The Supreme Court *of* Ohio

DESKTOP GUIDE

for PROBATE COURT CLERKS

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1. ESTABLISHMENT OF PROBATE COURTS IN OHIO AND ROLE OF THE CLERK

Courts of Common Pleas

The court of common pleas, the only trial court created by the Ohio Constitution, is established by Article IV, Section 1, of the Constitution and its duties are outlined in Article IV, Section 4.

There is a court of common pleas in each of Ohio's 88 counties. Specific courts of common pleas may be divided into separate divisions by the General Assembly, including general, domestic relations, juvenile, and probate divisions. Common pleas judges are elected to six-year terms on nonpartisan ballots. A person must be an attorney with at least six years of experience in the practice of law to be elected or appointed to the court.[1]

Probate Division

The Ohio Constitution of 1851 provided that probate courts be established as separate, independent courts with jurisdiction over the probate of wills and supervision of the administration of estates and guardianships. In 1968, under the Modern Courts Amendment of the Ohio Constitution, probate courts became divisions of the courts of common pleas. Probate courts also have jurisdiction over the issuance of marriage licenses, adoption proceedings, determination of sanity or mental competency, and certain eminent-domain proceedings. Probate judges may perform marriages and may charge a fee for the service.[2]

Judge as Clerk

The judge of the probate court is directly responsible for the functioning of the court and is the ex-officio clerk of the court. The judge is permitted to appoint deputy clerks, court reporters, bailiffs, and any other necessary employees to perform the duties of clerk of the court, including the appointment or designation of court investigators and assessors.[3] In most counties, the judge appoints a chief deputy clerk of court to ensure that the administrative duties of the court system are carried out in a timely manner.

Clerks typically have a wide range of administrative duties that vary county to county, but may include:

- Receiving documents for filing;
- Processing pleadings;
- Managing the court docket;

1 sc.ohio.gov/JudSystem.

2 sc.ohio.gov/JudSystem; R.C. 2101.24; R.C. 2101.27, R.C. 3101.13.

3 R.C. 2101.11.

- Scheduling hearings with legal counsel;
- Serving parties for hearing;
- Issuing marriage licenses and sending certified abstracts of the same to the Ohio Department of Health, Office of Vital Statistics;
- Maintaining records;
- Processing required reports;
- Certifying documents and records;
- Responding to requests for information;
- Receiving payments of deposits, costs, and fees;
- Disbursing funds;
- Assisting the public in person, by phone, and by electronic communication; and
- Disposing of cases in the case management system.

2. JURISDICTION OF THE PROBATE COURT

Definitions

Exclusive jurisdiction means only one court may hear cases of this type or nature.

Concurrent jurisdiction allows for more than one division of a court to hear cases of a particular nature.

Exclusive Jurisdiction of the Probate Court

For a comprehensive listing[4] of the jurisdiction of the probate court, see R.C. 2101.24. In summary of this code section, the probate court has exclusive jurisdiction over:

- Wills, Trusts, and Estates
  - Take wills and admit them to record;[5]
  - Grant and revoke letters testamentary and of admission;
  - Order the distribution of estates;
  - Authorize the sale of lands and estates;
  - Interpret wills;
  - Determine the validity of wills and trusts; and
  - Issue orders relieving estates from administration.
- Guardianship, Abuse, and Mental Health
  - Appoint and remove guardians, conservators, and testamentary trustees;
  - Make inquiries into mental impairment due to physical illness or disability, including substance abuse;
  - Act for and issue orders regarding wards; and
  - Hear and determine petitions for orders for treatment persons suffering from alcohol and other drug abuse.
- Marriage
  - Grant marriage licenses.

4 For a summary of the general actions of the court, see https://www.mahoningcountyoh.gov/435/About-the-Probate-Court.

5 If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court. R.C. 2101.24(A)(1)(a).

- Other
  - Make determinations of the presumption of death of missing persons and adjudicate the property rights and obligations of all parties affected by the presumption;
  - Hear and determine actions involving informed consent for medication of persons hospitalized, including issues relating to durable powers of attorney for health care, actions started by individuals objecting to the physicians' determination that a person is terminally ill or in a permanently unconscious state, and complaints surrounding the use, continuation, withholding, or withdrawal of life-sustaining treatment for patients allegedly in terminal conditions or in permanently unconscious states; and
  - Hear and determine actions relating to the disinterment and reinternment of human remains.[6]

Optional Jurisdiction

When any action filed for the appropriation of property or any appeal in a road case, in a sewer district case, or in any county water-supply-system case, the probate judge may certify such cause to the court of common pleas of the county.[7]

Concurrent Jurisdiction of the Probate Court

The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders and to hear and determine actions as follows:[8]

- Any action stated to involve concurrent jurisdiction in a section of the Revised Code;
- Any action that involves an inter vivos trust; a trust created under R.C. 5815.28 (supplemental services for beneficiary with physical or mental disability); a charitable trust or foundation; a power of attorney; the medial treatment of an adult; or a writ of habeas corpus;
- Subject to R.C. 2101.31, any action with respect to a probate estate, guardianship, trust, or post-death dispute that involves any of the following:
  - A designation or removal of a beneficiary of a life insurance policy, annuity contract, retirement plan, brokerage account, security account, bank account, real property, or tangible personal property;
  - A designation or removal of a payable-on-death beneficiary or transfer-on-death beneficiary;

6 The probate court of the county where the deceased resided at the time of death is provided with exclusive jurisdiction in settling disputes of this nature. R.C. 2108.90.

7 See R.C. 2101.25 for a full list of concurrent jurisdiction allocations.

8 R.C. 2101.24(B).

- A change in the title to any asset involving a joint and survivorship interest;
- An alleged gift; and
- The passing of assets upon the death of an individual otherwise than by will, intestate succession, or trust.

See also, Section 21, Court Appointments.

3. JUDICIAL REQUIREMENTS

When a new judge is elected or appointed, there are several things the court will need to do while transitioning to new leadership. Below is a list of requirements for each new probate court judge, as well as administrative tasks for clerks to keep in mind as the court transitions. This list is not exhaustive.

Is a New Judge Required to Attend Training or Education Courses?

During a judge's first year on the bench, the judge must attend a Judicial Orientation Program provided by the Supreme Court of Ohio Judicial College. This educational requirement applies to appointed and elected judges, alike.

- The first part of this program takes place in December, after the November election, but before the judge takes the bench.
- The second part of this orientation program occurs in the spring of the year that the judge takes the bench, after the judge has commenced official duties.
- The third part of the orientation includes participation in a mandatory Judicial College Mentor Program. This program pairs the new judge with an experienced judge-mentor within the same subject-matter jurisdiction. The judge and mentor must have regular contact with each other for a minimum of one year.[9]

For each two-year period throughout a judge's career, each judge is required to complete a minimum of 40 credit hours of continuing legal education on subjects devoted to the law and judicial administration. At least 10 of the 40 hours must be instruction offered by the Supreme Court of Ohio Judicial College.[10]

A full list of courses is on the Supreme Court of Ohio Judicial College website at sc.ohio.gov/Boards/judCollege.

What Is the Case Inventory Requirement?[11]

- **New Judge Case Inventory.** Within three months of taking office, all new judges must complete an inventory of all pending cases.
  - The inventory must include all pending cases and the judge may decide if the review will include inactive or closed cases as well.
  - If the court maintains paper files, an actual review is required of the physical case files. If the court maintains electronic files through a case management system, a review of electronic case files is required.
  - The judge should review each file and identify cases:

9 Gov.Jud.R. IV(10).

10 Gov.Jud.R. IV(3).

11 Sup.R. 38.

- In which a conflict of interest exists and, therefore, must be reassigned to another judge of the court or assigned to a visiting judge;
- Lack a next-scheduled-event date;
- Should be terminated or closed for purposes of reporting on Statistical Report Form C;
- Are ripe for settlement or resolution prior to the scheduled trial date; and
- Were incorrectly classified on a previous report.
    - A judge may amend any report previously submitted by the judge's predecessors. For example, a case inventory might reveal pending cases not previously reported as such or cases previously reported as pending that were terminated. The goal is to ensure good quality data going forward.

  Note: Instructions on how to make necessary corrections to Statistical Report Form C as a result of a physical inventory are found in the Instructions for Preparation of Statistical Report Forms.[12]

    - The completion of the inventory must be documented on Statistical Report Form C by indicating the date the most recent inventory was completed.
- **Annual Case Inventory.**[13] Each judge is required to annually complete a physical or electronic inventory of all pending cases. The inventory must be completed on or before October 1 of each year. The completion of the inventory must be documented on Statistical Report Form C by indicating the date the most recent inventory was completed. All requirements outlined for the completion of the new judge inventory (above) apply to the annual case inventory.

What Review Is Required of the Court's Table of Fees?

Within three months after being elected or appointed to office, each county officer shall make and post, in a conspicuous place, for the inspection by all persons who have business in the court, a table of the fees to which the court is entitled.[14]

Are There Specific Local Rules that Probate Courts Are Required to Adopt?

All probate courts must adopt the following by local rule:

- A **case management plan**, to ensure the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases.[15]

12 The Supreme Court of Ohio, *Instructions for Preparation of Statistical Report Forms: Court of Common Pleas, Probate Division, Form C,* sc.ohio.gov/JCS/casemng/statisticalReporting/formCInstruct.pdf.

13 Sup.R. 38.

14 R.C. 2335.30.

15 Sup.R. 5(D)(1).

- A **jury management plan** to ensure the efficient and effective use and management of jury resources (this requirement only applies to courts that use juries in the hearing and disposition of cases).[16]
- Each court or division of a court shall adopt a local rule governing **appointments** made in the court or division.[17]
- The probate division of a court of common pleas that establishes guardianships shall adopt local rules governing the **establishment of guardianships**.[18]

What if the Local Rules Need Changed?[19]

Courts may adopt additional rules concerning local practice that are not inconsistent with the rules promulgated by the Supreme Court. Before a court may adopt a local rule, notice and an opportunity to comment must be provided by the court. All local rules must be filed with the Clerk of the Supreme Court.

Additionally, by February 1 of each year, each court shall do one of the following:

- File a complete copy of all local rules with the Clerk of the Supreme Court; or
- Send certification to the Clerk of the Supreme Court that there were no changes in the immediately preceding calendar year to the local rules.

Are There Any Other Miscellaneous Tasks to Consider as the New Judge Transitions?

Prior to a new judge taking the bench, there are many "housekeeping" issues for a court to consider. Below is a (non-exhaustive) list of possible considerations:

- Update all signs, paper, posting etc. with the new judge's name, including:
  - File stamp, electronic signature, and/or signature stamp;
  - Letterhead and envelopes;
  - Business cards;
  - Name plates at all locations throughout the courthouse;
  - Bank accounts, signature authorization at the bank, deposit slips, and checks;
  - Court documents and forms distributed by the clerk, including marriage license forms;
  - Court's website;
  - COOP/Disaster recovery box; and

16 Sup.R. 5(D)(2).

17 Sup.R. 8(B).

18 Sup.R. 66.03.

19 Sup.R. 5.

  - Case management system (consider whether the software vendor must make the changes).
- Schedule meetings with judicial partners.
- Discuss the swearing-in of employees (i.e., does the new judge want to swear-in and reappoint all employees?).
- Review appointed or designated court investigators and assessors for purposes of reappointment/redesignation, for completion of ongoing continuing education and fees for services rendered.
- Review the guidelines of all reporting requirements, including how data is collected.
- Obtain bond for judge.

See Chapter 6, Employees, Compensation, and Bond.

What Resources Are Available to Assist a Court's Transition under a New Judge?

The Supreme Court of Ohio (SCO) offers training and support to Ohio's probate courts.

- **Supreme Court of Ohio's Case Management Section:**
  - **Statistical Reporting Education.** Staff is available to train courts and their clerks in correctly performing reporting obligations. These training sessions may be onsite at the local court, at the Supreme Court, or virtual.
  - **Process Mapping.** SCO Case Management Staff meet with local court staff for a day-long session tailored to "map" the court's current caseflow process. After the process is visually depicted, opportunities for improvement are identified. The process is reimagined to create a simpler, faster, better, and less-costly system. Each training is formatted to meet the specific goals and objectives identified by the court's leaders.
  - **Caseflow and Operations Management Review.** The most comprehensive service offered by the Case Management Section is caseflow and operations management review. In this process, experienced court professionals trained in caseflow management techniques study a court's operations from top to bottom and provide detailed, written recommendations on ways the court can improve its case management processes.

- **Roundtables:**
  - The Supreme Court's Office of Court Services offers facilitated roundtable conversations as forums to provide judges, magistrates, clerks, court administrators, and other court and justice system partners opportunities to share ideas, concerns, and triumphs. Agenda topics to be discussed are solicited from roundtable participants ahead of each roundtable meeting. Roundtables are in the fall and spring.[20]

20 Roundtable dates are listed at sc.ohio.gov/JCS/roundtables.pdf.

4. ASSIGNMENT OF VISITING JUDGES

There are times when recusals due to conflicts, overburdened dockets, vacations, illnesses, and other emergencies give rise to the need for a court to require the assignment of a visiting judge. Ohio law exclusively vests the chief justice of the Supreme Court with the authority to assign visiting judges.

When and How May a Court Request a Visiting Judge?

In most situations, before requesting a visiting judge, the local common pleas court should attempt to resolve the need for a visiting judge by first looking within its ranks. In multi-judge probate courts, the administrative judge has the authority under Sup.R. 4.01 to cause the reassignment of cases to other judges of the division when assistance is needed. In addition, a common pleas court's presiding judge has the authority under Sup.R. 3.01 to assign judges from one division to another. The Guidelines for the Assignment of Judges contain detailed information concerning the standards and procedures governing the assignment of visiting judges.[21]

Requests for visiting judges are to be made using the Supreme Court's online assignment request system, named *Igor*. More information on the chief justice's assigned judge program, including instructions for using *Igor*, is at sc.ohio.gov/JCS/judicialAssignment.

How Does a Court Report the Activity of a Visiting Judge on Form C?

Form C's "Visiting Judge" column captures activity of visiting judges who have presided over cases originally assigned to the reporting judge. See the Supreme Court of Ohio Statistical Reporting Instructions for clarification on reporting the activity of visiting judges on Form C.[22]

21 The guidelines can be found at sc.ohio.gov/JCS/judicialAssignment/judgeAssignGuide.pdf.

22 The Supreme Court of Ohio, Instructions for Preparation of Statistical Report Forms: Court of Common Pleas, Probate Division, Form C; sc.ohio.gov/JCS/casemng/statisticalReporting/formCInstruct.pdf.

5. MAGISTRATES

Overview[23]

The probate court may appoint one or more magistrates to preside over cases and assist in the administration of justice and case management.[24] Appointees shall have been engaged in the practice of law for at least four years and be in good standing with the Supreme Court of Ohio at the time of appointment. A court may refer a particular case or a category of cases to a magistrate. Additionally, a magistrate may determine motions, conduct proceedings upon application for the issuance of a temporary protection order, and conduct trials.[25]

What Authority Does a Magistrate Have?[26]

Magistrates are authorized to regulate all proceedings, as if by the court, and to do everything necessary for the efficient performance of those responsibilities, including but not limited to, the following:

- Issue subpoenas;
- Rule on the admissibility of evidence;
- Put witnesses under oath and examine them;
- Call the parties to action and examine them under oath;
- Issue an attachment for an alleged contemnor and set the type, amount, and conditions of bail;
- Impose sanctions for contempt committed in the presence of the magistrate; and
- Exercise any other authority vested in magistrates by statute.

Should Proceedings Before a Magistrate Be Recorded?[27]

All proceedings before a magistrate shall be recorded in accordance with procedures established by Ahe court.

