



KENT COUNTY PROBATE COURT

2023 ANNUAL
REPORT



STATE OF MICHIGAN
KENT COUNTY PROBATE COURT

DAVID M. MURKOWSKI
CHIEF JUDGE

SUITE 9500 C
180 OTTAWA AVENUE NW
GRAND RAPIDS, MICHIGAN 49503-2751

To the Citizens of Kent County:

On behalf of the Probate Judges, administrators, and employees of the Kent County Probate Court, I am proud to submit for your review our annual report for 2023. The report contains pertinent information regarding the jurisdiction, responsibilities, performance, and achievements of the Probate Court. With this report, we take the opportunity to examine our collective work in the last year and to identify our needs and plan our strategic goals for the next year.

The Probate Court experienced an increase in new probate case filings of 11% over a 10-year period and a 33% increase since 2008, with nearly over 5,000 new filings accepted and over 4,000 hearings conducted in 2023.

Our successes and accomplishments are rooted in our skilled and dedicated employees who continue to maintain, improve, and deliver quality services to the public in the face of continued docket growth. I remain most proud of every employee of the probate court.

In 2022 we said congratulations and thank you to our Probate Register Avery D. Rose who was elected to serve as Kent County's newest probate judge, commencing January 1, 2023. With Judge Rose's elevation to the bench, we enthusiastically welcomed Ms. Kalie Gascho to the position of Probate Register and Court Administrator. Prior to her role as Probate Register, Ms. Gascho served as Judicial Law Clerk in the 2nd and 17th Circuit Courts, Attorney Magistrate in the Berrien County Trial Court, and liaison to the Kent County Board of Commissioners. Ms. Gascho is a proud graduate of Lake Superior State University and Michigan State University College of Law. There is no doubt Ms. Gascho will serve our community with knowledge, enthusiasm and strength of character.

It is an honor serving you as the Chief Judge of the Kent County Probate Court. We pledge our best effort to deliver services to you with both integrity and efficiency in a person-centered venue. I thank you, the citizens of Kent County, for your continued trust and confidence.

Sincerely,

A handwritten signature in blue ink, appearing to read 'David M. Murkowski', with a long horizontal flourish extending to the right.

David M. Murkowski
Chief Judge, Kent County Probate Court

CHIEF PROBATE JUDGE DAVID M. MURKOWSKI

Judge David M. Murkowski was born and raised in Milwaukee, Wisconsin. Judge Murkowski graduated from Marquette University High School in 1975, where he was elected senior class president. In 1979, he graduated cum laude from Marquette University where he was awarded the University's Outstanding Student Service Award and the Polanki College Achievement Scholarship. In 1979, Judge Murkowski was also inducted into the National Jesuit Honor Society. He attended Western Michigan University's Thomas M. Cooley Law School and was an honor roll graduate in 1983.



Judge Murkowski served as law clerk to the Michigan House of Representatives Civil Rights Committee, and worked as a solo practitioner in Grand Rapids until 1993 when he joined the law firm of Dilley & Dilley. There, he specialized in criminal defense, juvenile neglect and delinquency, and probate law. He served as managing partner of Dilley, Dilley, Murkowski & Goller until 2006, when he was appointed to the Kent County Probate bench to fill the vacancy created by the retirement of the Honorable Janet A. Haynes.

In December 2007, the Michigan Supreme Court appointed Judge Murkowski to serve as the Chief Judge of the Kent County Probate Court, commencing January 1, 2008. Judge Murkowski served as President of the Michigan Probate Judges Association (MPJA) in 2017. He served 6 years as Council Member of the Probate and Estate Planning Section of the State Bar of Michigan and served as a member and judicial representative of the Michigan Trust Code Committee, the body tasked with the drafting and enactment of the 2010 Michigan Trust Code. Through the Probate and Estate Section, he also initiated the complete restructuring of the appellate process for probate appeals. In 2023, Judge Murkowski served as chair of the Judicial Council of the Judicial Section of the State Bar of Michigan. Judge Murkowski has also served as a member of the Governor's Mental Health Task Force Subcommittee on Legislation, and as a member of the Executive Committee of the Kent County Family and Children's Coordinating Council. Currently, Judge Murkowski serves as an Adjunct Assistant Professor in the College of Human Medicine at Michigan State University. Judge Murkowski has lectured for the Michigan Judicial Institute (MJI), ICLE's Probate and Estate Planning Institute, the American Geriatric Society (AGS), the Michigan Probate Judges Association (MPJA), the Western Michigan Estate Planning Council, the Corewell Health Hospital, the University of Michigan Health West System, and the Grand Rapids Bar Association, and provides semi-annual Crisis Intervention Training (CIT) for law enforcement agencies throughout Kent County.

