



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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Jennifer Warner
Director

MEMORANDUM

DATE: February 16, 2017

TO: Probate Judges
Circuit Judges
Probate Registers
County Clerks
Court Administrators

cc: Chief Judge Michael J. Talbot, Michigan Court of Appeals

FROM: Robin Eagleson, Management Analyst

RE: Jurisdiction of Appeals from the Probate Court

Public acts that took effect in late 2016 change the way appeals from probate court are handled. The new acts (2016 PA 186 and 2016 PA 287) amend the Revised Judicature Act (MCL 600.308 *et al.*) and the Estates and Protected Individual Code (MCL 700.1303) as follows:

- Specify the Court of Appeals has jurisdiction over appeals from final judgments and final orders from the probate court as a matter of right.
- Specify the Court of Appeals has jurisdiction over appeals from any other judgment or interlocutory order from the probate court only on application for leave.
- Specify that, after an appeal of right from the probate court is filed with the Court of Appeals, further proceedings that would follow the probate court's judgment, order, or sentence are stayed for 21 days, or until the appeal is determined if a motion for stay pending appeal is granted.
 - Exception: The pending of an appeal from an order of the probate court entered under the Mental Health Code or under the Estates and Protected Individuals Code does not stay the judgment or order unless the court from which or to which the appeal is taken specifically orders the stay.
- Repeal sections 861 and 863 of the Revised Judicature Act, which provide for appeals from probate court to the Court of Appeals in certain matters, and to the circuit court in other matters.

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- Delete the provision permitting the court that transferred the case to hold further proceedings during the pendency of an appeal or as otherwise provided by law or court rule.

To encourage quick disposition of probate appeal cases currently pending in circuit court, Administrative Order No. 2016-4 requires circuit courts to expeditiously consider pending probate court appeals and requires those courts to begin filing a report with the State Court Administrative Office that describes the appeals that remain pending. Courts must begin submitting that report on March 1, 2017, and every 6 months thereafter. The form for submission may be found at <http://courts.mi.gov/Administration/SCAO/Forms/courtforms/scao77.pdf>. Please note that the form has been designed to allow courts to easily submit the report electronically to Trial Court Services by clicking on the submit button on the bottom of the form. It is recommended that the court save the form prior to submission of the form. All reports must be submitted no later than **Wednesday, March 8, 2017**.

Proposed court rule amendments have been proposed and published for comment as part of Administrative File No. 2016-32. The proposed amendments would require all appeals from probate courts to be heard in the Court of Appeals, and would make other changes as provided by statute. Comments to these proposed court rules may be submitted to the Supreme Court until March 1, 2017.

If you have any questions, please contact me at 517-373-5542 or Noah Bradow at 517-373-2451, or e-mail TrialCourtServices@courts.mi.gov.