What Is the Process When a Magistrate Oversees a Case?[28]

The steps that potentially occur if a magistrate participates include:

1) Case is referred to the magistrate;
2) The magistrate issues orders; parties may file motions to set aside magistrate's orders;

23 Civ.R. 53.

24 Civ.R. 53(A).

25 Civ.R. 53(C)(1)(a - d).

26 Civ.R. 53(C)(1)(e); Civ.R. 53(C)(2).

27 Civ.R. 53(D)(7).

28 Civ.R. 53(D)(1 - 4).

3) The magistrate issues decisions and parties may file objections to magistrate's decisions; and
4) The court may adopt the magistrate's decision and issue a judgment entry or interim order or hear any objections to the magistrate's decisions.

Magistrate's Orders vs. Magistrate's Decisions

What Is the Difference Between a Magistrate's Order and a Magistrate's Decision?[29]

A magistrate's order generally relates to matters necessary to regulate proceedings such as continuances, discovery issues, temporary orders, pretrial motions, etc. A magistrate may enter orders without judicial approval if necessary to regulate the proceedings, and if not dispositive of a claim or defense of a party.

A magistrate may issue a decision relating to such issues as whether or not a person is incompetent and in need of a guardian. However, a magistrate cannot render a final judgment in a case. To become an order of the court, a magistrate's decision must be adopted by a judge.

Magistrate's Orders

What Information Is Required in a Magistrate's Order?[30]

A magistrate's order must:

1) Be in writing;
2) Identified as a magistrate's order in the caption;
3) Signed by the magistrate;
4) Filed with the clerk; and
5) Served on all parties or their attorneys.

What Issues May a Magistrate's Order Cover?[31]

A court of record may limit a reference by specifying or limiting the magistrate's powers, including, but not limited to, directing the magistrate to determine only particular issues, directing the magistrate to perform particular responsibilities, directing the magistrate to receive and report evidence only, fixing the time and place for beginning and closing any hearings, or fixing the time for filing any magistrate's decision on the matter or matters referred.

What May a Party Do if They Disagree with a Magistrate's Order?[32]

A motion to set aside a magistrate's order may be filed by any party. The motion must state the reason for filing and this filing must be done no later than 10 days after a magistrate's order is filed. The filing of the motion to set aside does not stay

29 Civ.R. 53(D)(2)(a); Civ.R. 53(D)(3)(a).

30 Civ.R. 53(D)(2)(a)(ii).

31 Civ.R. 53(D)(1)(b).

32 Civ.R. 53(D)(2)(b).

the effectiveness of the magistrate's order, though the magistrate or the court may order a stay of the effectiveness of a magistrate's order.

Magistrate's Decisions

What Happens After a Magistrate Issues a Magistrate's Decision?[33]

A magistrate's decision is not effective unless adopted by the court. A judge may adopt or reject a magistrate's decision in whole or in part, with or without modification. A judge also may hear a previously referred matter, take additional evidence, or return a matter to a magistrate.

If no timely objections are filed, the court may adopt a magistrate's decision, unless it determines there is an error of law or other defect evident on the face of the magistrate's decision.

What May a Party Do if They Disagree with a Magistrate's Decision?[34]

A party may file written objections to a magistrate's decision within 14 days of the filing of the decision, whether or not the court adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party also may file objections not later than 10 days after the first objections are filed. If a party makes a timely request for findings of fact and conclusions of law, then the time for filing objections begins to run when the magistrate files a decision that includes findings of fact and conclusions of law.

What Entries Are Filed After a Judge Reviews a Magistrate's Decision?[35]

A court that adopts, rejects, or modifies a magistrate's decision also must enter a judgment or interim order. A party may file written objections to a magistrate's decision within 14 days of the filing of the decision, whether or not the court adopted the decision. The judge may enter a judgment either during or after the 14-day period.

What Is an Interim Order?[36]

The court may issue an interim order on the basis of the magistrate's decision without waiting for or ruling on timely objections by the parties where immediate relief is justified. The timely filing of objections does not stay the execution of an interim order, but an interim order shall not extend more than 28 additional days from the date of entry, unless good cause is shown.

33 Civ.R. 53(D)(4).

34 Civ.R. 53(D)(3)(b).

35 Civ.R. 53(D)(4)(e).

36 Civ.R. 53(D)(4)(e)(ii).

What Information Is Required in a Magistrate's Decision?[37]

A magistrate's decision must be in writing, identified as a magistrate's decision in the caption, signed by the magistrate, filed with the clerk, and served on all parties or their attorneys no later than three days after the decision is filed.

Why Is Timely Service of a Magistrate's Order or Decision So Important?[38]

Extension of time for a party to file a motion to set aside a magistrate's order or file objections to a magistrate's decision must be allowed upon good cause shown. "Good cause" includes, but is not limited to, a failure by the clerk to timely serve the party seeking the extension with the magistrate's order or decision.

Requirements for Magistrates

Are There Registration Requirements for Magistrates?[39]

Magistrates must register annually with the Office of Attorney Services of the Supreme Court by filing a certificate with the office. A separate registration should be completed for each court appointment.[40]

Notification[41]

The administrative judge must notify the Office of Attorney Services within 30 days of the appointment or termination of a magistrate for that court.

Oath of Office[42]

Magistrates must take an oath of office, administered by the administrative judge of the court. A certificate of oath, signed by the magistrate and administrative judge, must be filed with the clerk of the court in which the magistrate works within 30 days of taking the bench.

37 Civ.R. 53(D)(3)(iii).

38 Civ.R. 53(D)(5).

39 Gov.Bar R. X(10)(C).

40 The registration form is at sc.ohio.gov/AttySvcs/magistrates/judgeGuide.pdf.

41 Sup.R. 19(B).

42 Sup.R. 19(D).

6. EMPLOYEES, COMPENSATION, AND BOND

Probate Judge as Clerk

Probate judges have the authority to perform "the duties of clerk of the judge's court."[43]

Probate Judge as Supervisor

Probate judges shall "employ and supervise all clerks, deputies, magistrates, and other employees of the probate division. The probate judge shall supervise all probate court investigators and assessors in the performance of their duties as investigators and assessors and shall employ, appoint, or designate all probate court investigators and assessors…"[44]

Bond of Probate Judge

"Before entering upon the discharge of official duties, the probate judge shall give a bond to the state in a sum not less than five thousand dollars. The bond shall have sufficient surety, shall be approved by the board of county commissioners or by the county auditor and county recorder in the absence from the county of two of the members of the board, and shall be conditioned that the judge will faithfully pay over all moneys received by the judge in the judge's official capacity, enter and record the orders, judgments, and proceedings of the court, and faithfully and impartially perform all the duties of the judge's office."[45] The bond, with the oath of offices indorsed on it, shall be deposited with the county treasurer and kept in the treasurer's office.

Appointees

The probate judge is authorized to "appoint deputy clerks, court reporters, a bailiff, and any other necessary employees, each of whom shall take an oath of office before entering upon the duties of the employee's appointment and, when so qualified, may perform the duties appertaining to the office of clerk of the court."[46]

43 R.C. 2101.11.

44 R.C. 2101.01(A).

45 R.C. 2101.03.

46 R.C. 2101.11(A)(1).

7. FISCAL MANAGEMENT

General Overview

Fiscal management procedures for local clerks' offices are not governed by Ohio rules of court, regulations, or statutes. The Government Accounting Standards Board (GASB) mandates that all 50 states must adhere to generally accepted accounting principles (GAAP) for governments. Although currently not required for county and local government offices by the Ohio Auditor of State, most county and local government offices in Ohio are compliant with generally accepted accounting principles.

Section 117-2-01 of the Ohio Administrative Code, although not a legal authority for the courts, provides guidance on accounting and reporting by public offices, including the responsibility for design and operation of an adequate system of internal controls. Ultimately, it is the court management's responsibility to ensure that internal controls are in place to safeguard its resources, to ensure transactions are properly authorized and recorded accurately, to plan for adequate segregation of duties or compensating controls, to report on financial information timely, and to monitor accounts and activities to assess the quality of internal controls over time.

Best Practices

The following are best practices to keep in mind when creating or reviewing the court's fiscal management policy and procedures, cashier drawer, and receipting.

Fiscal management policy

A fiscal management policy and fiscal procedures should be developed to include addressing adequate internal controls in the following areas:

- Fiscal records and accounts of the court;
- Duties regarding the court's cashier drawer and receipting of monies collected;
- Deposits made by the court; and
- End-of-month account reconciliations.

Fiscal records and accounts

- No funds or accounts should be kept for purposes that are not fully and accurately disclosed. Unrecorded or "off-the-books" funds may not be kept for any purpose.
- No one employee should be functionally responsible for a financial or business transaction from start to finish. There should be segregation of duties.

- Clerks should be prepared to provide governmental auditors with all information requested in a timely manner and to inform auditors regarding the court's accounting practices to ensure that the control procedures used comply with generally accepted accounting principles and conform to laws, rules, and regulations.
- No refunds should be provided without judicial authorization (order of the court), or upon termination or disposition of a matter when the final entry does not so specify; and no entries should be made that intentionally conceal the true nature of any transaction or record of the court.

Cashier drawer

- Duties that require the handling of cashier transactions shall be on a rotating basis.
- If the court accepts cash, clerks should be trained to identify counterfeit bills.
- Negotiable instruments, including checks and money orders, are to be made payable to Clerk of Court or by other means that prevent another party from cashing or depositing the instrument.
- Checks, money orders, and other instruments should be endorsed immediately upon acceptance.
- There should be proper identification of payer and payee.
- The court should not accept pre-dated or post-dated checks.
- Checks should be reviewed to assure the numerical amount agrees to the written amount.
- The receipt number should appear on the face of the check or the check number should appear on the receipt.
- Cashiers/deputy clerks should not be permitted to cash checks to make change from cash drawers.
- The clerk should not accept checks as payment for checks returned for non-sufficient funds.
- Cash drawers should be balanced and funds accounted for at the end of each day.
- Errors in cash-drawer accounting, including shortages and overages, should be assessed and every effort should be made to ascertain where the error occurred and how to correct the error as quickly as possible.

Receipting

- A receipt must be generated for every financial transaction.
- When giving change, currency should be counted twice before handing it to the customer.

- Payment should not be placed in cash drawer until after customer is given receipt and change.
- Receipts should be sequentially numbered and should contain the following data elements at a minimum: date of receipt, court name, receipt number, case number, name of person making payment, person for whom account payment is made, and tender type (cash, check, credit card)
- Original receipts should be given to the payer as proof of payment.
- The clerk should prepare and issue a receipt for each over-the-counter payment and each payment received by mail. Multiple tenders should be accounted for within a receipt.
- The receipt number may be recorded on each check in case the check does not clear.
- When money is transmitted to a cashier/deputy clerk from a mail unit or an agency, an aggregate receipt should be issued to the agency, supplying a list of individual payments received.
- There should be no commingling of receipts from multiple sources.
- A method should be in place identifying which agent/clerk created the receipt.

Bank deposits

- A reconciliation should be done at the close of each day's post-set, making sure deposits match total receipts, money applied from deposit toward costs due, and actual money on hand. Calculator tape as verification of cash, coin, and check may be attached to the final report.
- The reconciliation should include an account of receipts in numerical sequence, explaining voided or omitted receipts, with approval by a supervisor, and with copies of those receipts submitted at the end of the day.
- Deposits should be made more than once a day if large amounts of money are receipted.
- Money on hand should be safeguarded until timely deposited.
- The person making the deposit should be someone different, if possible, from the person who prepared the deposit. If not possible, a supervisor should review and sign-off on each finalized post-set report.
- The court should request an escort (sheriff, deputy, Brinks pick up, etc.) for the clerk to deposit large sums of money.

End-of-the-month reconciliation and disbursements

- A monthly reconciliation should be done so bank statements, checkbook registers, account balances, and deposits on hold are reconciled. This reconciliation should be done, if possible, by someone other than the person responsible for receipts or deposits, or the reconciliation should be reviewed by a supervisor with signature or initials documenting the review.
- All disbursements should be authorized prior to disbursement. Availability of funds should be prior to disbursement.
- All disbursements should be made by checks that are pre-numbered. If on an automated system, the computer should generate sequential numbers for checks with no mechanism for overriding the feature. The check supply should be secured and cancelled, spoiled, or missing checks must be accounted for.
- If on an automated system with vendor entry, the person entering new vendors for payment should be someone different than the person requesting checks for disbursement to those vendors.
- The court should prohibit checks made out to "cash."
- The court should require written authorization to sign checks approved by the clerk, filing a signature card for reference purposes.
- Dual signatures should be used for large disbursements, when practicable.
- The court should require the person signing the checks is not the same person who issues the checks for disbursement.
- The court should require someone, other than the signer, periodically review the check stock and the numbered sequence on checks.
- The court should require supporting documentation for each check that is issued, such as an approved proper invoice or approved expense reimbursement with proper receipt.
- The court should prohibit the use of pre-signed checks.
- Case information, including case numbers, should be referenced on check stubs.
- Disbursements should be reflected in case records.
- Disbursements should be made within established time frames ensuring service to individuals and cash flow benefits to the office. As a guideline, statute for state disbursements is within 30 days, or up to 45 days if a documented dispute is made within the first 15 days of request for disbursement.
- Analytical review of accounts should be performed periodically to look for unexpected anomalies.

Responsibility of Court Employees

No employee shall directly or indirectly falsify, cause, or allow to be falsified any book record or account of the court. This includes expenditures, travel records, time sheets, approval of vendor invoices, cash-transaction records, or any other business/financial record of the court.

Any employee who has knowledge of avoidance of established internal controls shall immediately notify their supervisor. If the employee has reason to believe that the employee's supervisor may be involved, the employee shall immediately notify the court administrator. However, if the employee has reason to suspect the court administrator may also be involved, then the employee should contact the judge. Every employee shall cooperate with administrative investigations pursuant to administrative procedure. The employee shall not discuss the matter with anyone other than his/her supervisor, the court administrator, the judge, the county auditor, and the prosecuting attorney. When employees fail to report, the court may consider avoidance of established controls as negligence and may take disciplinary action up to termination.

8. ACCESS TO RECORDS

Information regarding access to probate court records is found in probate-related provisions of the Ohio Revised Code, Sup.R. 44 through 47, and Sup.R. 55, which provides specific requirements regarding the examination of probate records. If there are specific questions regarding confidentiality of records in the probate court, seek the advice of a judicial officer, court administrator, or staff attorney.

Definitions

Case file means the compendium of case documents in a judicial action or proceeding.[47]

Court record means both a case document and an administrative document, regardless of physical form or characteristic, manner of creation, or method of storage.[48]

Case document means a document and information in a document submitted to a court or filed with a clerk of court in a judicial action or proceeding, including exhibits, pleadings, motions, orders and judgments, and any documentation prepared by the court or clerk in the judicial action or proceeding, such as journals, dockets, and indices, subject to the exclusions of Sup.R. 44(C)(2), which includes documents exempt from disclosure under law, as well as personal identifiers.[49]

Are Probate Court Records Public Records?

Probate records are presumed open and available to the public, unless otherwise restricted. Some restricted records that may be accessed only as authorized by the judge include adoption-proceeding filings, mental-illness-proceeding documents,[50] and wills held on deposit with the court.[51]

If confidential information is kept on a computer, electronic case management system, or available online, the court should implement procedures to protect the material from unauthorized access.

If the court is required to provide copies of records, the court may charge a fee for the copies that does not exceed the cost of supplying them.[52]

Should Filings of Confidential Documents Be Docketed?

Yes, the filing of confidential documents should be docketed. However, the documents will not be available to non-parties in hard copy or electronically.

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47 Sup.R. 44(D).

48 Sup.R. 44(B).

49 Sup.R. 44(C)(1).

50 Sup.R. 55(C).

51 R.C. 2107.07.

52 Sup.R. 45(B).

8a Record Requests[53]

How Should a Probate Court Respond to Record Requests?

