

# JACKSON COUNTY CIRCUIT COURT

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John G. McBain  
Chief Circuit Judge

Diane M. Rappleye  
Chief Probate Judge

Hon. Susan E. Beebe, Circuit Judge  
Hon. Chad C. Schmucker, Circuit Judge  
Hon. Thomas D. Wilson, Circuit Judge

## **Administrative Order 2010-2J (Jackson Probate) Administrative Order 2010-12J (4<sup>th</sup> Circuit)**

**PLAN FOR THE OPERATION  
OF THE  
FAMILY DIVISION OF THE  
4TH CIRCUIT COURT (JACKSON COUNTY)  
AND THE  
JACKSON COUNTY PROBATE COURT  
(EFFECTIVE JANUARY 13, 2010)**

### **This Order Rescinds Administrative Order 2008-3J**

The undersigned affirm that the information contained in this plan represents the full agreement of the Chief Judges involved in developing the plan and supercedes all prior plans.

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John G. McBain  
Chief Circuit Judge

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Diane M. Rappleye  
Chief Probate Judge

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

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### **March 1998 Amendment**

When the Family Court Plan was initially drafted and approved, Jackson County had four Circuit Judges and two Probate Judges. In January 1998, Judge Sill announced his retirement. After Judge Sill's retirement, the legislature eliminated the second Probate Judge position. This amendment will be effective April 1, 1998, and is based on five judges.

### **February 1999 Amendment**

After eight months of the Family Court operation, it appeared that adjustments needed to be made to the caseload assignments. After discussing this and receiving input from all the judges, this amendment has been prepared which will shift all of the cases with an "A" designation (appeals from District Court, appeals from administrative agencies, *habeas corpus*, driver's license restoration, etc.) from Judge Grant to the other two non-family court judges. This will include all new cases and existing cases with the exception of any case which Judge Grant has under advisement.

### **April 1999 Amendment**

Judge Vandercook began operating in her courtroom in the courthouse effective April 12, 1999, and the previous plan provisions accommodating her Fleming Street location were no longer necessary. Effective with the date of this amendment, Judge Vandercook, as presiding judge of the Family Division, is assigned all parental consent hearings and hearings regarding access to old adoption files. Judge Vandercook is also assigned a portion of the closed domestic relations docket.

### **January 2000 Amendment**

Judicial assignments were adjusted in January 2000 with an effective date of February 1, 2000. After receiving input from all judges, it was decided that all family court cases with children would be assigned to Judge Schmucker and Judge Vandercook. The balance of the family court docket, which does not involve children, i.e., divorces without children and PPOs in which the parties do not have children together be equally assigned to the other three judges. The civil, criminal, and appellate docket would also be equally assigned to the other three judges.

### **November 2001 Amendment**

The purpose of this amendment is to re-balance the Family Court caseload in anticipation of Judge Schmucker ending his tenure as Chief Circuit Judge and to clarify requests for full and limited guardianships of minors shall be assigned to a Family Court Judge if there is an existing Family Court case.

### **November 30, 2001**

To provide a plan of operation for the Circuit/Family/Probate Courts.

### **January 1, 2003 Amendment**

The purpose of this amendment is to reassign cases by reason of the retirement of Judge Perlos and his replacement by Judge McBain.

### **April 13, 2008 Amendment**

This amendment is intended to take effect on the filling of a vacancy created by Judge Grant's retirement.

After Judge Grant's retirement and until a new judge has replaced him, Judge Grant's cases will be assigned to Judge McBain and Judge Schmucker, with one judge being assigned even cases and on being assigned odd cases. If there are related cases, (i.e. a PPO and a divorce case, or co-defendants), the lowest file number will control.

The cases will not be re-assigned to Judge Schmucker and Judge McBain, but they will handle the cases that are appearing on Judge Grant's docket. As soon as the replacement is appointed for Judge Grant, the cases formerly assigned to Judge Grant will be assigned to Judge Wilson.

