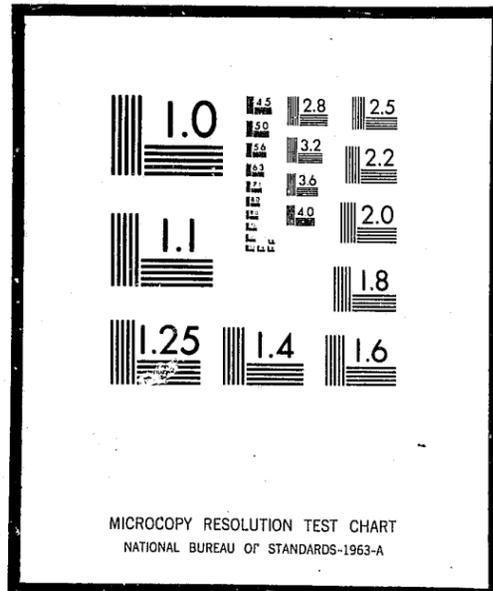


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THE JUDICIAL SYSTEM OF MICHIGAN

The judicial power of the State of Michigan is vested by the new State Constitution in "one court of justice" which is divided into one Supreme Court, one Court of Appeals, one Circuit Court, one Probate Court and courts of limited jurisdiction, which the Legislature may establish.

Revised: October, 1973

SUPREME COURT

At the head of the state judicial system is the Supreme Court. It serves as the highest appellate court in Michigan, hearing cases which are appealed to it from other courts. In practice, an appeal to the Supreme Court is a matter of discretion on the part of the court. An "application for leave to appeal" is filed with the Supreme Court and it decides whether to grant such application. If the application is granted, the Supreme Court will hear the case. If denied, the decision of the lower court will stand.

Aside from its appellate nature, the Supreme Court has other functions aimed at improving the administration of justice in the state, namely: (1) the promulgation of rules designed to serve as guides of practice and procedure in all of the courts, which is commonly called the "rulemaking power"; and (2) supervision and control over all other courts in the state, which is often referred to as the power of "general superintending control." By recent constitutional amendment, if there is a vacancy in any court of record, or in the new District Court, the Governor appoints a lawyer as judge to fill the vacancy until January 1st following the next general election at which a successor judge is elected to serve out the disabled, retired, removed, or deceased judge's unexpired term.

generally contains a statement of facts of the case and the reasons in support of or against the appeal. It is filed with the Clerk of the Court.

The period between sessions is devoted by the Justices to other judicial business, including the writing of opinions on cases previously heard by them. The written opinion which receives the approval of a majority of the Justices becomes the decision of the Court in a particular case. A Justice may write a "concurring" opinion if he agrees with the majority opinion, but for reasons different from those given by the majority of Justices. On the other hand, if he disagrees with the majority opinion in whole or in part, he may write the reasons for his disagreement in a "dissenting" opinion.

Court officers who are appointed by the Justices to assist in transacting the business of the court include the Clerk of Court, the Crier, the Commissioners, the Court Reporter, Court Administrator and their respective deputies and assistants. The office of Court Administrator is primarily concerned in assisting the Supreme Court with its task of general superintending control over all other courts in the State.

The Supreme Court consists of 7 Justices—the Chief Justice and 6 Associate Justices. Two Justices are elected every 2 years (one in the 8th year) in the November election for a term of 8 years. The term of office starts in January following the election. Although nominated by political parties at their state conventions, the Justices are elected on a non-partisan ballot and this is an entirely separate ballot. They must be qualified electors, licensed to practice law in the state, and at the time of election must be under 70 years of age. The salary of the Justices is fixed by the State Officers Compensation Commission and paid by the State. The present salary is \$42,000 annually.

One Justice is selected by the court as its Chief Justice, as provided by rules of the Court, every two years.