Court records are presumed to be open to public access.[54] However, those documents specifically excluded from the definition of "case document" pursuant to Sup.R. 44(C)(2) may not be subject to inspection by the general public. Additionally, Sup.R. 55 restricts the disclosure of adoption and mental-illness proceedings as they are deemed confidential. If the court finds that publication of a name change notice would jeopardize the applicant's safety, and orders the change of name, the court also shall order that records relating to the name change proceeding be sealed and opened only by court order or at the request of the applicant.[55]

A court or clerk shall make a court record available by direct access during regular business hours.[56] When a court or clerk receives a request for access to court documents, the clerk shall promptly acknowledge any person's request for direct access and respond to the request within a reasonable amount of time.[57] A court or clerk is permitted to offer remote access to a court record, provided the version is identical to the record available by direct access.[58]

- **Direct access** is defined as the ability of any person to inspect and obtain a copy of a court record at all reasonable times during regular business hours at the place where the record is made available.[59]
- **Regular business hours** means established business hours.[60]
- **Remote access** is defined as the ability of any person to electronically search, inspect, and copy a court record at a location other than the place where the record is made.[61]

Must a Clerk Remove Personal Identifiers Before Allowing Access to a Case File?

Personal identifiers, such as social security numbers (except for the last four digits), financial account numbers, including debit card, charge card, and credit card

53 For an in depth review of Ohio's Public Records Law and Open Meeting Law, see ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Legal/Sunshine-Law-Publications/Sunshine-Laws-Manual.aspx.

54 Sup.R. 45(A).

55 R.C. 2717.01.

56 Sup.R. 45(B)(1).

57 Sup.R. 45(B)(1).

58 Sup.R. 45(C).

59 Sup.R. 44(J).

60 *State ex rel. Butler Cty. Bar Assn. v. Robb*, 62 Ohio App.3d 298 (12th Dist. 1990) (rejecting requester's demand that a clerk work certain hours different from the clerk's regularly scheduled hours).

61 Sup.R. 44(K).

numbers, and employer and employee identification numbers[62] should be removed from case documents by the party filing the documents.[63]

Is a Court Permitted to Charge Money for Responding to Record Requests?

Public offices may not charge requesters for the inspection of public records.[64] However, a court may charge the actual cost incurred in responding the request.[65] This may include the mailing, transmitting, or delivering copies of a requested court document.[66]

- **Actual cost** means the cost of depleted supplies, records-storage media costs, actual mailing and alternative delivery costs or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.[67]

8b Record Retention

What Is the Clerk's Responsibility in Maintaining the Court's Records?

The probate judge shall have the care and custody of the files, papers, books, and records belonging to the probate court.[68] Deputy clerks appointed by the judge are authorized to perform the duties of the clerk of the judge's court.[69]

All pleadings, accounts, vouchers, and other papers in each estate, trust, assignment, guardianship, or other proceeding, ex parte or adversary, that are filed in the probate court shall be kept together and, upon the final termination or settlement of the case, shall be preserved for future reference and examination. The papers shall be properly jacketed, and otherwise tied, fastened, or held together, numbered, lettered, or otherwise marked in such manner that they may be readily found. Certificates of marriage, reports of births and deaths, and similar papers not part of a case or proceeding shall be arranged and preserved separately in the order of their dates or in which they were filed.[70]

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62 Sup.R. 44(H).

63 Sup.R. 45(D)(1) and (3).

64 *State ex rel. Warren Newspapers, Inc. v. Hutson*, 70 Ohio St.3d 619, 624 (1994); *State ex rel. Toledo Blade Co. v. Seneca Cty. Bd. of Commrs.*, 120 Ohio St.3d 372, 2008-Ohio-6253, ¶ 37 ("The right of inspection, as opposed to the right to request copies, is not conditioned on the payment of any fee under R.C. 149.43." (quotation omitted)).

65 Sup.R. 45(B)(4).

66 Sup.R. 44(A); Sup.R. 45(B)(3).

67 Sup.R. 44(A).

68 R.C. 2101.11(A)(1).

69 *Id.*

70 R.C. 2101.14.

Which Records Must the Court Maintain?

The probate court shall maintain the following records:[71]

(A) **An administration docket** showing the granting of letters of administration or letters testamentary, the name of the decedent, the amount of bond and names of sureties in the bond, and the date of filing and a brief note of each order or proceeding relating to the estate with reference to the journal or other record in which the order or proceeding is found;

(B) **A guardian's docket** showing the name of each ward and, if the ward is an infant, the infant's age and the name of the infant's parents, the amount of bond and names of sureties in any bond, any limited powers or limited duration of powers, and the date of filing and a brief note of the orders and proceedings as described in division (A) of this section;

(C) **A civil docket** in which shall be noted the names of parties to actions and proceedings, the date of the commencement of the actions and proceedings and of the filing of the papers relating to the actions and proceedings, a brief note of the orders made in the actions and proceedings, and the date of entering the orders;

(D) **A journal** in which shall be kept minutes of official business transacted in the probate court or by the probate judge in civil actions and proceedings;

(E) **A record of wills** in which the wills proved in the court shall be recorded with a certificate of the probate of the will, and wills proved elsewhere with the certificate of probate, authenticated copies of which have been admitted to record by the court;

(F) **A final record** that shall contain a complete record of each cause or matter and shall be completed within 90 days after the final order or judgment has been made in the cause or matter;

(G) **An execution docket** in which shall be entered a memorandum of executions issued by the probate judge stating the names of the parties, the name of the person to whom the execution is delivered, the person's return on the execution, the date of issuing the execution, the amount ordered to be collected, stating the costs separately from the fine or damages, the payments on the execution, and the satisfaction of the execution when it is satisfied;

(H) **A marriage record** in which shall be entered licenses, the names of the parties to whom a license is issued, the names of the persons applying for a license, a brief statement of the facts sworn to by persons applying for a license, and the returns of the person solemnizing the marriage;

(I) **A naturalization record** in which shall be entered the declaration of intention of the person seeking to be naturalized, the oath of the person naturalized, and the affidavit or oath of witnesses who testify in the person's behalf, in which affidavit shall be stated the place of residence of the witnesses;

71 R.C. 2101.12.

(J) **A permanent record of all births and deaths** occurring within the county, reported as provided by law, which record shall be kept in the form and manner that may be designated by the director of health;

(K) **A separate record and index of adoptions** in accordance R.C. 3107.17;

(L) **A summary release from administration docket** showing the date of the filing of the application for a summary release from administration pursuant to R.C. 2113.031, the decedent's name, the applicant's name, whether the applicant is the decedent's surviving spouse or a person described in division (B)(1) of that section, and a brief note of the grant of the order of summary release from administration and of any other order or proceeding relating to the decedent's estate, with reference to the journal or other record in which the order or proceeding is found.

For each record required by this section (A)-(L), an **index** shall be maintained. Each index shall be kept current with the entries in the record and shall refer to the entries alphabetically by the names of the persons as they originally were entered, indexing the page of the record where the entry is made. On the order of the probate judge, bankbooks, other record forms, or other recordkeeping materials approved by the judge for the records and indexes shall be furnished by the board of county commissioners at the expense of the county. [72]

> **Note:** Historically, the court was required to keep an index book that was used to locate the journal, docket, and case file records.[73] With the advent of technology, **courts are permitted to combine indexes, dockets, journals, and case files** provided that the combination contains the components of indexes, dockets, journals, and case files as defined in Sup.R. 26(C).[74] Courts may create, maintain, record, copy or preserve a record on traditional paper media, electronic media, microfilm text, or digital images, including computer output to microfilm.[75]

A court may replace any paper-bound books with an electronic medium or microfilm.[76] Paper media may be destroyed after it is converted to other approved media.[77] Records must be maintained in a conveniently accessible and secured facility with provisions for inspection and copying any public record according to applicable statutes and rules.[78]

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72 R.C. 2101.12, emphasis added.

73 Sup.R. 26(B)(3).

74 Sup.R. 26(C).

75 Sup.R. 26(D)(1); R.C. 2101.121(A).

76 Sup.R. 26(D)(2).

77 Sup.R. 26(D)(2)(d).

78 Sup.R. 26(D)(2)(b); R.C. 2101.121(B - C).

What Is the Record Retention Schedule for Probate Courts?

For purposes of retention, "a probate record or case file of an *estate, trust, or other fiduciary relationship* shall be considered closed when a **final accounting has been filed and**, if required by law at the time of the filing, **the account has been approved and settled**. *All other probate records and case files* shall be considered closed when the **probate division orders the matter closed or there is a final disposition** of the action or proceeding for which the probate record or case file is kept." Sup.R. 26.04(B), emphasis added.

The record retention schedules for probate courts should be in accordance with Sup.R. 26 and 26.04. A summary of these retention rules follows:

> **Note**: If a record is older than 10 years or was created prior to 1960, written notification to the Ohio History Connection, State Archives Division, is required at least 60 days prior to destruction of the record.[79]

RETENTION OF PROBATE FILES	
Adoption Records	Permanently
Birth and Death Registrations	Permanently, if dated prior to 1908
Civil Commitment Records	Three years after closed
Dockets	Permanently
Records of Document	Permanently
Record of Wills	Permanently, if wills are not copied and permanently retained as part of an estate case file.
Journals	Permanently
Indexes	Permanently
Evidence Filed in Support of Expenditures or Distributions	Three years after date of filing
Marriage License Records	Permanently
Trust Accountings	Twelve years after date accounting was approved
All Other Records	Twelve years after date closed or completed

PRACTICE TIP: Individual courts may address additional record-retention issues by local rule for any records not listed in **Sup.R. 26.01 to 26.05**. A court also may order the retention period for an individual case file beyond the period of time specified in the rule.[80]

79 Sup.R. 26(E)(2).

80 Sup.R. 26(G - H).

What Records May Be Disposed of by a Probate Court?

Accounts. The Rules of Superintendence require vouchers, proof, or other evidence items to be retained for three years after the date of filing.[81] The vouchers, proof, or other evidence filed may be destroyed or otherwise disposed of five years after the account was approved or settled and recorded, and after there was compliance with R.C. 149.38, which sets forth a county records commission.[82]

When the vouchers, proof, or other evidence filed in support of expenditures or distribution stated in an account are retained using an electronic data process, including photography, microfilm, or other electronic media as an alternative to paper, the paper may be ordered destroyed immediately after such record is made.[83]

Filings. The court may microfilm then destroy the inventories, schedules of debts, accounts, pleadings, wills, trusts, bonds, and other papers (excluding vouchers or other evidence of expenditure and distributions) filed by fiduciaries appointed by the probate courts. Similarly, all pleadings filed and court entries for the determination of inheritance tax or estate tax, after having been recorded, if required by law to be recorded, may be ordered microfilmed and destroyed after being microfilmed.

> **Note**: Excluded from this destruction schedule are records pertaining to estates on which inheritance tax temporary orders are pending.
>
> **Note**: Prior to the order of the court directing the destruction or disposition of the vouchers, proof, or other evidence of expenditures or distribution, any party in interest, upon application filed, may have the vouchers, proof, or other evidence of expenditures or distribution recorded upon payment of the costs incident to doing so.

Those instruments not microfilmed may be ordered destroyed or otherwise disposed of without microfilming after a period of 21 years elapses from the closing or termination of the administration of the estate, trust, or other fiduciary relationship and after there was a compliance with R.C. 149.38, which sets forth a county records commission.

An estate, trust, or other fiduciary relationship shall be **deemed to be closed or terminated** when a final accounting is filed, and if required by law at the time of filing, the account is approved and settled.[84]

Wills on Deposit. Wills deposited in the probate court should be safely kept until delivered or disposed in accordance with R.C. 2107.08, usually upon the death of the testator. If the will is not delivered or disposed of as provided in R.C. 2107.08

81 Sup.R. 26.04(E)(5).

82 R.C. 2101.141.

83 Sup.R. 26.04(D)(2); Sup.R. 26(D).

84 R.C. 2101.141.

within 100 years after the date the will was deposited, then the judge may dispose of the will in any manner the judge considers feasible. The judge shall retain an electronic copy of the will prior to its disposal after 100 years.[85]

> **Note**: If no person named in the indorsement demands the will and it is not one that was declared valid pursuant to division (A)(1) of section 5817.10 of the Revised Code, then it shall be publicly opened in the probate court within one month after notice of the testator's death and retained in the office of the probate judge until offered for probate. If the jurisdiction belongs to any other probate court, then the will shall be delivered to the person entitled to its custody, to be presented for probate in the other court. If the probate judge who opens the will has jurisdiction of it, the probate judge immediately shall give notice of its existence to the executor named in the will or, if any, to the persons holding a power to nominate an executor as described in section 2107.65 of the Revised Code, or, if it is the case, to the executor named in the will and to the persons holding power to nominate a coexecutor as described in that section. If no executor is named and no persons hold a power to nominate an executor as described in that section, the probate judge shall give notice to other persons immediately interested.[86]

85 R.C. 2107.07.

86 R.C. 2107.08.

9. Language Services

What Is the Court's Responsibility to Provide Language Services for Deaf, Hard of Hearing, or a Person with Limited English Proficiency (LEP)?

In order to comply with the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d(c), and 28 C.F.R. Part 42, Subparts C and D, recipients of federal funds must provide meaningful access to limited-English-proficient (LEP) individuals.[87]

The U.S. Department of Justice advises that practices, such as charging for interpretation and translation services or seeking recoupment for those costs, significantly impair, restrict, or preclude the participation of LEP individuals in the judicial system and are inconsistent with recipients' Title VI obligations.[88]

Additionally, the Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation.

- Title II of the ADA requires public entities, including state and local courts, to provide equal access to their programs and services.[89]
- Public entities are required to "take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others."[90]
- Public entities must "furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity."[91]
- These auxiliary aids and services include the provision of "qualified interpreters, note-takers, computer-aided transcription services, written materials...or other effective methods of making aurally delivered materials available to individuals with hearing impairments."[92]

87 *Lau v. Nichols*, 414 U.S. 563 (1974).

88 For more information, refer to Guidance from the U.S. Department of Justice to state court justices and administrators' letter from Assistant Attorney of the Civil Rights Division to Chief Justices and State Court Administrators (Aug. 16, 2010); Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002).

89 42 U.S.C. 12131 - 12134.

90 28 C.F.R. 35.160(a).

91 28 C.F.R. 35.160(b)(1).

92 28 C.F.R. 35.104.

- To determine "what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities."[93]
- Deaf and hard-of-hearing individuals may not be charged costs of such auxiliary aids or services.[94]

In the State of Ohio under the Ohio Revised Code and the Rules of Superintendence for the Courts of Ohio:

- Whenever a party or witness in a legal proceeding cannot readily understand or communicate due to a hearing, speech, or other impairment, the court shall appoint a qualified interpreter to assist such person.[95]
- A court must appoint a foreign-language interpreter when a non-English-speaking party or witness requests an interpreter and the court determines the interpreter is necessary, or the party does not make a request, but the court concludes the party is limited in communication and the services of the interpreter are necessary for meaningful participation.[96]
- Courts must appoint a sign-language interpreter when a deaf, hard of hearing, or deaf-blind party, witness, or juror requests an interpreter or does not make a request, but the court concludes an interpreter is necessary for meaningful participation.[97]

Now that Ohio Offers Certification and Registration for Interpreters, Do Courts Have to Appoint a Certified or Registered Interpreter in Every Case?[98]

For foreign language, the court must appoint a Supreme Court-certified interpreter in a case or court function if one exists or is reasonably available to participate in person. If a certified interpreter does not exist or is not reasonably available to participate in person, the court may appoint a provisionally qualified interpreter. If a certified or provisionally qualified interpreter does not exist or is not reasonably available to participate in person, the court may appoint a language-skilled interpreter. If a Supreme Court-certified foreign-language interpreter, provisionally qualified foreign-language interpreter, or language-skilled interpreter does not exist or is not reasonably available to participate in person, the court also may appoint a telephonic interpreter. In appointing the telephonic interpreter, the court must follow the same order of certification preference.[99]

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93 28 C.F.R. 35.160(b)(2).