Recently, Judge Murkowski was invited by the Institute for Continuing Legal Education (ICLE) and the National Conference of Bar Examiners (NCBE) to assist in the development of jurisdiction-specific (Michigan) probate content for use with the Uniform Bar Examination (UBE). Judge Murkowski is also a chapter author of Michigan Probate Litigation: A Guide to Contested Litigation, 2nd Ed., a contributor to the Michigan Probate Benchbook, and an associate editor of Inter-Com, a publication of the Michigan Probate Judges Association.

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PROBATE JUDGE AVERY D. ROSE



Judge Avery D. Rose took the bench on January 1, 2023. He was raised in Coldwater, Michigan, and earned his Bachelor's degree in International Relations from Michigan State University, where he had the opportunity to study international security and comparative systems of governance in Istanbul, Turkey and Brussels, Belgium. Judge Rose earned his Juris Doctorate from Wayne State University Law School and obtained a Master of Library and Information Science degree from Wayne State University.

Following his graduation from law school Judge Rose served as a law clerk at the 48th Circuit Court, in Allegan County. In 2015 Judge Rose was named as the Probate Register at the Allegan County Probate Court, where he also served as an Attorney/Referee. During his tenure in Allegan County, Judge Rose also served as the President of the Allegan County Bar Association, participated in the Allegan County Community Corrections Advisory Board, served as board member for the Allegan County Legal Assistance Center, and represented the 48th Circuit as a Representative on the Representative Assembly of the State Bar of Michigan.

In 2019 Judge Rose was appointed by the Chief Probate Judge David M. Murkowski to serve as the Probate Register for Kent County, where he oversaw the administration of the Probate Court and the Kent County Guardianship Program. Judge Rose has been invited to speak on probate-related issues at the Michigan Judicial Institute, the Michigan Probate Registers and Juvenile Registers Association annual conference, The Institute of Continuing Legal Education, and to several other community organizations. He is currently serving as President of the Southwest Michigan Probate Judges Association, and is a member of the Michigan Probate Judges Association Executive Board.

Contact Information: Courtney Zylstra
Judicial Clerk
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Dakota Smith
Judicial Clerk
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MISSION STATEMENT

The mission of the Kent County Probate Court is to provide an accessible and person-centered venue to secure the peaceful, sound, and efficient resolution of matters, where every individual is treated with dignity and respect.

Operational Goals



No. 01 – Customer Service

To provide excellent customer service to all those with business before the Court.



No. 02 – Efficiency

To efficiently process and adjudicate all matters before the Court.



No. 03 – Regulatory Compliance

To ensure the compliance of Court-appointed fiduciaries through statutes and court rules in order to safeguard protected individuals and their property.



PROBATE COURT JURISDICTION

The probate court is a constitutionally mandated court under Article VI Section 15 of the Michigan Constitution of 1963. Deriving its authority from statutory enactment, the subject matter jurisdiction of the probate court is provided in the Estates and Protected Individuals Code (EPIC), the Revised Judicature Act, the Mental Health Code, the Election Code, and other acts. The probate court also has authority in drain appeal proceedings.

The Chief Judge of Probate also serves as the Chair of the Kent County Election Commission, receiving and safeguarding official election results in state and federal elections and presiding over recall petition hearings for elected officials.

700.1302 Exclusive subject matter jurisdiction.

The court has exclusive legal and equitable jurisdiction of all of the following:

(a) A matter that relates to the settlement of a deceased individual's estate, whether testate or intestate, who was at the time of death domiciled in the county or was at the time of death domiciled out of state leaving an estate within the county to be administered, including, but not limited to, all of the following proceedings:

- (i) The internal affairs of the estate.
- (ii) Estate administration, settlement, and distribution.
- (iii) Declaration of rights that involve an estate, devisee, heir, or fiduciary.
- (iv) Construction of a will.
- (v) Determination of heirs.
- (vi) Determination of death of an accident or disaster victim under section 1208.

(b) A proceeding that concerns the validity, internal affairs, or settlement of a trust; the administration, distribution, modification, reformation, or termination of a trust; or the declaration of rights that involve a trust, trustee, or trust beneficiary, including, but not limited to, proceedings to do all of the following:

- (i) Appoint or remove a trustee.
- (ii) Review the fees of a trustee.
- (iii) Require, hear, and settle interim or final accounts.
- (iv) Ascertain beneficiaries.
- (v) Determine a question that arises in the administration or distribution of a trust, including a question of construction of a will or trust.
- (vi) Instruct a trustee and determine relative to a trustee the existence or nonexistence of an immunity, power, privilege, duty, or right.
- (vii) Release registration of a trust.
- (viii) Determine an action or proceeding that involves settlement of an irrevocable trust.

