

## ST. JOSEPH COUNTY MICHIGAN

### CONCURRENT JURISDICTION PLAN

This rescinds C45 2005-02J and D3B 2005-01J

**FILED**

JAN 28 2013

#### A. APPLICANT SUMMARY

**PATTIE S. BENDER**  
ST. JOSEPH COUNTY CLERK

45 <sup>th</sup> Judicial Circuit Court, 75 <sup>th</sup> Probate Court and 3-B District Court
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Concurrent Jurisdiction Type: Circuit, Probate and District Court Jurisdiction

#### Chief Judge Signatures

Chief Judge Paul Stutesman P46810	Signature: 	Date: 1-18-13
Chief Judge Pro-Tempore Jeffrey C. Middleton P33555	Signature: 	Date: 1/28/13

## **B. PLAN DESCRIPTION**

Subject to approval by the Supreme Court and to certain other limitations as defined in 2012 PA 338 and described in these requirements, a plan of concurrent jurisdiction is adopted by a majority vote of judges participating in the plan as follows: the Circuit, Probate and District Judges.

This plan of concurrent jurisdiction provides for exercise and power of jurisdiction as follows: The Circuit Court and all Circuit Judges may exercise the power and jurisdiction of the District and Probate Courts. The District Court and all District Judges may exercise the power and jurisdiction of the Circuit and Probate Courts. The Probate Court and all Probate Judges may exercise the power and jurisdiction of the Circuit and District Courts

Pursuant to MCL 600.410:

This plan of concurrent jurisdiction does not include a delegation of any of the following:

- (a) The power of appointment to a public office delegated by constitution or statute to the circuit court or a circuit judge.
- (b) The power of appointment to a public office delegated by constitution or statute to the district court or a district judge.
- (c) The power of appointment to a public office delegated by constitution or statute to the Probate court or a probate judge.

This plan of concurrent jurisdiction is further subject to the following exceptions:

- (a) The circuit court shall have exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by law.
- (b) The circuit court shall have exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

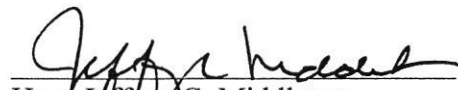
C. CERTIFICATION OF PLAN APPROVAL

St. Joseph County Concurrent Jurisdiction Plan - Certification of Plan Approval.

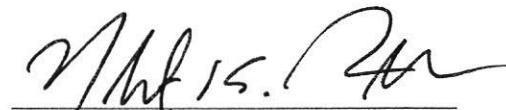
The undersigned judges certify that they have adopted this concurrent jurisdiction plan.

  
Hon. Paul Stutesman

1-28-13 Chief Judge  
Date

  
Hon. Jeffrey C. Middleton

1/28/13 Chief Judge Pro-Tempore  
Date

  
Hon. Robert K. Pattison

1-28-13 District Court Judge  
Date

  
Hon. David C. Tomlinson

1-28-13 Probate Court Judge  
Date

## D. PROPOSED JUDICIAL RESOURCE ALLOCATION & ADMINISTRATION

### Historical Perspective

In 1990, a fourth additional judge for St. Joseph County was authorized and elected with the expressed purpose of providing assistance with the overloaded dockets in both the Circuit and District Courts. That individual, elected as a District Judge, has divided his time between the courts with approximately 50% to Circuit Court and 50% to District Court. The Circuit Court matters have primarily been divorce, custody and child support cases.

Most family cases are assigned to either the Probate Judge (presiding judge of the Juvenile and Protective Division) or the 'hybrid' District Judge (presiding judge of the Domestic Relations Division by assignment). In addition, the Circuit Judge has duties in the Family Division pertaining to divorces without children, and serves as a backup with personal protection order processing (also handling occasional conflict cases). The second District Judge serves as a backup with personal protection order processing. Of course, all four judges are responsible for other cases outside the Family Division arising out of the inherent jurisdictions of their respective courts.

The above historical perspective is intended to give meaning to the following sections. The addition of the fourth judge in 1990, the manner in which the position was designed, and the ensuing Family Court Plan have allowed the judges a great deal of flexibility in presiding over cases that suit their talents and expertise.

