information, will be at the Circuit Court Clerk's Office, suite 2400, Kent County Courthouse, 180 Ottawa Avenue, N.W., Grand Rapids, Michigan.

## V. YOUTH DETENTION FACILITY

The operation and administration of the Kent County Juvenile Court's Youth Detention Facility will be the responsibility of the Family Division under agreement of the Chief Judge and the Kent County Board of Commissioners. The Superintendent of Detention is designated as the manager of the facility. The Superintendent will report directly to the Court Administrator and the Presiding Judge of the Family Division. All administrative functions of the facility, under the direction of the Court Administrator, will be the responsibility of the facility manager. These functions include all fiscal responsibilities such as budget preparation and monitoring, staffing and personnel issues, policy and procedures, and all other operational aspects of the facility that ensure the safety and security of the staff and residents. All fiscal, statistical and other operational information will be reported to the State of Michigan and/or County of Kent (and any other entities, as required) as previously was reported to these entities and as required by applicable rules and regulations.

## VI. DYNAMIC DOCUMENT

This Plan supersedes all prior Plans approved for the operation of the Family Division.

All parties associated with the implementation of this Plan recognize that it is a "dynamic" document and as such it will be annually reviewed, and revised as may be necessary, by the Chief Judge of the Circuit Court and the Chief Judge of the Probate Court, in consultation with the Presiding Judge of the Family Division.