

Probate Court Plan for Appointment of Counsel for Indigent Parties

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The Probate Court recently submitted an Administrative Order in accordance with MCR 8.123 (effective January 1, 2004) and Administrative Policy Memorandum 2003-05 from the State Court Administrative Office. The proposed Administrative Order sets forth a plan for selecting, appointing, compensating and monitoring the performance of attorneys who are appointed by the Oakland County Probate Court to represent indigent respondents. It applies to Mental Health commitment matters and in any guardianship matters (Legally Incapacitated Individuals or Developmentally Disabled Persons) in which an attorney advocate is required by statute or court rule, and for the maintenance of records of appointments and compensation.

Currently, each individual judge's office makes attorney appointments for the above-referenced case types. The proposed Administrative Order requires that attorneys submit an application to the court for consideration of appointments. A committee consisting of court personnel and Probate judges will review the applications and compile a list of those attorneys eligible for appointments. The application form will be available through the Oakland County Probate Court. You can also contact my office to obtain an application.

For Mental Health commitment matters, the Probate Court Mental Health office staff will appoint attorneys on a strictly rotational basis (contingent on availability) with the exception of attorneys who have been appointed on the same case within the previous year. For guardianship matters, a newly created position called an Attorney Appointment Specialist will appoint attorneys, again on a strictly rotational basis and contingent on availability. If an

appointment is terminated and a new petition requires reappointment, the Attorney Appointment Specialist will reappoint the same attorney to promote consistent expert representation.

Attorneys are required to accept the appointment at the time of the initial telephone contact from the court; otherwise their names will be skipped until the next rotation through the list. Up to three cases on Mental Health matters may be assigned at a time to the same attorney for judicial efficiency as long as the rotational basis of appointment is maintained.

Please note that the appointed attorney must personally appear at all hearings except as approved by the judge. The compensation for counsel for indigent parties remains the same and is according to the established Oakland County Fee Schedule.

The Probate Court is required to maintain records of all appointments made as well as any reasons for deviation from appointing on a rotational basis. The Oakland County Business Division will maintain records of the appointments made by each judge of the court to each attorney, and the total public funds paid to each attorney for appointments by each judge of the court. These records as maintained will be made available to the public upon request.

Currently, the proposed Administrative Order has been submitted to the State Court Administrative Office for approval. Once it is approved, a copy of this plan will be available through my office. We will post signs and advise the Oakland County Bar Association as to when this new procedure will be effective. If you have any questions or concerns regarding this proposed Administrative Order, please contact me at your convenience. Stay tuned!