

STATE OF MICHIGAN OAKLAND COUNTY PROBATE COURT	METHOD FOR ASSIGNING CASES IN THE PROBATE COURT	ADMINISTRATIVE ORDER  <b>2018-02</b>
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### Scope

This administrative order is issued in accordance with Michigan Court Rule 8.112(B) that allows a trial court to issue administrative orders governing internal court management, and pursuant to Michigan Court Rule 8.111(B), which requires a LAO for assignment methods other than by lot. This order rescinds Oakland County Probate Court Local Administrative Order 2015-02.

### Assignment of Cases

#### I. Judicial assignment of cases shall be by blind draw

- A. The Chief Probate Judge may revise the judicial assignment of all probate cases such that assignments are weighted by case type in order to create a balanced workload. Within each case type, the selection of judge shall be by blind draw weighted to reflect the specific percentage to be assigned to each judge.
- B. The percentage weight of case types assigned to each judge may be modified as needed by the Chief Probate Judge for the purpose of judicial efficiency.
- C. Requests to review blind draw assignments must be made to the Probate Court Administrator or Probate Register.

#### II. Blind Draw Procedure

- A. The judicial assignment by blind draw shall be accomplished through the random electronic selection of a judge's name from the corresponding case category. This process will occur under the direction of the Probate Court Administration. The case categories presently used are: :
  - 1. Decedent Estates
  - 2. Trusts
  - 3. Adult Guardianship and Conservatorship
  - 4. Minor Guardianship and Conservatorship
  - 5. Developmentally Disabled
  - 6. Small Estates/ Estates by Application

Case categories may be added or modified at the direction of the Chief Judge of the Probate Court as needed for the purpose of judicial efficiency.

- B. Blind draw exceptions are cases assigned outside of the random blind draw as identified in section III. An electronic record of these assignments will be made indicating a manual assignment. The manual assignment will reduce the number of electronic blind draw assignments by one for the judge receiving the manual assignment.
- C. If the electronic blind draw process is unavailable a manual process may be implemented at the direction of Probate Court Administration. The manual process will utilize a preprinted stack of randomly ordered sealed cards each with a judge's name. When a new case is filed court staff will select the top card, open it, and assign the case to the judge written on that card. The staff will record the case number assigned and remove the card from the stack. The card may be scanned into the electronic file or retained in its original format. The electronic blind draw will be updated to reflect the manual assignment record when it is available. The manual assignment will reduce the number of electronic blind draw assignments by one for the judge receiving the manual assignment.

### III. Exceptions

- A. A case shall not be assigned by blind draw if it falls within one of the exceptions listed below.
  - 1. Probate cases that are ancillary to cases within the Family Division shall be assigned pursuant to the Family Division Plan for the 6<sup>th</sup> Circuit Court. Assignment under the Family Division Plan supersedes other exceptions as listed in this Local Administrative Order.
  - 2. Adult and minor guardianships, adult and minor conservatorships, DD guardianships and trust files for the same individual shall be assigned to the same judge according to the first case opened if a case was opened or adjudicated or non-administrative case activity has occurred within the two prior calendar years. Administrative activity includes mass judicial reassignments, administrative closing, file destruction and other administrative case tasks. For trust files, the individual must be identified as the grantor or sole beneficiary of the trust at the time of filing.
  - 3. When a new petition that would reopen a closed adult or minor guardianship, adult or minor conservatorship, a DD guardianship, a decedent estate or a trust is filed, the file shall remain assigned to the same judge, except as limited by paragraph 13.

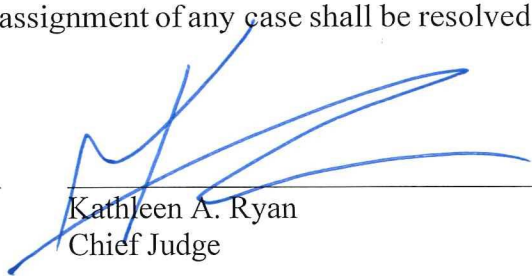
4. Minor guardianship and minor conservatorship files involving minor siblings or minor half-siblings identified at the time of filing, shall be assigned to the same judge.
5. Guardianship and conservatorship files on parents (whether an adult or minor) and their minor children shall be companioned to the same judge if the earliest filed case is open at the time the subsequent file is commenced.
6. If there is an open minor conservatorship for an individual reaching the age of majority and a petition for an adult conservatorship or developmentally disabled case is filed on that individual, the new case shall be assigned to the same judge as the minor conservatorship.
7. Trust and decedent files for the same individual shall be assigned to the same judge according to the first case opened.
8. Civil cases shall be companioned to the underlying probate case, if there is one.
9. New decedent files with an open conservatorship file on the same individual shall be assigned to the judge assigned to the conservatorship file.
10. New decedent estate files identified as involving individuals who were married at the time of death of the first spouse and filed at the same time, shall be companioned with the same judge.
11. Guardianship, conservatorship, trust, miscellaneous and protective order files identified as involving currently married individuals and filed at the same time shall be assigned to the same judge according to the first file opened.
12. Probate judges shall be assigned to hear mental health commitment and treatment cases on a weekly rotational system. Mental Health commitment and treatment cases shall be assigned and/or reassigned to a probate judge according to the appropriate hearing date at the time a petition is filed. A judge may direct that a specific case remains assigned to her or him to promote judicial economy or where necessary to maintain continuity in the case.
13. In all situations under subsection (A), if there are no currently open files regarding an individual and the judge previously assigned to a file that is now closed is no longer on the bench or no longer hearing the type of case being filed, then the blind draw procedure shall be followed.

14. In all situations under subsection (A), a protective order case shall be treated the same as a conservatorship case.

B. Reassignment of Cases

1. Cases shall be reassigned according to the provisions of MCR 8.111.
2. If it appears to any two judges that the interests of justice would better be served by reassignment of any case, that case may be reassigned to another judge of this probate court by written order of the Chief Probate Judge.
3. If it comes to the attention of the Probate Court Administrator or Probate Register that for any reason proper procedures were not followed in the assignment of any case, he/she shall notify the judges involved, and may initiate a Chief Judge Order of Reassignment in accordance with this Administrative Order.
4. Disqualification of Judge
  - a) If a judge is disqualified or for other good cause cannot undertake an assigned case, the Chief Probate Judge may direct reassignment to another judge by lot through the use of the appropriate random Alternate Judge Table.
  - b) Following disqualification and reassignment of the case, the judge receiving the reassigned case shall have 14 days within which to give back to the reassigning judge a case of similar type and age. If a case has not been reassigned back within 14 days, the Court Administrator or Probate Register shall propose a case for reassignment from the docket of the receiving judge within seven days thereafter.
5. Procedures for Orders of Reassignment
  - a) All orders for reassignment shall contain the reason for reassignment. If the reason for reassignment is based upon a disqualification of a judge, such order shall be attached to the Order for Reassignment.
  - b) All orders for reassignment shall be approved by the Chief Probate Judge.
6. Any dispute as to the proper reassignment of any case shall be resolved by the Chief Probate Judge.

Effective Date of Order: 8/14/18

  
Kathleen A. Ryan  
Chief Judge