(c) Except as otherwise provided in section 1021 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1021, a proceeding that concerns a guardianship, conservatorship, or protective proceeding.

(d) A proceeding to require, hear, or settle the accounts of a fiduciary and to order, upon request of an interested person, instructions or directions to a fiduciary that concern an estate within the court's jurisdiction.

700.1303 Concurrent jurisdiction; removal; purpose and policy.

(1) In addition to the jurisdiction conferred by section 1302 and other laws, the court has concurrent legal and equitable jurisdiction to do all of the following in regard to an estate of a decedent, protected individual, ward, or trust:

- (a) Determine a property right or interest.
- (b) Authorize partition of property.
- (c) Authorize or compel specific performance of a contract in a joint or mutual will or of a contract to leave property by will.
- (d) Ascertain if individuals have survived as provided in this act.
- (e) Determine cy pres or a gift, grant, bequest, or devise in trust or otherwise as provided in 1915 PA 280, MCL 554.351 to 554.353.
- (f) Hear and decide an action or proceeding against a distributee of a fiduciary of the estate to enforce liability that arises because the estate was liable upon some claim or demand before distribution of the estate.
- (g) Impose a constructive trust.
- (h) Hear and decide a claim by or against a fiduciary or trustee for the return of property.
- (i) Hear and decide a contract proceeding or action by or against an estate, trust, or ward.
- (j) Require, hear, or settle an accounting of an agent under a power of attorney.

Funding and Human Resources

The 2023 budget of the Kent County Probate Court was \$1,734,439. The court is staffed with 21 dedicated team members.



CASELOAD AND CASEFLOW

The Court experienced an increase in new probate case filings of 11% over a 10-year period and a 33% increase since 2008, with over 5,000 new filings processed, and over 4,000 hearings conducted in 2023.

New Case Filings	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Estates	813	821	785	842	878	909	818	1072	1130	976
Small Estates	408	402	344	381	382	392	345	425	352	311
Trusts & Protective Orders	99	85	89	99	93	90	81	78	69	87
Civil Actions	13	14	15	14	16	10	7	11	12	9
Micellaneous	33	35	38	34	40	45	40	64	52	44
Name Changes	232	241	234	268	288	333	211	264	370	408
Conservatorships	177	247	229	276	224	249	212	461	239	237
DD Guardianships	138	149	160	193	156	154	111	200	171	190
Adult Guardianships	388	478	486	505	480	625	515	570	563	527
Minor Guardianships*	219	189	198	233	214	291	0	0	0	0
Mental Commitments	2013	2184	2183	2200	1980	2114	1967	1885	1614	1753
Pick Up Orders	227	255	270	292	264	345	328	459	406	401
TOTALS	4760	5100	5031	5337	5015	5557	4635	5489	4978	4943

*Minor Guardianships were reassigned to Circuit Court in 2020.

Caseload Trends

In 2023, a majority of new filings handled by the Kent County Probate Court were comprised of mental health proceedings and pick up orders (2,154), deceased estates (976), adult guardianships (527), and small estates (311).

In the last 10 years:

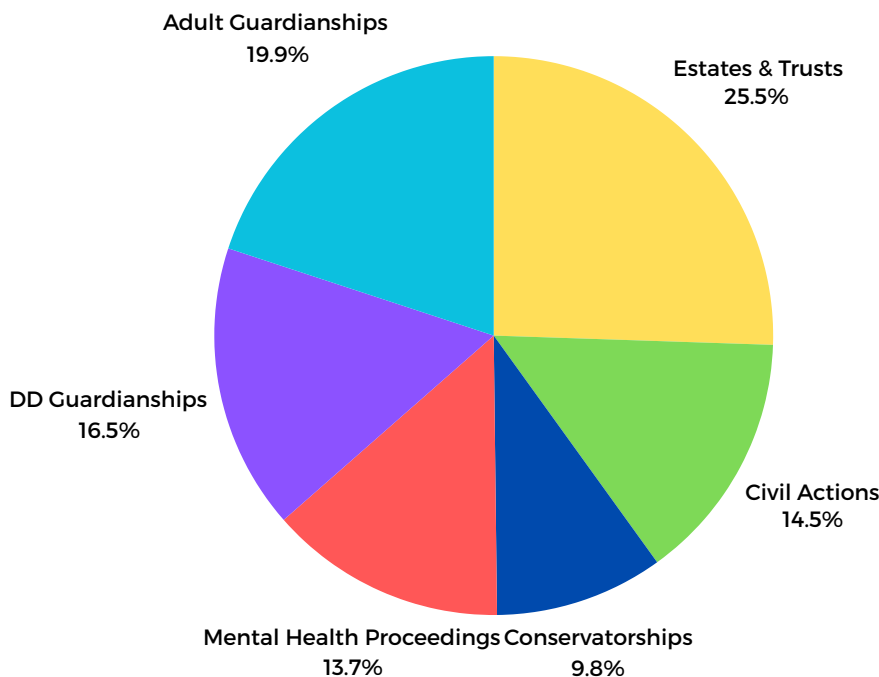
- New Adult Guardianship Cases have increased by 36%
- Name Changes have increased by 76%
- Guardianships for Developmentally Disabled Individuals have increased by 38%