94 Although R.C. 2311.14(C) allows courts to assess reasonable fees for interpreter services, when the services are provided to a qualifying individual under the ADA, 28 C.F.R. 35.130(f), those fees may not be taxed to the individual in need of interpreter services.

95 R.C. 2311.14(A)(1).

96 Sup.R. 88(A).

97 Sup.R. 88(B).

98 Sup.R. 80 - 89.

99 Sup.R. 88(D).

It is important to note that if a certified interpreter is not appointed, the court must summarize on the record its efforts to obtain a certified interpreter and the reasons for appointing a provisionally qualified or language-skilled interpreter. Moreover, the language-skilled interpreter's experience, knowledge, and training should be stated on the record.[100]

For sign language, the court must appoint a Supreme Court-certified sign-language interpreter in a case or court function. If a certified sign-language interpreter does not exist or is not reasonably available and after considering the gravity of the matter and whether it could be rescheduled to obtain a certified interpreter, the court may appoint a sign-language interpreter who holds one of the following certifications: [101]

- National Interpreter Certification (NIC)
- Certification of Interpretation and Certification of Transliteration (CI/CT)
- Comprehensive Skills Certificate (CSC)
- Master Comprehensive Skills Certificate (MCSC)
- Level V Certification from the National Association of the Deaf (NAD)
- Level IV Certification from the National Association of the Deaf (NAD)

If the communication method cannot be adequately established by a sign-language interpreter who is hearing, the court shall then bring a deaf person who holds the credential of "Certified Deaf Interpreter" (CDI) to help with the communication. A CDI will act as an intermediary between the deaf party and the sign-language hearing interpreter. If the communication method requires silent oral techniques, the court may appoint a certified interpreter who holds an Oral Transliteration Certificate.[102]

It is important to note that if a Supreme Court-certified sign-language interpreter is not appointed, the court must summarize on the record its efforts to obtain and reasons for not using a Supreme Court-certified sign-language interpreter.[103]

Are There Restrictions regarding the Appointment of Other Interpreters?

Superintendence Rule 88, Appointment of a Foreign Language Interpreter or Sign Language Interpreter, outlines the court's appointment requirements for appointing interpreters. Any questions about the appointment of interpreters should be directed to the Ohio Supreme Court's Language Services Program at InterpreterServices@sc.ohio.gov.

100 The Supreme Court of Ohio, *Working with Foreign Language in Court: Bench Card 3.0*; sc.ohio.gov/JCS/interpreterSvcs/LSResources/benchNotes.pdf.

101 Sup.R. 88(E).

102 *Id.*

103 *Id.*

Where Do I Find Interpreters?

A roster of certified, provisionally qualified, sign language-Rule 88(E)(2)-eligible and registered interpreters is on the Supreme Court of Ohio Language Services Program webpage.[104] A Supreme Court-certified foreign-language interpreter is an interpreter who has received certification from the Supreme Court Language Services Program, pursuant to Sup.R. 81. These interpreters have demonstrated their skills by having successfully passed written and oral exams administered by the Language Services Program and they also have provided a background check showing no convictions of crimes involving moral turpitude. Courts must not accept any other certification to meet the requirements of Sup.R. 88(D).

Courts also may use telephonic interpreters when appropriate.[105]

Courts also may try local agencies or other resources to find interpreters, but beware of agencies promoting "certified interpreters" who are certified not by the Supreme Court, but by the agency itself.

What Other Areas Must the Court Provide Language Services?[106]

Courts must provide interpreters in legal proceedings and case and court functions. To ensure equal access to all who go before the court, the Supreme Court adopted a Rule of Superintendence to guide the courts in matters outside the courtroom. Courts now must provide foreign-language-communication services to limited-English-proficient individuals in ancillary court services.

Ancillary Court Services[107] means any activity, other than a case or court function, that includes the exchange of legal or general court-related information with the public or parties in interest and is paid for or provided by the court. Ancillary court services include, but are not limited to, alternative dispute resolution programs, evaluations, information counters, marriage license applications, pro se clinics, specialized dockets and dedicated-subject-matter dockets, and communications with the clerk's office.

Courts must provide foreign-language-communication services to **limited-English-proficient individuals in ancillary court services.** Dependent on the significance and complexity of the ancillary court service, the court may provide this service in person, telephonically, or via video. The court may select:

(1) An employee of the court, other than a Supreme Court-certified foreign-language interpreter or provisionally qualified foreign-language interpreter, who has demonstrated proficiency in English and the target language in accordance with standards set by Supreme Court Language Services Program and who the program has determined to be qualified to conduct

104 sc.ohio.gov/JCS/interpreterSvcs/certification/rosters/default.asp.

105 Sup.R. 89; Sup.R. Appendix J.

106 R.C. 2311.14; Sup.R. 88.

107 Sup.R. 88(A).

communication services directly with a limited-English-proficient individual in the target language;

(2) A Supreme Court-certified foreign-language interpreter;

(3) A provisionally qualified foreign-language interpreter;

(4) A registered foreign-language interpreter.

A court shall provide sign-language-communication services to **deaf, hard-of-hearing, and deaf-blind individuals in ancillary court services**. Dependent upon the significance and complexity of the ancillary court service, the following individuals may provide the communication services in person, telephonically, or via video:

(1) A Supreme Court-certified sign-language interpreter;

(2) A sign-language interpreter listed in Sup.R. 88(E)(2) through (4);

(3) A sign-language interpreter employed by a community center for the deaf.[108]

Where Can I Find More Information about Language Services in Ohio?

For more information on resources and guidance, visit the Supreme Court of Ohio Language Services Program. Its website is at sc.ohio.gov/JCS/interpreterSvcs.

108 Sup.R. 89.

10. SELF-REPRESENTED LITIGANTS[109]

One of the court's most critical duties is to ensure all people brought into the court system receive protections guaranteed to them by the U.S. and Ohio Constitutions. Courts have a responsibility to ensure that all parties are able to participate in meaningful ways in the justice system. Clerks are the face of the justice system. It is crucial that clerks provide impartial and neutral service to everyone concerned. Clerks are obligated to explain court processes and procedures to ensure equitable access to justice. At the same time, clerks may not provide legal advice, but may refer parties to agencies and legal services programs.

As an employee of the court, clerks want to provide the best service possible. The clerks are an extension of the elected judge or judges and, therefore, operate under the Ohio Code of Judicial Conduct Rule 2.12, which states, "[a] judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this code." This means that clerks need to maintain neutrality and should take no part or side in a dispute, nor should they recommend a course of action. Clerks also need to uphold the impartiality of the court by treating all court users equally in an unbiased manner. Therefore, clerks must be very careful when providing information to ensure that they do not inadvertently provide legal advice.

Who Is a Self-Represented Litigant?

The term self-represented litigant is used in the court system to refer to a person representing themself without the assistance of an attorney. Another term commonly used to describe a self-represented litigant is *pro se*, which means "for oneself" or "on one's own behalf."

What Factors Have Contributed to the Increasing Number of Self-Represented Litigants?

The economic crisis of 2007 caused a dramatic increase in the number of self-represented litigants. Many courts also are seeing increased numbers of middle-class persons voluntarily going to court without attorneys. Access to legal information through the internet and other media also has an impact. Courts may employ different strategies to assist self-represented litigants, whether voluntarily unrepresented or unable to afford counsel.

109 The information contained in this section is adapted from the Judicial College, and Supreme Court of Ohio *Legal Advice vs. Legal Information* Training Transcript, 2016. This online course is available to all court employees through the Judicial College's OhioCourtEDU portal. To access this educational opportunity, see sco.csod.com/client/sco.

What Are Strategies for Assisting Self-Represented Litigants?

Clerks should be familiar with what resources, if any, the court provides to self-represented litigants and the degree to which resources may be used to assist parties. If the court does not have resources for self-represented litigants, or the ones that exist don't seem to be helpful, then staff might offer to inquire about what other probate courts around the state are doing.

Successful strategies include, but are not limited to:

- **Simplifying court forms.** Many courts have form banks, either in the courthouse, online, or both, to assist self-represented litigants in the filing of actions. The Supreme Court of Ohio has Probate Standardized Forms[110] that are accepted by all of Ohio's courts. It is recommended that courts make these forms available on their websites.
- **Providing one-on-one assistance.** Some courts have designated staff to aid self-represented litigants.
- **Developing guides, handouts, and instructions**. As an enhancement to standardized forms, courts have created pamphlets, guides to self-representation, and/or instructions for completing and filing court forms.
- **Offering court-sponsored legal assistance.** Some courts have attorneys on staff to review or assist self-represented litigants in the completion of forms.
- **Court-based self-help centers.** Some of Ohio's courts utilize self-help kiosks in clerks' offices.
- **Collaboration with libraries and legal services.** Some public and law libraries may provide guidance to self-represented litigants to find information they need. In addition, some courts or counties work in conjunction with their local bar association to provide information to self-represented litigants.

110 sc.ohio.gov/LegalResources/Rules/superintendence/probate_forms.

11. LEGAL ADVICE VS. LEGAL INFORMATION[111]

One of the biggest challenges for clerks when dealing with self-represented litigants is distinguishing between legal information and legal advice. As court employees, clerks have an implicit amount of authority and are expected to provide responses to inquiries concerning court procedures. However, court employees should not give legal advice or engage in the unauthorized practice of law. The unauthorized practice of law is not just representing clients in the courtroom, but encompasses any activities where staff could potentially give advice, prepare pleadings, manage actions, or offer legal opinions. The judge and supervisors should provide the standards for the court.

- **Legal information** is generic information possessed by government workers and clerks of court.
- **Legal advice** involves the *application* of legal information to a particular legal problem, *affects* the rights and obligations of individuals under the law, and usually are *irreversible actions* based on the advice given.

What Information May a Clerk Provide to Self-Represented Litigants?

Forms & Instructions. One important service clerks provide for self-represented litigants is access to forms and instructions. However, there is a risk when clerks provide forms that he/she may give legal advice. For instance:

> **EXAMPLE**: If a self-represented litigant identifies what they want to file and a clerk gives them a form that pertains to that subject matter, then the clerk is likely giving *information*. However, if the clerk listens to their concern and tells them to "use this form," the clerk likely is giving *legal advice*.
>
> PRACTICE TIP: Refer self-represented parties to an attorney and, if handing out forms, use generalized forms or packets so the client is responsible for selecting the forms they file with the court.

Clerks also need to be careful when providing explanations on filling out forms. If a self-represented litigant asks a clerk, "Have I filled out this form correctly?" the clerk may review it for completeness and identify any missing information. However, clerks should make it clear that they cannot fill out the forms (unless the pro se litigant is unable to read or write) or tell them what words to use. When individuals have questions beyond that of the court process, seeking the advice of an attorney is advised.

111 The information contained in this section is adapted from the Judicial College, and Supreme Court of Ohio *Legal Advice vs. Legal Information* Training Transcript, 2016. This online course is available to all court employees through the Judicial College's Ohio CourtEDU portal. To access this educational opportunity, see sco.csod.com/client/sco.

Process & Procedure. Clerks are obligated to explain court processes and procedures so litigants can bring their problems to the court for resolution. Clerks should explain applicable state and local rules, such as how to file an application, petition or motion in probate court or request a hearing. Clerks may even explain requirements for documents and supply sample forms and packets to attorneys and self-represented litigants. Providing this information is an important service clerks provide.

General information about policies and procedures normally constitutes legal *information*. However, some information is restricted because it could be used inappropriately to affect the status or outcome of a case. For example, case assignment procedures, adjournment policies, and scheduling practices should not be discussed by clerks with court users as this information could affect or influence the status of a case.

> Practice Tip: As a rule, clerks may provide information, but may not answer questions that involve the disclosure of confidential or restricted information that would provide an unfair advantage to one party.

> **EXAMPLE**: If a self-represented litigant wants to know what is going to happen at a pre-trial conference, it is acceptable to give them *legal information* in the form of a definition such as, "It is an initial hearing where the matter before the court will be detailed and any agreement may be given to the court, or interim or final orders could be issued." However, clerks should never look at a person's specific case and make any determination about the facts because this constitutes *legal advice*.

Another important service clerks provide is explaining various procedural options available and what the differences are between these options. Often clients are unaware of what their options are and this ensures that they have better access to the court.

> **EXAMPLE**: Explaining to a litigant that they must file an inventory before filing an account is an example of *legal information*. This information is not case-specific since any case involving a decedent's assets will require the same accounting verification.

> **EXAMPLE**: Explaining to a pro se party the difference between civil commitment of the mentally ill and the appointment of a guardian of an incompetent person is an example of legal information. The clerk is not deciding which process is appropriate based on the facts of the case, but simply explaining two court alternatives available under Ohio law to assist those with mental illness and impairment.

Make sure clerks advise parties of all appropriate options so the explanation doesn't indirectly influence their options by limiting their choices. However, if the

client asks which option the clerk recommends or which they think is their best choice, the clerk should refrain from providing an opinion. Clerks always may refer parties to free legal-assistance resources available.

Explanation of Legal Terms. Another important service a clerk provides as a court employee is explaining the often-unfamiliar legal terms found in court procedures and public files. However, clerks need to be careful not to provide a legal interpretation of the terms.

> **EXAMPLE**: If an individual comes to the court and has questions about opening an estate, a clerk may provide general information that spells out what the law says about different types of estates. The information will not change for whomever the clerk gives that information to and is not case based — that is, not legal advice.

However, if the individual asks which estate option they should choose, the individual is seeking legal advice and clerks should not provide any recommendations. Let individuals know that clerks only may provide general information on legal terms and cannot address the particulars of any specific case. A referral to the local or state bar association to obtain legal counsel should be made.

Clerks may provide information on court calendar settings and tell individuals the process for getting matters placed on the calendar. Clerks also may direct individuals to any applicable website that gives them access to the court calendar they are interested in viewing. However, when clerks aid with court deadlines, things may get complicated. Clerks should not assist in the calculation of deadlines, nor attempt to explain the statute of limitations. Because these rules often are complicated, it would be easy to give incorrect or misleading information.

> **EXAMPLE**: Even simple answers may result in unfortunate consequences. In one case, a deputy clerk was asked by a defendant how much time he had to file an appeal. The clerk told him 10 business days when the deadline was actually 10 calendar days. As a result, the litigant missed his appeal deadline and the clerk was suspended from work for three days. Remember, the court speaks through its orders. Clerks should refer litigants to the entry and not offer any interpretations.

What Is the Difference Between Public Information and Confidential Information?

Clerks may provide **general**, **public information** to clients. For example, a clerk may read a journal entry granting a continuance and inform the party that this motion was granted; this is an example of legal information. However, clerks may have access to operational information that would benefit one side or another if revealed. Court staff are obligated to keep these matters confidential so they remain neutral and impartial to all parties.

Confidential information from private or protected records contain highly personal information about parties and it is inappropriate for clerks to read or share these records unless required for their work. Records include unfinalized adoptions, investigative reports, and home studies. *See Sup.R. 44 for a list of documents removed from public access.*

Sealed records may not be opened without permission from the court, even by clerks. Access is restricted to the judge. Clerks may acknowledge the existence of a case and the case number since this is public information, but nothing more.

Sometimes there is a **concern for safety** when there is a protection order, a party is detained, or there is a threat of violence or harm. In these cases, clerks should not release any information without the approval of the administrative judge, judge assigned to the specific case, or per the protocol of the court.