The Judges agreed that more resources need to be devoted to the Family Division and have reached consensus on a reallocation of cases to take effect on the appointment of Judge Grant's successor.

Judge Susan Beebe was selected by the Governor in late March to fill Judge Grant's vacancy and she started hearing cases on April 14, 2008. Circuit Judge Susan Beebe and Probate Judge Diane Rapplepe are the two judges who will primarily handle Family Division cases involving children.

### **January 2010 Reassignment of Cases between Judge Schmucker and Judge McBain**

The January 2010 Amendment involves Judge McBain's and Judge Schmucker's dockets only, and is being made with the consent of both of them. Essentially, Judge Schmucker's criminal cases are being transferred to Judge McBain, and Judge McBain's civil cases, with a minor exception, and some of his divorce and PPO cases are being transferred to Judge Schmucker. The purpose of this change is to improve case flow and better serve the public by efficiently providing for the fair adjudication of cases.

The only Family Division cases which are being affected are the family cases without children which are on Judge McBain's docket, ( DO, PH and some DZ and PP). Judge McBain was assigned 1/3 of these cases before the amendment, but 50% of his closed, pending and new cases will now be assigned to Judge Schmucker. See the Administrative Order on Judicial and Case Assignments for more details.

This Order takes effect immediately with certain exceptions noted in the Judicial and Case Assignment Order.

Since the transfer of ½ of Judge McBain's DO docket includes not only new cases but also pending and closed cases, the Clerk's Office will flip a coin to determine whether odd cases or even cases will be transferred to Judge Schmucker, and Judge Schmucker will be responsible for all further proceedings on cases closed before January 13, 2010 which had odd or even file numbers. All new cases will be randomly assigned by the Clerk's office. Judge Schmucker will also be responsible for ½ of any PPO's without children, which will include PP and PH, including modifications, terminations, or violations arising from Judge McBain's closed caseload.

### **Administration**

1. The Chief Judge of the Circuit Court has supervisory authority over the administration of the Family Division of the Circuit Court.

2. The Circuit and Family Court shall have a unified administrative structure. The court administrator of the Circuit and Family Court shall be appointed by the Chief Circuit Judge after consultation with the Chief Probate Judge and the other Circuit Judges.

3. The Circuit and Family Court Administrator shall be responsible for supervising all employees assigned to the Circuit and Family Court administrative staff.

4. Circuit and Probate Courts will have a combined budget.

5. The Friend of the Court and Director of the Youth Center will report to the Chief Circuit Judge.

6. A judge's service in the Family Division will be long enough to be consistent with the development of judicial expertise in Family Law.

7. The Chief Judge will appoint a Presiding Judge of the Family Division.

8. The Chief Judge has the authority to determine the length of a judge's service in the Family Division.

9. The County Clerk has been afforded an opportunity to participate in the development of the aspects of this Plan relating to management of records and will be consulted on any changes in this Plan which relate to the management of records.

### **Judicial and Case Assignment**

See the current Administrative Order on Judicial and Case Assignments, which is incorporated by reference.

### **Guardianship of Minors**

When a new case for guardianship of a minor, either full or limited, is filed, the Probate Court staff shall determine if there is an existing family court case involving the minor or the minor's parents. If such a case exists, the guardianship file will be assigned to the Family Court Judge who has the existing file.

### **Case Assignment of Family Division Cases**

Family Court jurisdiction, as stated in MCL 600.1021, includes the following types of cases:

- Divorce
- Paternity
- Support
- Interstate custody, support, or visitation
- Adoption
- Delinquency
- Abuse and Neglect
- Change of Name
- Status and emancipation of minors
- Parental consent for abortion
- Personal protection orders

### **New Case Assignments**

Except as noted in this plan, all cases will be assigned by lot pursuant to MCR 8.111.

All new filings after the effective date of this Plan will be randomly assigned according to the percentages set forth in this Plan.

All parental consent to abortion hearings shall be heard by Judge Rappleye. These cases will not be assigned randomly to all of the family division judges because of the confidential nature, the special procedures required, and the low number of these cases.