The sessions of the Supreme Court are held in Lansing, the State Capitol. There are 9 regular sessions each year, beginning in October and ending in June. The Justices meet on the first Tuesday of each month for as long as a week, to hear cases and transact the business of the Court. During the hearings, the lawyer of each party is allowed to present arguments orally before the Justices to support a written brief on the case which is submitted in advance of the hearing. The written brief

COURT OF APPEALS

The Court of Appeals was established for the first time in Michigan by the Revised Constitution of 1963. Like the Supreme Court, the Court of Appeals is primarily an appellate court. However, it is more of an "intermediate" appellate court, being situated between the Supreme Court and Circuit Courts of the State. As constituted, the Court of Appeals hears most appealed civil and criminal cases which formerly were brought directly to the Supreme Court for review.

As of January 1, 1969, the Court of Appeals has 12 judges. For the purpose of choosing the members, the state is divided into 3 districts which are approximately equal in population and 4 judges are elected from each district. The judges are elected on a non-partisan judicial ballot at the general November election. To qualify for nomination, a candidate for judge of the Court of Appeals must be a lawyer, under 70 years of age, a qualified elector and resident of the district in which he is running. The judges hold office for a term of 6 years. The salary of the Court of Appeals Judges is \$41,961, effective November 1, 1973. It is set by the Legislature.

A Chief Judge is selected from among the 12 judges every 3 years. In addition to hearing cases in his division, the Chief Judge may perform such other duties as may be designated to him by the Supreme Court.

To hear cases and transact the business of the Court, the Judges of the Court of Appeals sit in variable combinations of 3 judges (or, when there is a heavy case backlog, in variable combinations of 2 Court of Appeals Judges, plus one Circuit Judge as assigned monthly by the Court Administrator). The 3-judge panels hold hearings in Lansing, Detroit, Grand Rapids and Marquette. The hearings are held in different areas of the State closest to where the parties reside in order to bring the court closer to the people, and thereby reduce litigant travel expense. The 3-judge panels are rotated to encourage state-wide uniformity in rulings by eliminating the likelihood of conflicting legal philosophies developing in specific geographical areas.

Each division of the court convenes to hear cases during the first week of each month, except the months of July, August, and September. The procedure for hearing cases is similar to that followed in the Supreme Court. During the hearings, the parties are allowed to present their arguments orally before the judges and in support of written briefs which are filed before the hearing. Parties litigant in the Court of Appeals are allowed to file briefs which are typewritten or prepared by other forms of duplication resulting in legible copies. The more liberal requirement as to form makes appeals to the Court of Appeals less expensive and enables the right of appeal to become accessible to everyone,

particularly those who are indigent or otherwise unable to afford the costs of an appeal.

The decision of a majority of the three (3) judges hearing a case in a division constitutes the decision of the Court in a particular case. A decision rendered by the Court of Appeals is final except for those cases which the Supreme Court consents to review.

Court officers include the Clerk of the Court, Commissioners, and clerical assistants.

CIRCUIT COURTS

For the purpose of administering the judicial business of the Circuit Courts in most expeditious and effective manner, the State is divided into judicial circuits with a Circuit Court to serve in each judicial circuit. As of January 1, 1973, there are 46 judicial circuits, each of which consists of from 1 to 4 counties.

The various circuits have from 1 to 28 judges, depending upon the volume of business in the court. The Circuit Court hears cases and transacts its business at the county seat but, if there is more than 1 county in the judicial circuit, the judge travels from one county seat to another to hold court. Sessions of the Circuit Court are held at least four times in each year in each county.

Circuit Judges are elected at the general November election for terms of 6 - 8 years. They are nominated and elected at non-partisan elections in the circuits in which they reside. To qualify for nomination, a Circuit Judge must be a qualified elector, a resident of the judicial circuit, a lawyer, and under 70 years of age. While serving his term of office, a Circuit Judge is prohibited from engaging in the practice of law. The salaries of the Circuit Judges vary. The State pays each judge a basic salary, fixed by the Legislature, but the counties may, and in most instances do, pay a supplemental salary. Effective November 1, 1973, the State will pay \$26,157, and counties may supplement this amount.

The Circuit Courts are also referred to in this State as the trial courts of general jurisdiction. This is because of their very broad powers. They have jurisdiction over all actions except those given by statute to another court. Generally speaking, they have original jurisdiction in all civil cases involving more than \$10,000, and in all criminal cases where the offense involved constitutes a felony or Circuit Court misdemeanor. As of January 1, 1969, the Circuit Court of Wayne County appoints referees to process all land contract foreclosures and eviction cases. Elsewhere in the State such cases will, in the future, be handled by the District Courts and Municipal Courts. They also hear cases appealed from lower courts and from some administrative agencies of the state government. In addition, the Circuit Courts

have jurisdiction over other cases and matters as well as the exercise of superintending control over inferior courts and tribunals within their respective judicial districts.