Resources:

- The Supreme Court of Ohio, *Report and Recommendations of the Supreme Court of Ohio Task Force on Pro Se & Indigent Litigants* (2006); sc.ohio.gov/Publications/prose/report_april06.pdf.
- Ohio Judicial Conference, *Representing Yourself in Court* (pamphlet); http://ohiojudges.org/Document.ashx?DocGuid=dddcb9f1-9006-4361-ac2c-80c553f62c36.
- National Center for State Court, *Self-Representation Resource Guide;* https://www.ncsc.org/Topics/Access-and-Fairness/Self-Representation/Resource-Guide.aspx.
- The Supreme Court of Ohio Judicial College, *Legal Advice vs. Legal Information* (online course); sc.ohio.gov/Boards/judCollege/calendars/OnlineSS.pdf.

12. COURT COSTS

General Overview[112]

The probate court shall charge and collect the fees as outlined in R.C. 2101.16 and any fees for similar services permitted to be charged by the clerk of common pleas. Deposits in the amount set forth in a local rule shall be required upon the filing of any action or proceeding and additional deposits may be required.

May the Court Waive Costs?

In some instances, the probate court is permitted to waive costs; in other instances the court is not permitted to charge or collect.

- **Indigency.** If a person is found to be indigent, the court must waive the advance deposit or security cost and any subsequent fee or cost arising in the civil case.[113]
- **Combat Zone Military Casualties.** A probate judge shall not charge or collect any of the following fees from the estate of a decedent who died while in active service as a member of the armed forces or national guard of the United States if the death occurred while the decedent was serving in a combat zone or as a result of wounds, disease, or injury incurred while serving in a combat zone.
    - Any fee for or associated with the filing of the decedent's will for probate;
    - Any fee for any service rendered by the probate court that is associated with the administration of the decedent's estate; and
    - Any fee for relieving the decedent's estate from administration under R.C. 2113.03 or granting an order for a summary release from administration under R.C. 2113.031.[114]

May a Court Cancel Uncollectable Debts?

Yes. If the court finds that an amount owed to the court is due and uncollectible, the court may direct the clerk of the court to cancel all or part of the claim. The clerk shall then effect the cancellation.[115]

Is a Court Permitted to Use a Third-Party Collection Agency?

Yes. The clerk of a court may enter into contracts with one or more public agencies or private vendors for the collection of amounts due under judgments for costs. However, before entering into or renewing a contract of this nature, the

112 R.C. 2101.16.

113 R.C. 2323.311.

114 R.C. 2101.164(B).

115 R.C. 2101.165.

clerk of a court shall comply with required competitive bidding laws (R.C. 307.86 to 307.92) and obtain approval of the terms of the contract by the legislative authority associated with the court.[116]

The contract for third-party collection must include all of the following terms:

- A requirement that the contracting public agency or private vendor must disburse to the contracting clerk of a court the full amount collected by the agency or vendor that is due under the judgment for costs, including any interest that also is due on that judgment, for disbursement to the appropriate entity as designated by the Revised Code; and
- A provision that prohibits the contracting public agency or private vendor from deducting any fees or expenses the agency or vendor incurs in the collection of the judgment from the amount collected that is due under the judgment, including interest.[117]

May a Court Reduce the Statutorily Required Fees?[118]

Maybe. When the aggregate amount of fees and allowances collected by the probate judge in any calendar year exceeds by more than 10 percent of the amount necessary to pay the salaries of the judge and the employees of the probate court, including court constables, the judge may, by an order entered on the judge's journal, provide for a discount of all the fees and allowances the judge is required to charge and collect for the use of the county by fixing a percent of discount that shall be applied to all the earnings of the office for the ensuing year and shall constitute the legal fees of the office for that year.

What Are Other Recordkeeping Requirements?

Cashbook.[119]

Each clerk of a court of record shall enter in a journal or cashbook, provided at the expense of the county, an accurate account of all moneys collected or received. Entries should be made on the day of the receipt, and in the order of time so received. The entry must include the time, date, and case reference or other matter of which the money was received.

The cashbook shall be a public record of the office, and shall, on the expiration of the term of each such officer, be delivered to the officer's successor. The clerk shall be the receiver of all moneys payable into the clerk's office, whether collected by public officers of court or tendered by other persons. On request, the clerk shall pay the moneys to the persons entitled to receive them.

116 R.C. 2335.24(B)(1).

117 R.C. 2335.24(B)(2).

118 R.C. 2101.20.

119 R.C. 2335.25.

clerk's office in a bank, as defined in R.C. 1101.01, subject to R.C. 131.11. Any interest received upon the deposits shall be paid into the treasury of the county for which the clerk performs official duties.

Record Book.[120]

Each clerk of the court of common pleas or probate judge shall keep a book, which shall be a record of the office, showing in detail all moneys paid into the county treasury, with proper references showing where each item may be found on the respective cashbooks and dockets, and giving the names of the parties in alphabetical order, to whom such money belongs. A detailed statement of each item shall be furnished to the county auditor, and no clerk or probate judge shall receive from his successor in office any fees earned, which come into the hands of such successor, until settlements are all fully made.

Annual Itemized Account Fees.[121]

In each case, examination, or proceeding, the probate judge shall file an itemized account of fees received or charged by the judge. On the 15th day of January, in each year, the judge shall file with the county auditor an account, certified by the judge, of all fees received by the judge during the preceding year. No judge shall fail to perform the duties imposed in this section. At the instance of any person, the prosecuting attorney shall institute and prosecute an action against the defaulting judge.

What Costs May the Court Collect?

Pursuant to various sections of the revised code, the probate court may collect court costs and fees. A summary of costs and fees that may be collected by the court is found in Appendix A. This list is not comprehensive, but outlines the majority of revised code sections that permit the court to collect monies from parties to a case.

120 R.C. 2335.38.

121 R.C. 2101.15.

13. CONTROLLING THE DOCKET

Every court has its own unique approach to managing the docket. The judge or magistrate may schedule their own docket or they may utilize the bailiff or clerks to manage the docket schedule. Some courts have an electronic case management system that allows for greater efficiency as court hearings may be scheduled prior to parties leaving the court. How a court handles the docket may directly affect the court's efficiency. There are several types of practices for scheduling hearings.

Definitions

Time-Certain Docketing. Time-certain docketing is considered the best practice for scheduling hearings. Time-certain docketing requires the court to determine how long different hearing types take on average and set up the docket accordingly. The court must allow time for emergency hearings, as they occupy time on the docket, as well. A court may provide a block of time for emergency hearings or try to schedule them in open time slots on the calendar.

Time-certain docketing reduces the wait time for all parties and witness. It also sets an expectation in the court that events will occur as scheduled.

> **EXAMPLE**: The court day may be broken up into half-hour time frames and parties are given an exact time for their court hearing (e.g., 10:30 a.m.). The time may be increased or decreased in individual hearings based upon the complexity of the hearing, number of witnesses, and other factors.

Block-Time Docketing. Hearings are assigned by groups and scheduled in a certain block of time. Each block should be dedicated to one type of hearing. All parties to the hearings are assigned to the time that the block starts. With this type of docketing, parties may have to wait, but the length of wait will be no longer than the block. Different types of hearings should be given different lengths of time. If a particular hearing will take a lot of time, the hearing should be assigned to the entire day instead of placed within a block.

> **EXAMPLE**: All will-contest hearings are scheduled from 1:00 - 2:30 p.m. on Mondays and Wednesdays. Each case is scheduled for this block of time on the next available Monday or Wednesday.

How Does a Court Use a Combination of Block-Time and Time-Certain Docketing?

Courts set blocks of time for certain types of hearings and within the block, sets a specific time for a particular hearing. When all segments within the time block are filled, hearings are scheduled to be heard during the next available block set aside for that type of hearing.

> **EXAMPLE**: A court may determine that motion hearings are held on Tuesdays and Thursdays from 11:00 a.m. – 1:00 p.m. Each hearing during that block is scheduled at a specific time (e.g., 11:15 a.m., 11:30 a.m., 11:45 a.m.).

To make sure that all times are filled, the clerk should schedule the hearing for the first available date and time for that type of hearing. Clerks also must be aware of service timeframes when setting hearing dates. Additionally, if there are multiple judicial officers hearing the same case type, it may be best to schedule different case types on different days to avoid overlap in attorneys, guardians ad litem, and caseworkers who may need to be present at the same time for different hearings.

Tips for Controlling the Docket

Using the case management system. A case management system may offer multiple services that lead to greater efficiency in the court, particularly for clerks. At a minimum, the court's case management system should be capable of tracking caseloads. The information system should maintain statistics on the length of time from case filing to case closure. The system also should monitor the length of time between crucial steps in the resolution process, such as time between court hearings and the preparation of entries. These statistics should be periodically reviewed and used to evaluate the effectiveness of the court in managing its caseload.

> **Note:** Case management systems are required to be capable of sending case data to the Ohio Courts Network.[122]

Distributing timely, meaningful court orders. Parties are more likely to be prepared for court if they are provided a specific time for the next hearing. With technological advances, courts can schedule the next hearing and distribute orders prior to parties leaving the courthouse. Orders should be written in plain language and specify the actions required by all parties prior to the next hearing. This practice not only saves the court time and money by reducing the number of notices sent to parties, but it also gives parties extra time to prepare for the next hearing.

122 Sup.R. 34.

14. DATA ENTRY AND ASSIGNMENT OF CASE NUMBERS

When Should a Case Be Initiated?

Although there are no statutory requirements governing the time limit for entering information into the system after filing, each court should implement time guidelines that facilitate timely disposition of cases. It is recommended that, as a best practice, probate courts complete data entry within **one business day** of a new filing.

How Should Cases Be Categorized and Numbered?

Sup.R. 43 specifies the case numbering system to be used for municipal and county court filings. Although probate courts are a division of the courts of common pleas and are not directly governed by Sup.R. 43, the requirements of Sup.R. 43 are considered best practices for probate-court filings and numbering cases.

Category. All cases should be categorized and serially numbered within a category on an annual basis.[123]

Numbering. All cases also should be identified by the year they were filed and broken down further into case-type categories.

> **EXAMPLE**: The first case of the year is an estate case filed on Jan. 2, 2020. The case number assigned would be 20-ES-00001. The "20" is the year reference, the "ES" is the estate reference (these codes vary from court to court and there currently is no standard naming convention for probate-case types), the "00001" is the serial number for the case.

What Case Categories Does the Supreme Court of Ohio Use for Statistical Reporting Purposes?

Each probate court judge who is responsible for the disposition of cases is required to complete Form C for statistical reporting purposes.[124] A best practice for internal case designation is to identify cases by the following categories used for Form C:

1. Decedents' Estates
2. Guardianship of Minors
3. Guardianships of Incompetents
4. Emergency, Limited, and Interim Guardianships
5. Conservatorships
6. Testamentary Trusts
7. Civil Actions

123 Sup.R. 43(A).

124 Form C can be found at sc.ohio.gov/JCS/casemng/statisticalReporting/Form_C.pdf.

8. Adoptions
9. Mental Health and Civil Commitments
10. Minors' Settlements
11. Wrongful Death
12. Delayed Registration of Birth and Correction of Birth
13. Change of Name
14. Marriage Applications

15. COMPUTATION OF TIME

Information regarding the computation of time is found in Civ.R. 6. If there are specific questions regarding computation of time, consult the court's local rules and seek the advice of a judicial officer, court administrator, prosecutor, or staff attorney.

What Rules Govern Computation of Time?

The Civil Rules of Procedure define the amount of time allowed for different situations.

Generally, How Is Time/Number of Days Calculated?

Greater than seven days. In counting the number of days for legal purposes, the date of the act or event (i.e., filing date) shall not be included.[125] The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday. If *the last day* is a Saturday, Sunday or legal holiday, those days are not included for calculating time.[126]

The civil rules of procedure state that when a public office is closed for an entire day or closes before its usual closing time on a day that is the last day for an act to be performed, then the act may be performed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.[127]

> **EXAMPLE**: In the submission of the record from the lower court to the court of appeals, the lower court must submit the record as soon as possible, but no more than 40 days from the date of filing.[128] In this situation, because the time frame exceeds seven days, Saturdays and Sundays would be counted.

Less than seven days. In most of those cases, intermediate Saturdays, Sundays, and legal holidays shall be *excluded* in the computation.[129]

> **EXAMPLE**: A clerk is required to enter a judgment entry in the journal of the court and serve it on all parties within three days.[130] If a clerk processes a judgment entry filed on a Thursday, then Friday is the first day counted. Because the time allowed is less than seven days, Saturday and Sunday are not counted, allowing the clerk until the end of the day on Tuesday to complete the necessary action.

125 Civ.R. 6(A).

126 *Id.*

127 *Id.*

128 App.R. 10.

129 Civ.R. 6(A).

130 Civ.R. 58(B).

16. SERVICE

Civ.R. 73 governs probate court actions surrounding serving documents filed with the court. With a few exceptions, as outlined below, Civ.R. 4 through 4.6 apply in any proceeding in the probate division where service of summons is required.[131] Likewise, Civ.R. 5 applies to the service pleadings and subsequently filed papers.[132]

Prompt service of documents should be a priority in every probate court. No more than a three-day turnaround from the receipt of a filing to the issuance of the summons or notice of hearing[133] or from the scheduling of a hearing is the recommended best practice.

Who May Be Served? [134]

A complete list of persons who may be served, including corporations and limited liability entities, is found in Civ.R. 4.2. The list below is a summary of those persons most commonly served by probate courts.

Service of process, except service by publication, shall be made upon:

1. **An individual**, other than a person under 16 years of age or an incompetent person.[135]

Exceptions. If the action is an application for the **appointment of the guardian of a minor** and the minor is over age 14, then personal service of the time and place of the hearing is required.[136]

131 Civ.R. 73(C).

132 Civ.R. 73(D).

133 Although the Rules of Civil Procedure do not specifically outline a timeline for the issuance of a summons following the filing of a complaint to initiate a new filing, the rules are instructive in other similar situations. See Civ.R. 5(B)(2)(d): "Delivering it [pleading or other paper] to a commercial carrier service for delivery to the person's last known address **within three calendar days**…"; Civ.R. 5(D): "Any paper after the complaint that is required to be served shall be filed with the court **within three days** after service"; Civ.R. 53(D)(3)(iii): "A magistrate's decision shall be in writing…and served by the clerk on all parties…**no later than three days** after the decision is filed."; Civ.R. 58(B): "**Within three days** of entering the judgment upon the journal, the clerk shall serve the parties…"

134 Civ.R. 4.2.

135 Civ.R. 4.2(A).

136 R.C. 2111.04(A)(1).

If a minor would have been **entitled to priority to administer an estate, but for their minority**, they shall be served notice pursuant to the Rules of Civil Procedure.[137]

2. A **person under 16 years of age** is served when the person's guardian, parent, or the individual having the care of the minor person is served. If the person does not have a guardian, nor lives nor resides with a parent or a person having his or her care, then the minor person should be served.[138]
3. An **incompetent person** is served when the incompetent's guardian or the person designated is served. If no guardian has been appointed and the incompetent is not under confinement or commitment, then service to the incompetent person is required.[139]
4. An **incompetent person who is confined** in any institution for the mentally ill or mentally deficient or committed by order of court to the custody of some other institution or person is served when the superintendent or similar official of the institution to which the incompetent is confined or committed is served, or the person to whose custody the incompetent is committed is served.[140]

Who May Waive Service?

Service of summons and notice may be waived in writing by any person entitled to service of process who is at least 18 years of age and not under disability.[141]

Where May Service Be Conducted?

Service in the US. Service may be made anywhere in this state and, when authorized by law or these rules, may be served outside this state.[142]

Service Abroad. Special provisions for service abroad is found in Civ.R. 4.5.

What Methods of Service Are Available?