All petitions for access to closed adoption files shall be heard by the senior judge handling adoptions in the family division. This deviation from the random assignment is because of the confidential nature of the records and the infrequency of these petitions.

The two judges who primarily handle Family Division cases with children will handle all of the adoptions, except step-parent adoptions. If there is an existing DM, DP, DS, DZ or DC involving the birth parents, the step-parent adoption case will be assigned to the same judge that is handling the domestic case.

### **Related Family Cases**

**Domestic Cases (all “D” cases) and Personal Protection (PP):** The County Clerk’s office, in consultation with the Chief Circuit Judge, shall develop procedures to determine if a family involved in a new case has a pending case. If it is determined that a family involved in a new case has a pending case, the new case shall be assigned to the judge with the pending case. Pending cases shall include but shall not be limited to the following:

- A. A pending DM, DC, DS, DP, or DZ -- pre-judgment involving both parties.
- B. A post-judgment DM, DC, DS, DP or DZ involving both parties in which the family court still has jurisdiction over minor children.
- C. A delinquency case involving a child of both of the parents.
- D. A previous abuse or neglect proceeding involving any of the same children.
- E. A pending PPO involving both parties.
- F. A limited or full guardianship of a minor of both parties.

When each party has a different existing pending cases, the case will be assigned based on the pending case of the Husband/Father. If both parties have pending cases assigned to different judges, the case will be assigned based on the oldest pending case of the Husband/Father.

**Neglect-Abuse and Delinquency (NA/DL cases):** Only 2 judges are regularly assigned to handle Neglect and Delinquency cases. If it is determined that a family involved in a new Neglect or Delinquency case has a pending case with one of the two judges regularly assigned NA and DO cases, the new case shall be assigned to the Judge with the pending case. Pending cases shall only include cases which are assigned to the two primary Family Division Judges and shall include the following:

- A. A previous abuse or neglect proceeding involving any of the same children.

- B. A delinquency case involving a child of both of the parents.
- C. A pending DM--pre-judgment involving both parties.
- D. A post-judgment DM involving both parties in which the family court still has jurisdiction over minor children.
- E. A pending PPO involving both parties.
- F. A limited or full guardianship of a minor of both parties.

When the Clerk's Office determines that the parents involved in an abuse or neglect case are both involved in a pending case assigned to one of the other three Circuit Judges who do not regularly handle neglect or abuse cases, the Clerk's Office may request that the Chief Judge re-assign the pre-existing pending cases to one of the Family Division Judges who handles abuse and neglect cases.

#### **Pending Cases – Domestic only (DM, DP, DC, DO, DZ, DI)**

The Chief Circuit Judge shall have authority to order that a pending case shall not be reassigned and shall be handled until conclusion by the currently assigned judge if in the Chief Circuit Judge's sole discretion such action is warranted for judicial economy, the efficient administration of justice, and timely case flow management. A party, the reassigned judge, or the formerly assigned judge may request that the Chief Circuit Judge order that the previously assigned judge handle the case until conclusion. The Chief Circuit Judge may also take this action on his own initiative.

#### **Caseflow Management and Scheduling**

A proposed case flow management and scheduling plan shall be determined by each judge and submitted to the Chief Judge in writing.

#### **Facilities and Records Management**

All court documents for circuit and family court shall be filed at the County Clerk's office in the courthouse.

The central access point for providing the public and bar with information regarding access to courts and court-related activities, such as where to file documents, how records are stored, how records may be accessed, and the date and time of hearings is the County Clerk's office.

**Human Resources Issues**

The Probate Register and the Assistant Probate Register, and the Probate Clerk, will report to the Probate Judge.

**Review**

The provisions of this plan shall be reviewed by the Chief Judges annually.

APPROVAL:

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Amanda L. Riska  
County Clerk

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Diane M. Rappleye  
Chief Judge  
Probate/Family Court

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John G. McBain  
Chief Judge  
Circuit Court