Circuit Court officers include: the County Clerk, who also serves as Clerk of the Circuit Court in his county, court reporters, who record the proceedings in court, and a Friend of the Court, who performs investigations and makes recommendations in connection with divorce cases, child custody, support, etc. The county sheriff and other officers assist the Circuit Court in various ways.

PROBATE COURTS

With the exception of four counties which have combined to form two Probate Court Districts,¹ there is a Probate Court in each county of the State. Each District has one judge and each of the remaining counties have one or more judges, depending upon the population of the county. Counties with less than 100,000 inhabitants have one judge; counties with 100,000 or more inhabitants may elect two judges; counties with more than 250,000 may elect three judges, and counties with 1,000,000 or more inhabitants may have up to six judges.

¹ Clare and Gladwin Counties and Charlevoix and Emmet Counties voted to combine as Probate Court Districts.

Probate judges are elected in the November general election for terms of 6 years. They are elected on a non-partisan ballot. To qualify for nomination, a Probate Judge must be a qualified elector, a resident of the county, under 70 years of age, and a lawyer. The base salaries of Probate Judges are set by statute. Sixty-five judges receive \$15,750 from the State and supplements from counties varying from \$5,250 to a maximum of \$17,000. In smaller counties where the proposal for districting failed, 35 other judges are paid one-half by the counties and one-half by the state in amounts varying from \$6,800 to \$9,900. The amounts vary and depend upon the population of the county.

Upon assignment by the Court Administrator of the Supreme Court, lawyer-Probate Judges may serve as Circuit Judges.

The jurisdiction of the Probate Court includes a variety of subjects and while retaining exclusive jurisdiction in such matters as juvenile proceedings and adoptions, is generally more limited in scope than the Circuit Courts. A major function is to provide supervision of matters pertaining to wills and estates. This involves the proving or "probating" of wills (this is how the court received its name) and administration of estates and trusts of deceased persons by executors or administrators. The Probate Court also hears cases pertaining to condemnation of land, guardianships and the commitment of mentally ill persons, the mentally handicapped, and addicted persons to mental hospitals.

The Probate Court also has a juvenile division commonly known as the "Juvenile Court."² It handles cases pertaining to children under the age of 17 who are delinquent, neglected or abandoned. In a majority of courts, the Probate Judge also serves as Juvenile Court Judge.

Court officers include the Probate Register and assistants, the Probate Court Clerk, court stenographer, and the probation and juvenile officers in the Juvenile Courts.

SPECIAL COURTS

There are courts in the State which were created by the Legislature prior to the adoption of the new Constitution. Among these courts are the Court of Claims, the Recorder's Court of the City of Detroit and Court of Common Pleas in Detroit. Under the provisions of the new Constitution, these courts are to continue in existence until abolished by the Legislature. A court which has been so abolished is the Superior Court of Grand Rapids. Effective January 1, 1965, its duties and functions were transferred to the Circuit Court for Kent County.

² Under the Constitution the Legislature is permitted to remove the Juvenile Court from the Probate Court and transfer its functions to another court.

COURT OF COMMON PLEAS: At the present time, only the City of Detroit has a Court of Common Pleas. This Court replaced the justice courts in the City of Detroit, and hears civil cases involving an amount greater than the old justice court, i.e. up to \$10,000.

RECORDER'S COURT OF THE CITY OF DETROIT: The jurisdiction of this court extends to all criminal cases arising within the corporate limits of the City of Detroit. It is a court of record and, also, possesses jurisdiction in certain condemnation cases within the City of Detroit.

COURT OF CLAIMS: As a general rule, a State cannot be sued without its consent. The State of Michigan has, however, given that consent by the establishment of the Court of Claims. This court holds 4 sessions a year in Lansing or some other designated place in the State. One of the Circuit Judges is designated by the Court Administrator to act as judge when the court is in session. The Court of Claims, however, is a court of limited jurisdiction, i.e., it possesses power only to render money judgments against the state.