Service of Notice. In a proceeding where any type of notice, other than service of summons, is required by law or deemed necessary by the court, and the statute providing for notice neither directs nor authorizes the court to direct the manner of its service, notice shall be given **in writing and** may be **served** by or on behalf of any interested party without court intervention by one of the following methods:

- Delivering a copy to the person;
- Leaving a copy at the place of residence;
- By certified or express mail with return receipt requested;

137 R.C. 2113.07.

138 Civ.R. 4.2(B).

139 Civ.R. 4.2(C).

140 Civ.R. 4.2(E).

141 Civ.R. 4(D).

142 Civ.R. 4.6(A).

- By ordinary mail after certified or express mail was refused;
- By ordinary mail after certified mail was unclaimed, as long as the ordinary mail is not returned undeliverable;
- By publication once a week for three consecutive weeks; and
- By another method as the court may direct. Civ.R. 4.2 applies in determining who may be served and how particular persons or entities must be served.[143]

1. **Service by Mail**

   a. **Service by U.S. certified or express mail**. The clerk delivers a copy of the summons or other document to the United States Postal Service to be sent as certified or express mail. A return receipt must be requested showing to whom the mail was delivered and the date and address of delivery. The mailing address used is the address set forth in the caption or on the written instructions from the moving party.[144]

      Service Complete. Service is perfected when evidenced by a return receipt signed by any person.[145] The clerk shall file the return receipt or returned envelope in the records of the action.[146]

   b. **Service by commercial carrier service**. The clerk may make service by a commercial carrier service (e.g., UPS, FedEx) by utilizing any form of delivery requiring a signed receipt, unless instructed otherwise. The clerk shall deliver a copy of the summons or other document to a commercial-carrier service for delivery. Instructions must be provided to the carrier to return a signed receipt showing to whom the mail was delivered and the date and address of delivery. The address used is the address set forth in the caption or as stated in written instructions provided to the clerk.[147]

      Service Complete. Service is perfected when evidenced by signed return receipt.[148] The clerk shall file the return receipt or returned envelope in the records of the action.[149]

143 Civ.R. 73(E).

144 Civ.R. 4.1(A)(1)(a).

145 *Id.*

146 Civ.R. 4.1(A)(2).

147 Civ.R. 4.1(A)(1)(b).

148 *Id.*

149 Civ.R. 4.1(A)(2).

What Happens if Certified Mail Is "Refused" or "Unclaimed"?[150]

If an envelope attempting service is returned as "refused" or "unclaimed," then the clerk shall notify the attorney of record or, if there is no attorney of record, notify the party who requested service. Notifications must be entered on the appearance docket.

The attorney of record or the serving party shall file written instructions with the clerk regarding completion of service. Upon written instructions to serve, the clerk may send a copy of the notice by U.S. ordinary mail to the address set forth in the caption. The mailing shall be evidenced by a certificate of mailing that shall be completed and filed by the clerk.

Service Complete. Service for "refused" mail shall be deemed complete when the ordinary mailing is entered on the record. Service for "unclaimed" mail is complete when the action is recorded on the record, provided the ordinary mail envelope is not returned by postal authorities showing failure of delivery.

2. **Personal Service**[151]

   The court may order a party to be personally served with a copy of the notice, summons and complaint, or another document. Personal service may be made by any person who is at least 18 years old, who is not a party to the case, and who was designated by the court order.

   Service Complete. The person serving the process shall provide a copy of the documents to the person to be served, sign the process, and return it to the clerk. The clerk shall make the appropriate entry on the appearance docket.

What Happens upon Failure of Personal Service?[152]

When the person serving the process is unable to serve the documents within 28 days, the server shall indorse on the process the failure of service and the reasons for it; the documents and all copies are then returned to the clerk. The clerk must make an appropriate entry on the appearance docket. The clerk shall notify the attorney of record or the serving party. Failure to make service within 28 days and failure to make proof of service do not affect the validity of the service.

3. **Service by Publication in a Newspaper**[153]

   When the residence of a party is unknown and cannot be ascertained by reasonable diligence, service shall be made by publication. Before service by publication can be made, an affidavit of a party or party's counsel must be filed with the court stating the residence of the party cannot be ascertained with reasonable diligence, and the efforts made to locate the party also must

150 Civ.R. 4.6(C) - (D).

151 Civ.R. 4.1(B).

152 *Id.*

153 Civ.R. 4.4(A)(1).

be documented. The affidavit shall state that service of notice, summons, or other document cannot be made because the name, residence of the person, or existence of the person to be served is unknown to the affiant and cannot be ascertained with reasonable diligence and shall set forth the last-known address of the party to be served.

Upon the filing of the affidavit, the clerk shall cause service of notice to be made by publication in a newspaper of general circulation the county in which the action or proceeding is filed. If **no newspaper is published** in that county, then publication shall be in a newspaper published in an adjoining county.

Length of Publication. The publication shall be published at least once a week for six successive weeks, unless a lesser number of weeks specifically is provided by law; Civ.R. 73(E)(6) requires publication once a week for three consecutive weeks. After the last publication, the publisher or its agents shall file with the court an affidavit showing the fact of publication together with a copy of the notice of publication. The affidavit and copy of the notice shall constitute proof of service of process. The clerk shall enter proof of service on the docket.

Service Complete. Service of process shall be deemed complete at the date of the last publication.[154]

Note: For **notice of adoption hearings**, the notice of the filing of the petition and of the time and place of hearing shall be given by the court at least 20 days before the date of hearing.[155]

4. Service without Court Intervention[156]

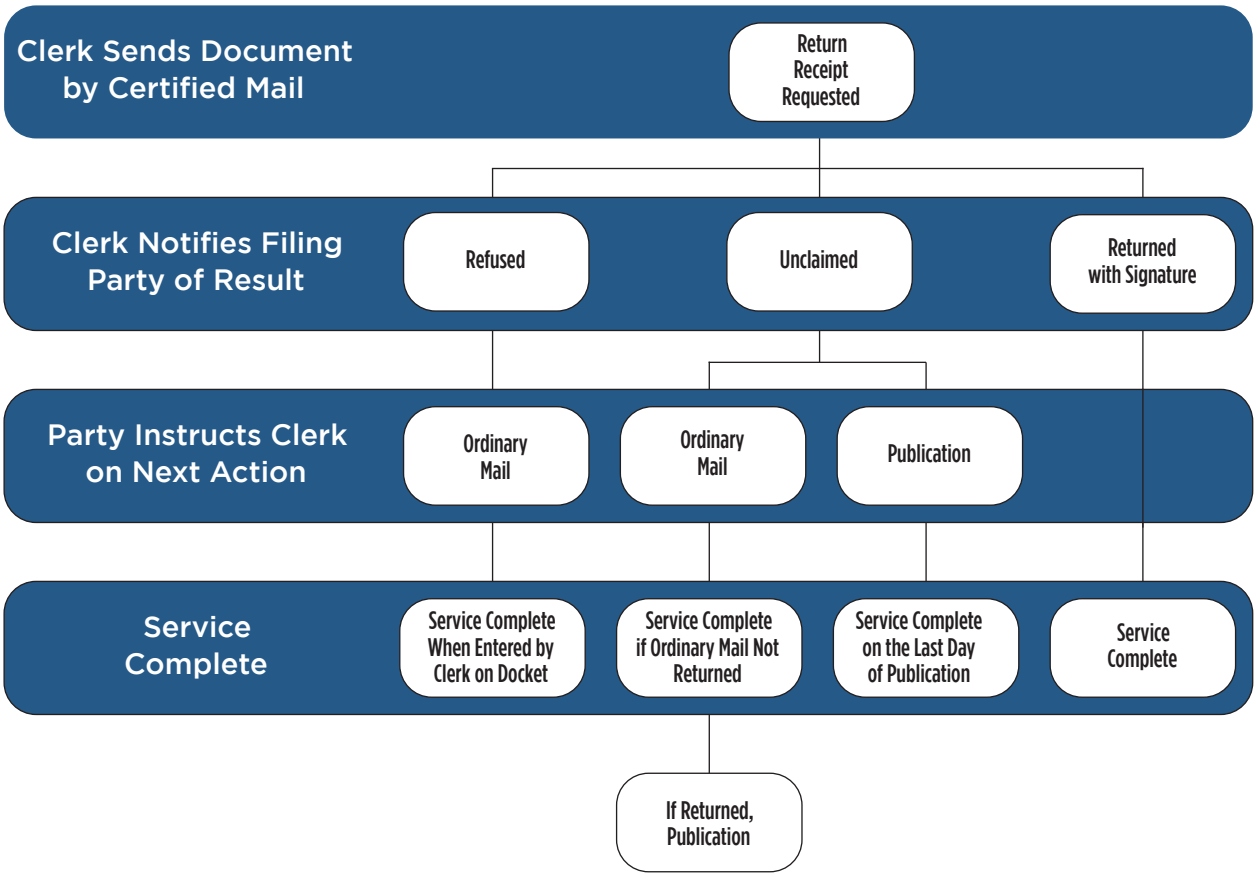
When service is made without court intervention, proof of service of notice shall be made by affidavit. When service is made by United States certified or express mail or by commercial-carrier service, the return receipt, which shows delivery, shall be attached to the affidavit. When service is made by United States ordinary mail, the prior returned certified or express mail envelope, which shows that the mail was refused or unclaimed, shall be attached to the affidavit.

154 Civ.R. 4.4(A)(1); Civ.R. 73(F).

155 R.C. 3107.11.

156 Civ.R. 73(F).

Probate Division: Service by Mail, Publication



17. SUBPOENAS

A subpoena is a document commanding the recipient to personally appear as a witness to testify in court on a certain date and time, and/or to produce records, documents, or information for a court hearing or deposition. Failure to comply with the instructions on the subpoena may result in a penalty.

What Is the Purpose of a Subpoena?[157]

The subpoena commands each person to whom it is directed, at a time and place specified in the subpoena, to do one or more of the following:

- Attend and give testimony at a trial or hearing, within this state;
- Attend and give testimony at a deposition in the county where the deponent resides or is employed or transacts business in person, or at such other convenient place as fixed by order of the court;
- Produce documents, electronically stored information, or tangible items at a trial, hearing, or deposition;
- Produce and permit inspection and copying of any designated documents or electronically stored information that are in the possession, custody, or control of the person; and/or
- Produce and permit inspection and copying, testing, or sampling of any items that are in the possession, custody, or control of the person.

A command to produce and permit inspection may be joined with a command to attend and give testimony, or may be issued separately.

What Information Is Required on Every Subpoena?[158]

The subpoena must state the name of the court from which it is issued, the title of the action, the command, and the case number.

Who Has the Authority to Issue a Subpoena?[159]

The clerk shall issue a blank, signed subpoena to any party or party's attorney, requesting it. If the issuing attorney modifies the subpoena in any way, then the issuing attorney shall give prompt notice of the modifications to all other parties.

Who Has the Authority to Serve a Subpoena?[160]

A subpoena may be served by a sheriff, bailiff, coroner, clerk of court, constable, or a deputy of any of the above, by an attorney, or by any other person designated by order of the court who is not a party and is not less than 18 years of age.

157 Civ.R. 45(A)(1)(b).

158 Civ.R. 45(A)(1)(a).

159 Civ.R. 45(A)(2) - (3).

160 Civ.R. 45(B).

How Must a Subpoena Be Delivered?[161]

Service of a subpoena shall be made by delivering a copy of the subpoena to the person, by reading it to the person, by leaving it at the person's usual place of residence, or by placing a sealed envelope containing the subpoena in the United States mail as certified or express mail with a return receipt requested. The person serving the subpoena shall file a return of the subpoena with the clerk.

What Protections Does a Person Subject to a Subpoena Have?[162]

- A party or attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to a subpoena.
- A person who is commanded to produce documents or other items is not required to appear in person, unless that person also is commanded to attend and give testimony at a trial, hearing, proceeding, or deposition.
- A person commanded to produce may serve upon the party or attorney designated in the subpoena written objections to production.
    - The objections must be served within 14 days after service or before the time specified for compliance, if such time is less than 14 days after service.
    - If an objection is made, the party serving the subpoena shall not be entitled to production, except pursuant to an order of the court.

May the Court Overrule a Subpoena?[163]

On timely motion, the court shall quash or modify a subpoena, or order appearance or production under specified conditions, only if the subpoena does any of the following:

- Fails to allow reasonable time to comply;
- Requires disclosure of privileged or otherwise protected matter and no exception or waiver applies;
- Requires disclosure of a fact known or opinion held by an expert not retained or specially employed by any party in anticipation of litigation or preparation for trial if the fact or opinion does not describe specific events or occurrences in dispute and results from study by that expert that was not made at the request of any party; and/or
- Subjects a person to undue burden.

161 Civ.R. 45(B).

162 Civ.R. 45(C)(1) - (2).

163 Civ.R. 45(C)(3) - (4).

If a person who is requested to produce documents or other tangible items is subjected to undue burden, that person may file a motion, but that person must first attempt to resolve any claim of undue burden. The motion must be supported by an affidavit of the subpoenaed person or certificate of the subpoenaed person's attorney indicating that efforts were made to resolve the claim of undue burden.

What Are the Sanctions for Failure to Comply with a Subpoena?[164]

Failure by any person without adequate excuse to obey a subpoena may be in contempt of the court from which the subpoena issued. A subpoenaed person or that person's attorney who frivolously resists discovery may be required by the court to pay the reasonable expenses, including reasonable attorney's fees, of the party seeking the discovery. The court may impose upon a party or attorney in breach of the duty an appropriate sanction that may include, but is not limited to, lost earnings and reasonable attorney's fees.

164 Civ.R. 45(E).

18. MOTIONS

A motion is an application to the court requesting an order on a pending case.[165] The court also may issue an order in a pending case on the court's own motion, without a request from a party. For example, a judge could continue a case to a new date "upon the court's own motion." A motion may be filed in writing or made orally during a court hearing.[166]

What types of motions may be filed in court?

Memorandum of Support. A written motion must be supported by a memorandum containing citations of authority, known as a Memorandum in Support.[167] The memorandum either may be a part of the body of the motion or filed as a separate pleading. The purpose of the Memorandum in Support is to further explain why the petitioner is requesting the court to grant a motion; it may include citations of case law or references to previous orders of the court.

Service. The petitioner must serve opposing counsel and/or parties with a copy of the motion and any supporting affidavits, and indicate at the bottom of the motion when and how parties were served. This is referred to as certificate of service.[168]

Hearing. Any time a motion is filed, the court may set a motion for hearing, determine the motion at an already scheduled hearing, or bypass a hearing and respond by a written order granting or denying the motion. However the motion is considered by the court, the results of the court's decision to either grant or deny the motion should be entered into the record by a written order or entry.

What Is the Timeline for the Court to Respond to Filed Motions?

All motions must be ruled upon within 120 days from the date the motion was filed.[169] The time period begins to run on the day the motion is filed or made orally.[170]

165 Civ.R. 7(B)(1).

166 *Id.*

167 *Id.*

168 Civ.R. 5; Civ.R. 7(B)(1).

169 Sup.R. 40(A)(3).

170 *Id.*

19. TIME STAMPING, DOCKETING & JOURNALIZING

See also, Section 8(b) Record Retention.

The duty of the probate clerk's office to maintain accurate recordkeeping is paramount to the integrity of the court. The court speaks through its docket. The docket is the demonstration of work completed by the court and is the official record of the court. The court's docket must accurately reflect the work of the court and any actions taken by the clerk on behalf of the court, such as the receipt of filings and collection of money owed.

Both the Ohio Revised Code and the Rules of Superintendence provide probate clerks with directives regarding the duty of recordkeeping, particularly in maintaining a time-stamped record of filings, the creation of indexes, and journal and docket entries.

Definitions

Time Stamp (noun). The physical device, either a physical stamp with an ink pad or a machine that places the date and time of filing on the pages. The stamp left on the paper noting the date and time of filing also is referred to as the "time stamp."

> **Note:** When a court receives electronic filings, the time stamp noting the date of receipt is applied digitally to the pages filed.

Timestamp (verb). "To timestamp" refers to the action taken by the clerk to place a physical stamp upon a filed document; all papers filed in the probate court shall be stamped in the court with the day, month, and year of the filing.[171]

Docket (noun).