77%

Within the last ten years, requests for mental health pickup orders have increased by 77%.

Cases involving mental health treatment represent a significant portion of the docket of the Probate Court. Kent County has developed into a regional psychiatric treatment center, providing over 360 adult inpatient beds. Residents of other counties are frequently hospitalized in Kent County and the Probate Court arranges for and conducts the necessary hearings for these individuals. Over the last three years alone, the Court has handled an average of more than 1,500 out-of-county mental health cases on assignment each year for other probate courts.

2023 Active Filings



6,544

New Filings in 2023

14,375

Active Cases in 2023

BEYOND THE DOCKET

The work of the Kent County Probate Court does not end at the steps of the courthouse. Judge Murkowski and Judge Rose have provided numerous lectures, in-service trainings, and resource materials to a variety of groups and organizations, including Pine Rest Hospital and Mental Health Services, Corewell Health Hospital, University of Michigan Health - West, Community Mental Health (CMH), Families Against Narcotics, Holland Home, Rotary International, the Institute of Continuing Education (ICLE), The Grand Rapids Bar Association, the Oakland County Bar Association, the Michigan Judicial Institute (MJi), the Michigan Probate Judges Association (MPJA), along with training for New Judges, Foreign Language Interpreters, and law enforcement. The Judges routinely engage in collaborative work with representatives from the area psychiatric hospitals, Network 180, and the Kent County Prosecutor to improve the delivery of mental health services to Kent County residents. Twice yearly you can find Judge Murkowski providing instruction in Crisis Intervention Training (CIT) to police officers from throughout Kent County. The weeklong educational program provides law enforcement the tools and training necessary to productively and safely engage those who suffer with mental illness in our community. Additionally, our Probate Register, Kalie Gascho, provides monthly in-service training regarding the responsibilities and filing requirements for guardians and conservators to both individual fiduciaries assisting a loved one and professional guardians who serve through the Kent County Guardianship Program. Every holiday season, Judge Murkowski sponsors a Toys for Tots drive through the Probate Clerk's office. The Kent County Probate Court remains committed to providing education on important probate-related matters and giving back to our community beyond the docket.

2023 ACCOMPLISHMENTS



No. 01 – **New Probate Register**

No. 02 – **Customer Service Training**

No. 03 – **Scanning & Digitizing All Files**

THE KENT COUNTY GUARDIANSHIP PROGRAM

Kent County is extremely fortunate to have the Kent County Guardianship Program to provide guardianship and conservatorship services for adult residents of Kent County who have no one else to serve them in a fiduciary capacity.

"I was mentally unstable and separated from my son. She helped me hire a lawyer and get reacquainted with my son. She's helped me put my life back together. She's been cheering me on." - Nicholas, Guarded Individual

Demand for the Program continues to remain strong. In 2023 the Program:

- Received 244 requests for public guardians
- Managed an average of 558 indigent cases per month

Funding for the Program came from four sources in 2023:

- Kent County (\$163,323)
- Kent County Senior Millage (\$194,832)
- State of Michigan (\$65,913)
- Trinity Health Hospital (\$75,000)
- Corewell Health Hospital (\$75,000)

Annual Number of Indigent Cases:

- Senior Millage: 221 cases per month, 2585 cases per year.
- State of Michigan: 72 cases per month, 867 cases per year.
- Kent County: 255 cases per month, 3,197 cases per year.

The Guardianship Program is grateful to Kent County, the Area Agency on Aging of Western Michigan, Trinity Health, Corewell Health, and the State of Michigan for their support. The Program is also grateful to the 40 public guardians who perform challenging and exceptional work for the residents of Kent County.

ANNUAL REPORT

KENT COUNTY PROBATE COURT



Contact

Kent County Probate Court

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