COURTS OF LIMITED JURISDICTION

DISTRICT COURTS: The courts with which most citizens will have contact are those of the new state-wide District Court

System having 171 judges in 84 districts (not including the City of Detroit, or several other cities which elected to retain their Municipal Courts).³

The various districts have from 1 to 6 judges depending upon the local population and volume of cases. The District Court will hear cases and transact its business in the principal city or cities of a single-county district; but, where the district consists of more than one county, court must meet at least once a week in each county and regularly hear cases in each city having a population of 3,250 or more which furnishes courtroom facilities (unless such city is contiguous to either the county seat or to a city having a greater population).

The District Court has exclusive jurisdiction (1) of all civil litigation up to \$10,000;⁴ and (2) in the criminal law field of (a) all misdemeanors (including former Circuit Court misdemeanors where punishment does not exceed 1 year), as well as (b) the arraignment, setting and acceptance of bail and conducting preliminary examinations in felony cases. The District Courts also handle garnishments as well as eviction proceedings,

³ Justices of the Peace, Circuit Court Commissioners and most Municipal Courts were abolished as of January 1, 1969 and replaced by the new state-wide system of District Courts—except in 28 cities which retained their Municipal Courts under an optional feature contained in the District Court creative statute.

⁴ Under 1971 PA 148.

land contract and mortgage foreclosures, and other proceedings formerly handled by Circuit Court Commissioners. The District Judges do not have jurisdiction to issue injunctions, process divorce cases or exercise powers historically equitable in nature. Juries are limited to six members, with 5 able to render verdicts in civil cases; but all six must be unanimous in criminal case verdicts.

A small claims division for civil cases under \$300 is provided for where litigants may agree to waive their right to (a) jury; (b) rules of evidence; (c) representation by counsel; and (d) the right to appeal from the District Judge's decision. If either party objects the case will be heard by the general division of the court.

District Judges are elected at the general November election for terms of 6 years. They are nominated and elected at non-partisan elections in their districts. To qualify, candidates should be residents of the district, qualified electors, members of the bar and under 70 years old. They may not engage in private law practice while serving as judges. The salaries of District Judges vary with the state paying each a basic annual salary of \$21,279 fixed by the Legislature, which may be supplemented by the governmental units within each district. When assigned by the Court Administrator of the Supreme Court, District

Judges may serve as Circuit, Probate, and City of Detroit Common Pleas and Recorder's Court Judges.

In single-judge districts the judge is required to appoint one magistrate for each county in the district. He may appoint additional magistrates with the approval of the local Board of Supervisors. The magistrate may be a layman or a lawyer and is paid either a minimum annual salary of not less than \$5,000 or per diem salary of not less than \$20 per day, or \$10 per half day. He serves at the pleasure of the District Judge and must file a bond. The powers of magistrates are limited to setting bail and accepting bond on all criminal matters; they may accept guilty pleas and sentence on traffic, motor carrier, snowmobile, dog, game and boat law violations. He may also issue (1) arrest warrants upon the approval of the prosecutor or municipal attorney; and (2) search warrants when authorized by the District Judge. The magistrate may also act as coroner.