- **Judge's or Magistrate's Docket**. A list of cases scheduled to be heard for the day or week.
- **Case (or Clerk's) Docket**. Reference record that provides the dates and summary of all hearings, pleadings, filings, orders, and other matters essential to an action, proceeding, or other matters in the probate division.[172]
- **Docket Number**. The number assigned by the case management system that refers to the journal book number and page number assigned to the entry. This item is a holdover from when courts recorded dockets using a paper-based system.
- **Docket Entry**. Short statement describing the action on the case, usually referring to a specific document placed in the file.

171 R.C. 2101.14.

172 Sup.R. 26.04(A)(1).

Docket (verb). "To docket" refers to the action taken by the clerk to enter information upon the case docket; this term often is used in place of "journalize."

Journal (noun). A verbatim record of every order or judgment of a court.[173] The journal is similar to a daily diary that records actions of the court.

Journal (verb). "To journalize" refers to that action of entering information upon the court's journal; this term often is used in place of "docket."

Record[174] (noun).

- **Probate Record.** A record pertaining to the duties of the probate division, including, but not limited to, adoptions, marriage licenses, name changes, birth records, orders of civil commitment, the resolution of civil actions, and the appointment and supervision of fiduciaries.
- **Record of Documents.** A collection of documents that represents the probate division's action in a single incident of the same duty of the probate division, such as the issuance of marriage licenses.

What Are the Duties of the Clerk to Maintain Records?

Care and Preservation of Papers.[175] All pleadings, accounts, vouchers, and other papers in each estate, trust, assignment, guardianship, or other proceeding, ex parte or adversary, that are filed in the probate court shall be kept together. Upon the final termination or settlement, the case, cause, or proceeding shall be preserved for future reference and examination.

The papers shall be properly jacketed, and otherwise tied, fastened, or held together, numbered, lettered, or otherwise marked in such manner that they readily be found by reference to proper memoranda upon the docket, record, or index entries thereof, which memoranda shall be made by the probate judge, or the papers may be kept, maintained, and indexed as described in R.C. 2101.121.

Certificates of marriage, reports of births and deaths, and similar papers not part of a case or proceeding shall be arranged and preserved separately in the order of their dates or in which they were filed. As used in this section, "case" or "cause" includes all proceedings in the settlement of any estate, guardianship, or assignment, except as provided in R.C. 2101.141.

For information regarding expunging and sealing court records, see Section 21(B) Confidential Court Records.

173 Sup.R. 26(B)(4).

174 Sup.R. 26.04.

175 R.C. 2101.14.

20. COURT APPOINTMENTS

The probate court is permitted to appoint professionals to serve in a number of capacities, as needed for the administration of justice. The probate court also is vested with the responsibility of appointing members to various boards and commissions of the county. An outline of these appointments follows.

Magistrates

A court of record may appoint one or more magistrates who shall have been engaged in the practice of law for at least four years and be in good standing with the Supreme Court of Ohio at the time of appointment. Magistrates may determine any motion in any case and conduct non-jury trials (with some exceptions).[176]

See Section 5, Magistrates.

Special Master Commissioner

The probate judge, upon the motion of a party or the judge's own motion, may appoint a special master commissioner in any matter pending before the judge. The commissioner shall be an attorney at law and shall be sworn to faithfully discharge the commissioner's duties. When requested by the probate judge, the commissioner shall execute a bond to the state in the sum that the court directs, with surety approved by the court, and conditioned that the commissioner shall faithfully discharge the commissioner's duties and pay over all money received by the commissioner in that capacity. The bond shall be for the benefit of anyone aggrieved and shall be filed in the probate court.[177]

A special master commissioner of the probate court may administer all oaths required in the discharge of the commissioner's duties, may summon and enforce the attendance of witnesses, may compel the production of books and papers, may grant adjournments the same as the court, and, when the court directs, the commissioner shall require the witnesses severally to subscribe the witnesses' testimony.[178] The commissioner shall take the testimony and report the testimony to the court with the commissioner's conclusions on the law and the facts involved. The report may be excepted to by the parties and confirmed, modified, or set aside by the court. [179]

All process and orders issued by the commissioner shall be directed to the sheriff, shall be served, and return of the process and orders shall be made as if issued by the probate judge. [180]

176 Civ.R. 53.

177 R.C. 2101.06.

178 R.C. 2101.07.

179 R.C. 2101.06.

180 R.C. 2101.07.

The court shall allow the commissioner those fees that are allowed to other officers for similar services and the court shall tax those fees with the costs.[181]

Investigators

The probate judge shall provide for one or more probate court investigators to perform duties in the following manners: as a full-time or part-time employee; by contract on an as-needed basis; and/or by entering into an agreement with another county agency or department.[182] Each probate court investigator shall hold at least a bachelor's degree in social work, psychology, education, special education, or a related human-services field. A probate judge may waive the education requirement of this division for a person the judge appoints or otherwise designates as a probate court investigator if the judge determines that the person has experience in family-services work that is equivalent to the required education.[183] Each person appointed as a probate court investigator shall take an oath of office before beginning their duties.[184] Within one year after appointment or designation, a probate court investigator shall attend an orientation course of at least six hours, and each calendar year after the calendar year of appointment or designation, a probate court investigator shall satisfactorily complete at least six hours of continuing education.[185]

Investigator duties include, but are not limited to, the following:

- Personal service of Notice of Appointment of the Guardian upon an alleged incompetent person.[186]
- Investigate the circumstances of the alleged incompetency in guardianship cases.[187]
- Investigate and report regarding guardianship of a minor.[188]
- Review and verify aspects of a guardian's report.[189]

Assessors

The probate judge may provide for one or more persons to perform the duties of an assessor in adoption cases. These duties, as specifically named in the Ohio Revised Code, include, but are not limited to:[190]

181 R.C. 2101.07.

182 R.C. 2101.11(A)(2)(a)(i-iii).

183 R.C. 2101.11(A)(2)(c).

184 R.C. 2101.11(A)(2)(b).

185 R.C. 2101.11(A)(2)(d).

186 R.C. 2111.04 (A)(2)(a)(i - ii).

187 R.C. 2111.041.

188 R.C. 2111.042.

189 R.C. 2111.49.

190 R.C. 2101.11(A)(3)(a).

- Conduct a home study for the purpose of determining whether a person seeking to adopt a minor is suitable to adopt.[191]
- Complete a multiple-children-assessment home study, when required.[192]
- Provide parents with written materials about adoption.[193]
- Record the social and medical histories of biological parents for minors available for adoption.[194]
- Conduct post-placement, prospective adoptive home visits.[195]
- Conduct a prefinalization assessment of minor and petitioner before a court issues a final decree of adoption.[196]

The educational requirements and qualifications for assessors are listed in R.C. 3107.014 and Ohio Adm.Code 5101:2-48-06.

Guardians

The probate court may appoint a guardian to have the care and management of the person, estate, or both of an incompetent or minor person. These appointments include, but are not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian. A guardian may be an agency under contract with the department of developmental disabilities or a guardian may be an individual person.[197]

See Section 24, Guardianship.

Executors, Administrators, and Special Administrators

An **executor** typically is named by a testator (someone who has made a will) to "carry out the provisions in the testator's will."[198] When a person dies intestate (without a will), the probate court may appoint an executor or **administrator** to represent the estate. The determination of the executor or administrator is made by the probate court, pursuant to R.C. 2113.06-2113.07.

When there is delay in granting letters testamentary or letters of administration, the probate court may appoint a **special administrator** to collect and preserve the effects of the deceased and grant the special administrator any other authority the court considers appropriate.[199] The special administrator shall collect the assets and debts of the deceased and preserve them for the executor or administrator who is

191 R.C. 3107.031.

192 R.C. 3107.032.

193 R.C. 3107.082.

194 R.C. 3107.09.

195 R.C. 3107.101.

196 R.C. 3107.12.

197 R.C. 2111.01(A).

198 Black's Law Dictionary (10th ed., 2014).

199 R.C. 2113.15.

later appointed. The special administrator shall be allowed the compensation for the special administrator's services that the court finds reasonable if the special administrator faithfully fulfills the fiduciary duties.[200]

> **Note**: For information on the removal of a fiduciary, see R.C. 2109.21(F); R.C. 2109.24; and R.C. 2109.31.

For more information on appointments, powers, and duties of executors and administrators, see R.C. 2113.

Trustee for Absentee

The probate court may appoint a trustee to take possession and charge of a person's property. This appointment may happen after the spouse or next of kin files an application to appoint a trustee and the court finds that, after diligent inquiry and for at least three months, it is reasonably assumed that a person is dead, cannot return, or refuses to return to the person's home and care or attention to the estate is needed.[201]

For more information on the powers granted to and the termination of a trustees, see R.C. 2119.

Conservators

A conservator is a person appointed by a probate court by an Order of Conservatorship, upon determination that a competent adult who is physically infirm has petitioned the court for a conservatorship.[202] The petitioner may grant specific or limited powers to the conservator.

For more information on the powers granted to and the termination of conservatorships, see R.C. 2111.021.

Judicial Appointments to Boards

Board of Developmental Disabilities. The senior probate judge of the county shall appoint two members to this board.[203] At least one of these appointees shall be an individual who is an immediate family member of an individual who is eligible for residential services or supported living.[204]

For information on filling vacancy on the board, see R.C. 5126.026 - 5126.027.

Board of Education. If the board of education of any city, exempted village, or local school district, or the governing board of any educational service center fails to fill a vacancy in that board within 30 days after the vacancy occurs, the probate court

200 R.C. 2113.15.

201 R.C. 2119.01.

202 R.C. 2111.01(F); R.C. 2111.021.

203 R.C. 5126.021.

204 R.C. 5126.22(C).

of the county in which the district or service center is located, upon being advised and satisfied of that failure, shall act as that board to fill any vacancy as promptly as possible.[205]

Board of Educational Service Center. If the members of a new governing board are unable to agree on the selection of the remaining members within 10 days, then the probate judge of the county in which the greatest number of pupils under the supervision of the new educational service center reside shall appoint the remaining members.[206]

Board of Hospital Trustees. The board of county commissioners first determines, by resolution, the establishment of a county hospital; this resolution is presented for certification by the probate judge. Within 10 days after the certification, a board of hospital trustees is appointed.[207] Annually, the board of county commissioners, together with the probate judge and judge of the court of common pleas shall appoint or reappoint members whose terms expired.[208] The size of the board may be increased or decreased.[209]

Commissioners of Municipal Corporations Proposing Annexation. If commissioners are unable to agree upon the conditions of annexation within 120 days from the date of the appointment, the probate judge shall appoint one additional commissioner.[210]

Facilities Review Board. If the judge of the probate court chooses to appoint a county facilities review board, the judge initially shall appoint six persons, two of whom shall be appointed for terms of three years, two for terms of two years, and two for terms of one year.[211] The probate judge shall remove board members who fail to perform the duties of the board.[212] Each year, the county facilities board shall prepare a full report and file the report with the probate judge and the prosecuting attorney; the judge may order the publication of the annual report.[213]

Humane Society. Appointment of agents of the county humane society shall be approved by the probate judge if the society does not exist in a municipal corporation where the approval of the mayor is required for appointments.[214]

205 R.C. 3313.85.

206 R.C. 3311.053(B)(4).

207 R.C. 339.02(B).

208 R.C. 339.02(F)(1).

209 R.C. 339.02(G)(1) - (2).

210 R.C. 709.28.

211 R.C. 331.01.

212 R.C. 331.04.

213 R.C. 331.06.

214 R.C. 1717.06.

Metropolitan Housing Authority. The probate court appoints members of the Metropolitan Housing Authority for a period of four years.

For more detailed information on these appointments, see R.C. 3735.27.

Park Board Commission. The application to create a park board is made to the probate judge of the county within which the district is to be located.[215] The probate judge schedules a hearing regarding this application, to be scheduled 20-40 days after the application is filed.[216] As in all other civil cases, arguments for and against the creation of the district are made and, if the creation of the district is conducive to the general welfare, the judge shall enter an order creating the district.[217] Upon the creation of a park district, the probate judge shall appoint three commissioners.[218] The judge may remove park commissioners upon the filing of a complaint or upon the judge's own motion.[219] If the board acquires land, the terms of each donation or trust first shall be approved by the probate court before acceptance by the board.[220] Similarly, no land may be sold by the commission without the approval of the probate court of the county in which the lands reside.[221]

Sewage Treatment Systems Appeals Board. The judge of the probate court shall appoint one member of the sewage-treatment-system appeal board. This person shall serve as chairperson of the board. The judge who made an appointment to the board shall establish due-process procedures to be used in all appeals before the board.[222]

Miscellaneous Appointments

Appraisers. The probate court shall appoint three disinterested appraisers of property when the assignee of a debtor gives bond or the failure of the assignee to give bond.[223]

Court Constables. If the county has more than 70,000 inhabitants, the probate court may appoint one or more constables to preserve order. When so directed by the court, each constable has the same powers as sheriffs to call and impanel jurors.[224]

215 R.C. 1545.02.

216 R.C. 1545.03.

217 R.C. 1545.04.

218 R.C. 1545.05.

219 R.C. 1545.06.

220 R.C. 1545.11.

221 R.C. 1545.12(C).

222 R.C. 3718.11(C)(5).

223 R.C. 1313.15.

224 R.C. 2701.07.

Township Office. If there is a vacancy by reason of the nonacceptance, death, or removal of a person chosen to an office in any township at the regular election, or if there is a vacancy from any other cause, the board of township trustees shall appoint a person having the qualifications of an elector to fill such vacancy for the unexpired term or until a successor is elected. If the township is without a board or if no appointment is made within 30 days after the vacancy occurred, then within 10 days after the 30-day period, the presiding probate judge of the county shall appoint a suitable person.[225]

225 R.C. 503.24.

21. COURT PROCEEDINGS

21a. EXHIBITS, EVIDENCE, AND RECORDING OF PROCEEDINGS

What Are Exhibits and Evidence?

During the course of a trial, courts often receive a variety of items, referred to as exhibits or evidence, that are submitted to the court by a party in a case to aid the judge or magistrate in the resolution of a matter before the court. The party submitting these items may or may not own these items. Common items may include paperwork, photographs, or anything else that will support a party in its arguments before the court.

What Is the Policy Regarding Exhibits in the Court's Possession?

Each court must establish a process by which items are received, logged, retained, and eventually returned or destroyed. In establishing the process, courts should request a legal opinion from the prosecutor's office regarding the legalities to consider and also contact local adult court(s) to see if they have procedures in place that could be adopted.

When items are submitted as evidence to the court, the judicial officer, court reporter, or bailiff should mark the items with an identifying number, the name of the party who submitted the item (such as plaintiff, defendant, petitioner, respondent), and the date the item was submitted.

While the trial is pending and during subsequent appeal time, exhibits/evidence submitted to the court should be logged and secured in a safe place, such as a locked cabinet or storage closet.

In the normal course of proceedings, the exhibits/evidence should be returned to the party who submitted them when the matter is concluded and the time for an appeal ends. However, if a court finds reason, the exhibits may be returned to another party or the destruction of the exhibits may be ordered by the court after notice is provided. At the conclusion of the trial, a court or custodian of exhibits may destroy the exhibits if certain conditions are satisfied, including providing written notice to the party who tendered the exhibit.[226]

What Happens to Exhibits When a Case Is Appealed?[227]

If an appeal is filed in a case that received exhibits, paper exhibits and a list of the other physical evidence submitted to the court should be included with the transcript of the appeal. Although rare, an appellate court may review a trial court's physical evidence if it is crucial in the review of the case. Physical exhibits other than documents shall not be transmitted by the clerk, unless the clerk is directed to do so by a party or by the clerk of the court of appeals.

226 Sup.R. 26(F).

227 App.R. 10(B).

What Court Proceedings Are Recorded?[228]

In probate court, proceedings before the judge or magistrate are recorded. A court may adopt local rules that determine how proceedings are recorded.