#### 1. Concurrent Jurisdiction Plan Goals

The adoption of the plan will allow the continuation of the benefits which have already been derived with the current court organization. The benefits inure to everyone involved and especially the litigants and their counsel. These include:

- a. A manageable workload for each judge.
- b. Efficient case processing.
- c. Better compliance with the time standards.
- d. Cases assigned to judges based upon their expertise, knowledge and experience.
- e. Better communications and cooperation between the courts.
- f. Judicial continuity for family units.
- g. Better judicial coverage during the absence of a particular judge.

## 2. Judicial Resources

### a. Assignments

Family Court - all matters submitted to the Family Division of the Circuit Court shall be assigned based upon Local Administrative Order 2003-03 which was adopted pursuant to MCR 8.112 and attached hereto.

Circuit Court - all Circuit Court jurisdiction cases, except those of the Family Court, shall be assigned to the Circuit Court Judge.

District Court – The two District Court judges have a set weekly schedule to timely handle all District Court matters and cases are assigned to each District Judge according to that schedule. The one District Judge who is also the presiding judge of the Domestic Relations Division spends 50% to 60% of his time involved with Family Court cases assigned pursuant to Local Administrative Order 2003-03.

Probate Court – all Probate Court jurisdiction cases shall be assigned to the Probate Court Judge.

### b. Re-Assignments

#### 1.) Assistance with the docket

It is the intent of the judges of the Circuit, Probate and District Courts to provide coverage for one another whenever possible in the event of emergencies, illnesses, and other leaves of absence.

#### 2.) Disqualifications

##### Family Court -

In the event of a disqualification by a judge in a Family Court case, the matter shall be assigned to a Family Division presiding judge. If that assignment also causes a conflict, then the Chief Circuit Judge shall be responsible for assigning the matter to himself or another judge.

##### District Court -

In the event of a disqualification by a District Judge, the matter shall be assigned to the other District Judge. If that assignment also causes a conflict, then the Chief District Judge shall be responsible for assigning the matter to another judge.

Circuit Court -

In the event of a disqualification by the Circuit Judge, the matter shall be assigned to another judge by the Chief Judge or the Chief Judge Pro-Tempore.

Probate Court –

In the event of a disqualification by the Probate Judge, the matter shall be assigned to another judge by the Chief Judge or Chief Judge Pro-Tempore.

- 3.) Appeals from all disqualification rulings shall be conducted by the Chief Judge or by the judge appointed through the State Court Administrative Office.
- 4.) This plan essentially recognizes the organization as it currently exists in St. Joseph County. It is therefore anticipated that current practices regarding scheduling, caseload distribution, transition and transfer of cases and rotation of judges need not be modified at this time.
- 5.) Quasi - Judicial Resources

The Friend of the Court Referee, Juvenile Court Referees and District Court Magistrates will continue to perform in their current capacities and within the existing framework of laws and court rules. No changes are currently anticipated with regard to assignment, scheduling or caseload distribution. In addition, no issues are expected to arise with regard to the transition and handling of pending cases.

### 3. Court Governance

The courts governed by this plan will form a single judicial council. The council will be comprised of voting members, namely all Circuit, Probate and District judges, and non-voting members, which will include the District Court Administrator, Circuit/Probate Court Administrator, Juvenile Division Administrator and Friend of the Court.

The judicial council will meet quarterly to discuss issues of common concern. In the event the voting members cannot agree regarding an issue or proposal, it shall be continued until the next regular or special meeting. If consensus is still not reached, the Regional Administrator will be requested to help forge a resolution.

In addition to the above, a special meeting may be called by either the Chief Judge or Chief Judge Pro-Tempore and that meeting shall occur within seven days.

Even though resolution by consensus is the goal of the council, it is understood that in emergency situations, or if required by statute, order or rule, the Chief Judge may act on behalf of the Judicial Council. In the event such an action occurs, the Judicial Council will meet within seven days to discuss the matter.

#### 4. Conclusion

The adoption of this plan will allow for continuation of the current system of operation for St. Joseph County Circuit, Probate and District Courts. No modification will presently be made in the following:

- Administrative Structure
- Human Resources
- Budget and Fiscal Management
- Records Management
- Information Systems
- Facilities and Infrastructure
- Jury Management
- Training

It is the intention of the Judicial Council to periodically consider changes to the plan as it deems advisable. Every effort will be made to include staff, attorneys and outside agencies and individuals in future planning.

This concludes this plan, dated this 28 day of January 2013.