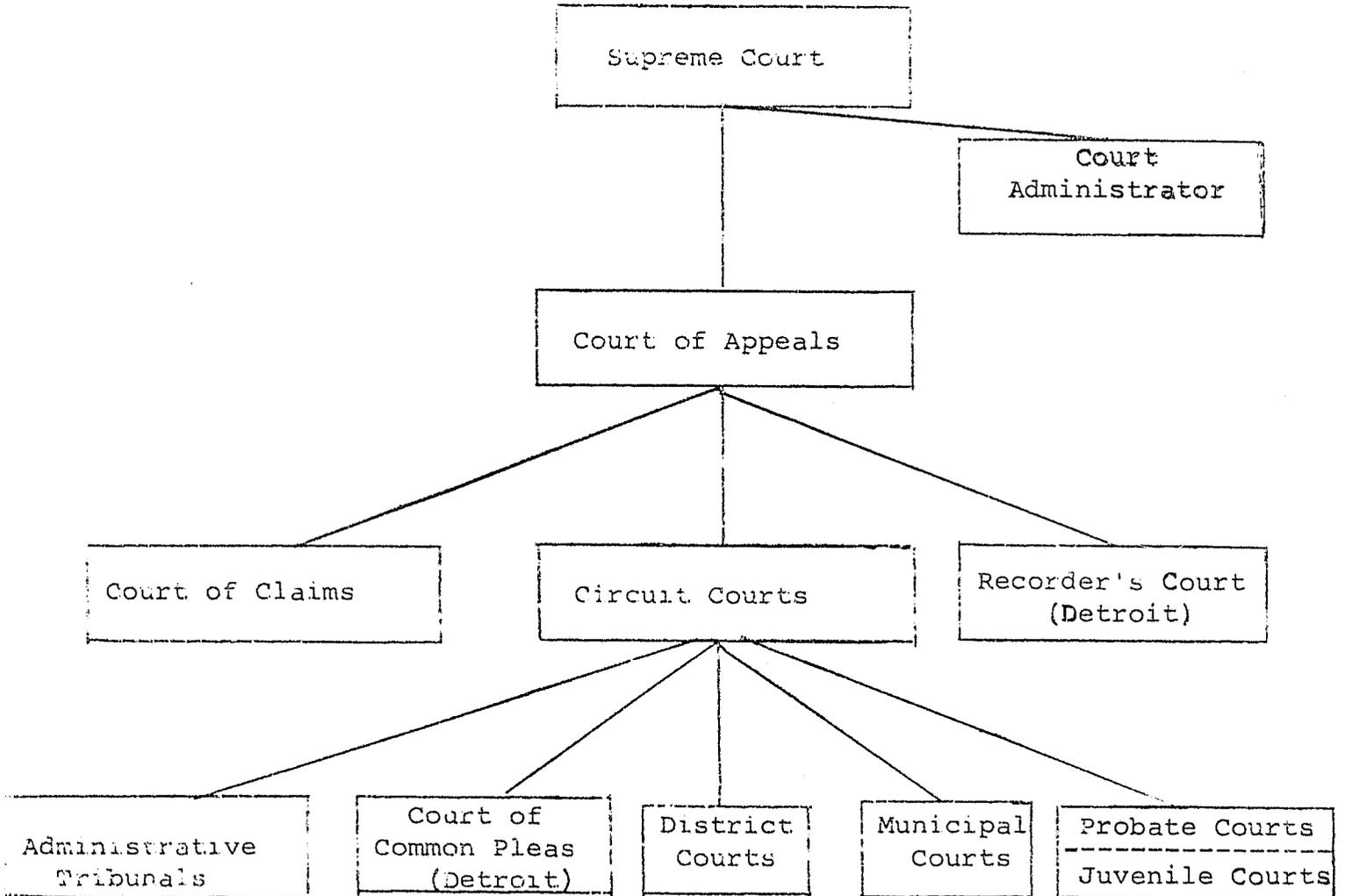
With the approval of the governing body in a local district the judge may set up traffic bureaus where court clerks may be authorized to accept pleas of guilty to, and fines for minor traffic offenses in accordance with schedules set up by the District Judge.

While the District Court is not a court of record,⁵ testimony is recorded electronically or stenographically, all appeals are made to Circuit Court and are decided upon the typewritten verbatim District Court transcripts or settled record rather than by trials de novo as formerly.

MUNICIPAL COURTS: In several cities which elected to retain their Municipal Courts in lieu of District Courts, the Municipal Judges have powers very similar to District Courts, except the civil jurisdictional amount is usually limited to \$1,000 to \$1,500 and, instead of having county-wide jurisdiction the Municipal Court is limited to the city's own boundaries, except that where the judicial district contains one or more townships without other Home Rule or incorporated cities, the Municipal Court jurisdiction includes such townships. Municipal Judges must be residents and electors of their cities. They are paid solely by the cities, and are elected for six-year terms.

5. 1973 PA 22, approved by Governor on May 25, 1973 made the District Courts a court of record. This act was given immediate effect.

THE JUDICIAL SYSTEM OF MICHIGAN



JANUARY, 1973

END