How Should Court Proceedings Be Recorded?

Various recording devices may be used to record court proceedings and provide an accurate base from which to create a transcript of proceedings that is required for an appeal.[229]

The court may order the use of any method of recording authorized, including shorthand, stenotype, or any other adequate mechanical, electronic, or video-recording device.[230]

What Is a Transcript?

The transcript is the recorded or written testimony of witnesses and the oral participation of counsel and of the trial judge. The transcript of proceedings is the part of the record that reflects the events in the trial that were not represented by original papers.[231]

How Is a Transcript Used by the Court?

When a transcript is required for appeal, the appellant shall order a transcript in writing and shall file a copy of the transcript order with the clerk of the trial court. Thereafter, a written transcript shall be prepared by a reporter.[232] It is the responsibility of the trial court to direct the maintenance of electronically recorded proceedings.[233]

Other Considerations Pursuant to Sup.R. 11:

- A party or their counsel may request to view or hear the transcript of proceedings on file.
- The expense of copies, viewing, or hearing electronically recorded transcripts of proceedings are to be borne by the requesting party or as provided by law. All other expenses of an electronically recorded transcript of proceedings shall be assessed as costs in the action.
- The expense of electronically recorded proceedings may be made up of different items, including the costs of the videotape or CD used, a fee for personnel and equipment to make the recording, and a fee for renting equipment.

228 Sup.R. 11.

229 Sup.R. 11(A).

230 *Id.*

231 Sup.R. 11, Commentary.

232 App.R. 9(B).

233 Sup.R. 11(C).

Note: An official shorthand reporter's services generally are paid for on an annual salary basis, or if the appointment is for less than one year, on a per diem fixed by the court, per R.C. 2301.22. Also, R.C. 2301.21 provides that a $25.00 per-diem fee may be taxed as costs in each recorded case and paid into the county general fund.

21b. CONFIDENTIAL COURT RECORDS

Generally, probate records are public documents to be available upon request. However, in some circumstance, court records may be held as confidential and not accessible to the general public.

Definitions

Confidential record. Records that are restricted to public access are confidential. Any party to a judicial action may file a written motion requesting information in a document, or the full document, be restricted from public access.[234]

Seal a record. To remove a record from the main file of similar records and to secure it in a separate file area that contains only sealed records accessible only to the court. The sealed record may be inspected in extremely limited circumstances.

Expunge a record. To destroy, delete, and erase a record, as appropriate, so that the record is permanently irretrievable. Paper records are physically destroyed and electronic records are irretrievably deleted and cannot be inspected by anyone.

May a Conservatorship Motion Be Made Confidential by the Court?

Upon motion to the probate court and a showing of good cause, the court may make confidential, or remove from confidential status, any file, record, petition, motion, account, or paper, except for an index, docket, or journal, that pertains to a conservatorship and that is in the possession of the court.[235]

Is an Adoption Record Confidential?

Yes. No person or governmental entity shall knowingly reveal any information contained in a paper, book, or record pertaining to an adoption that is part of the permanent record of a court or maintained by the department of job and family services, an agency, or attorney, without the consent of a court.[236] The exceptions to this confidentiality mandate are:

- An agency or attorney may examine the agency's or attorney's own papers, books, and records pertaining to an adoption without a court's consent for official administrative purposes.[237]
- All forms pertaining to the social or medical histories of the biological parents of an adopted person and that were completed pursuant to R.C. 3107.09, 3107.091, or 3107.393 shall be filed only in the permanent record kept by the court. During the minority of the adopted person, only the

234 Sup.R. 45(E).

235 R.C. 2111.021.

236 R.C. 3107.17(B)(1).

237 R.C. 3107.17(B)(2).

adoptive parents of the person may inspect the forms. When an adopted person reaches majority, only the adopted person may inspect the forms.

Under the circumstances described in this division, an adopted person or the adoptive parents are entitled to inspect the forms upon requesting the clerk of the court to produce them.[238]

Note: The department of job and family services shall prescribe a form that permits any person who is authorized to access these documents; this form will be given to each adoptive parent when a final decree of adoption is entered.[239]

- At the request of a person who has adopted a person from outside of the United States, the court of the county in which the person making the request resides shall order the department of health to issue a foreign birth record for the adopted person under R.C. 3705.122.[240]
- If the adopted person was born in this state or outside of the United States, the court shall forward all of the following information to the department of health within 30 days after an adoption decree becomes final:
  - Copy of the adopted person's certificate of adoption;
  - The form prescribed under division (A)(1) of R.C. 3107.083, if a parent filled out and signed the form pursuant to R.C. 3107.071, 3107.081, or 5103.151; and
  - A statement of whether the adopted person is an adopted person as defined in section 3107.38 or 3107.45 of the Revised Code.
- If the adopted person was born in another state of the United States, the court shall forward a copy of the adopted person's certificate of adoption to that state's vital statistics office within 30 days after an adoption decree becomes final.

Are Name-Change Records Ever Considered Confidential?[241]

If the court orders the name change and finds that publication of a name-change notice would jeopardize the applicant's safety, the court shall waive the notice requirement and order records relating to the name-change proceeding be sealed and opened only by court order or at the request of the applicant.

See Section 8a, Record Requests.

238 R.C. 3107.17(D).

239 R.C. 3107.17(D - E).

240 R.C. 3107.18(C).

241 R.C. 2717.01(A)(4).

May Name-Change Records Be Sealed by the Court?

Yes. If the court finds satisfactory proof that publication of the name change would jeopardize the applicant's personal safety, then the court shall both waive the notice requirement, as well as seal all records of the proceeding. These records may be opened only by order of the court for good cause shown or at the request of the applicant for any reason.[242]

The application to waive the publication requirement and seal the file is available at sc.ohio.gov/LegalResources/Rules/superintendence/probate_forms/nameChange/21_6.pdf.

Are Mental-Health Records Confidential?[243]

Other than the court journal or docket entries, the records pertaining to a person's identity, diagnosis, or treatment (including certificates, applications, and reports) made for the purpose of receiving mental-health or drug-treatment services shall be kept confidential and shall not be disclosed by any person, except to the person identified or their guardian, hospital or medical providers, or as otherwise stated in R.C. 5122.31. Records and reports relating to a person who has been deceased for 50 years or more are no longer considered confidential.[244]

Similarly, identifying documents for individuals who are residents or former residents of an institution for persons with intellectual disabilities or otherwise institutionalized under R.C. 5123, shall be kept confidential. Court journal entries or docket entries are excluded from the confidentiality requirement. Disclosure of a record is permitted in limited situations, as outlined in R.C. 5123.89(B).

> **Note:** All involuntary commitment adjudications of individuals found by a court to be mentally ill must be reported to the National Instant Background Check (NICS) through the Ohio Attorney General's Office. ***See Section 22, National Instant Background Check (NICS) & Bureau of Criminal Investigation (BCI) Reporting***.

When Are Mental-Health Records Expunged?[245]

If a respondent who is involuntary placed or temporarily detained in a hospital, nursing home, community mental health provider, or county home for mental illness is *not* found by the court to be subject to court order, then the court shall order the respondent's immediate discharge and the court shall expunge all records of the proceedings during this period.

For more information on the court's responsibility during Initial Hearings for involuntary hospitalization, see R.C. 5122.141.

242 R.C. 2717.01(A)(4).

243 R.C. 5122.31.

244 R.C. 5122.31(A)(14).

245 R.C. 5122.141.

21c. APPELLATE PROCEDURES

The appellate courts' primary function is to hear appeals from the common pleas, municipal, and county courts. Each case is heard and decided by a three-judge panel. The state is divided into 12 appellate districts. Each district is served by a court of appeals that sits in each county in that district.[246]

What Is an Appeal?

An appeal is a request made for a higher court to review a decision for correctness. The request is made by a party that has lost on one or more issues. The party who appeals a court's decision and seeks to have the decision overturned is called an **appellant**. The party who opposes an appeal and seeks to have an earlier court decision affirmed is referred to as the **appellee**.[247] An appeal may be made after a final appealable order or decision was entered.[248]

What Is the Timeline for Filing a Notice of Appeal?

To begin the appeal process, the appellant must file a notice of appeal with the clerk of the trial court that decided the case.[249] The notice of appeal must be filed within 30 days of the entry of the judgment or order.[250] In a civil case, if the clerk did not complete service of the order within the three-day period[251] as required by the Civil Rules of Procedure, the 30-day filing period begins to run on the date when the clerk completes service.[252] If a notice of appeal is filed after the announcement of an order, but before entry of the judgment or order, then the appeal-time period is treated as if it was filed immediately after the entry is filed.[253]

There are exceptions to the timeline for appeals (above), including:[254]

- **Multiple or cross appeals**. If a notice of appeal is timely filed by a party, another party may file a notice of appeal within the normal time period (outlined above) or within 10 days of the filing of the first notice of appeal.
- **Civil motion**. These motions include a motion for judgment, motion for a new trial, objections to a magistrate's decision, a request for findings of fact and conclusions of law, motion for attorney fees, or a motion for prejudgment interest. If one of these motions is filed, then the time for

246 Supreme Court of Ohio website, Ohio Court of Appeals, sc.ohio.gov/JudSystem/districtCourts.

247 Supreme Court of Ohio website, CNO Legal Glossary, courtnewsohio.gov/glossary.

248 R.C 2101.42.

249 App.R. 3(A).

250 App.R. 4(A)(1).

251 Pursuant to Civ.R. 58(B), the clerk must serve the parties within three days of judgment entry.

252 App.R. 4(A)(3).

253 App.R.4(C).

254 App.R.4(B).

filing a notice of appeal from the judgment or final order in question begins to run when the trial court enters an order resolving the last of these post-judgment filings.

- **Partial final judgement or order**. A party may file a notice of appeal within 30 days of entry of the judgment or order appealed or the judgment or order that disposes of the remaining claims.

What Must Be Included in the Notice of Appeal?[255]

The title of the case must be the same as the trial court, with the designation of the appellant added. The notice of appeal must specify the party or parties taking the appeal; the judgment, order or part appealed from; and name of the court from which the appeal is taken.

> **Note:** Local rules may require submission of a copy of the appealed court order. Check the local rules of the appellate district in which the appeal will be filed for additional requirements and/or forms.

What Is a Docketing Statement and When Must It Be Included with the Notice of Appeal?[256]

If the court of appeals adopted an accelerated calendar (by local rule), the appellant shall file a docketing statement with the clerk of the trial court. The docketing statement shall be filed with the notice of appeal.

The purpose of the docketing statement is to determine whether an appeal will be assigned to the accelerated or regular calendar. A case may be assigned to the accelerated calendar if any of the following apply:

- No transcript is required;
- The length of the transcript is brief and does not cause a delay;
- An agreed statement is submitted in lieu of the record;
- The record was made in an administrative hearing and filed with the trial court;
- All parties to the appeal agree to the assignment of the appeal to the accelerated calendar; or
- The case is designated by the local rule for the accelerated calendar.

255 App.R. 3(D).

256 App.R. 3(G)(1)(a - f).

How Does the Clerk Serve Notice of the Appeal?[257]

The clerk of the trial court shall serve notice of the filing of a notice of appeal and, where required by local rule, a docketing statement to the clerk of the court of appeals. To complete the service of notice, the trial court clerk shall:

- Provide copies of the notice to counsel of record of each party (other than the appellant);
  - If parties are not represented by counsel, then notices must be sent to the most-recent known address;
- Provide a copy of the notice of appeal, docket entries, and all filings by appellant (pursuant to App.R. 9(B)) to the clerk of the court of appeals named in the notice; and
  - Each copy served must note the date on which the notice of appeal was filed; and
- Note names of the parties served, the date served, and the means of service in the docket.

May a Party Amend the Notice of Appeal?[258]

A party may amend a notice of appeal if the time to appeal has not yet lapsed. If the time lapsed, then the court of appeals has discretion to allow an amendment. If an appellant amends a notice, it shall be filed in both the trial court and the court of appeals.

Record on Appeal

After filing the notice of appeal, the appellant shall comply with the provisions of App.R. 9(B) and shall take any other action reasonably necessary to enable the clerk to assemble and transmit the record.[259]

What Must the Record on Appeal Include?[260]

The record on appeal must include:

- The original papers and exhibits filed in the trial court;
- The transcripts of proceedings, if any, including exhibits; and
- A certified copy of the docket and journal entries prepared by the clerk of the trial court.

The record is complete for the purposes of appeal when the last part of the record is filed with the clerk of the trial court.

257 App.R. 3(E).

258 App.R. 3(F).

259 App.R. 10(A).

260 App.R. 9(A - B).

Note: The trial court has the discretion to select the transcriber of the record for the case. However, the court must have a reasonable basis for determining that the transcriber meets the qualifications and training to produce a reliable transcript that conforms to the requirements of App.R. 9(B)(6).

Note: The appellate court may have specific forms to meet the requirements of App.R. 9(B).

What Are the Appellant's Duties Regarding Transmission of the Record?[261]

The appellant has a duty to make *reasonable arrangements*:

- For transcription of the recorded proceedings; and
- To enable the clerk to assemble and transmit the record.

The appellant does not have the ability and, thus, does not have the duty to ensure that the record is transmitted once those reasonable arrangements are made.

If the appellant fulfilled these duties, then the appellant is not responsible for any delay or failure to transmit the record.

What Are the Appellant's Responsibilities Regarding the Transcript?[262]

To obtain the record, the appellant must order the transcript in writing and shall file a copy of the transcript order with the clerk of the trial court.

- It is the responsibility of the appellant to ensure the proceedings for the record are transcribed in the form prescribed by App.R. 9(B) (see rule for a complete list of duties and requirements for the transcript).
- If the appellant does not want the full record, a statement must be filed with the clerk of court outlining the assignment of error and the portion of the transcript to be used or a statement in lieu of a transcript.
    - This statement is to be filed with the notice of appeal and the appellant is required to service this statement to the appellee.
    - If the appellee considers a transcript of other parts of the proceedings necessary, then the appellee, within 10 days after the service of the statement of the appellant, shall file and serve on the appellant a designation of additional parts to be included. The clerk of the trial court shall forward a copy of this designation to the clerk of the court of appeals.

At the time of ordering the transcript, the ordering party shall arrange for the payment to the transcriber of the cost of the transcript of proceedings.

261 App.R. 9(B); App.R. 10(A).

262 App.R. 9(B).

When Is a Record Complete for Purposes of Appeal?[263]

The record is considered to be complete for the purposes of appeal and ready to be sent to the clerk of court of appeals under any of the following circumstances:

- The transcript of proceedings is filed with the clerk of the trial court;
- A statement of the evidence or proceedings is settled and approved by the trial court, and filed with the clerk of the trial court;
- An agreed statement in lieu of the record is approved by the trial court and filed with the clerk of the trial court;
- The appellant designates that no part of the transcript of proceedings is to be included in the record *or* that no transcript is necessary for appeal;
    - This must occur after expiration of 10 days following service upon appellee, unless appellee filed a designation of additional parts of the transcript to be included in the record;
- Forty days (20 days in an accelerated calendar case) elapsed after filing of the last notice of appeal and there is no extension of time for transmission of the record; or
- The appellant fails to file either the docketing statement or the statement required by App.R. 9(B), within 10 days of filing the notice of appeal.

What Are the Clerk's Duties Regarding Transmission of the Record?[264]

It is the duty of the clerk of the trial court to:

- Prepare the certified copy of the docket and journal entries;
- Assemble the original papers (or the agreed statement of the case if applicable); and
- Transmit the record to the clerk of the court of appeals within the appropriate time frame (40 days, or 20 days for an accelerated calendar case).
    - To prepare the record for transmission, the clerk must number the documents that make up the record and provide a list of the documents included in the record. The list must number and identify the documents. Documents of unusual bulk or weight and physical exhibits shall not be transmitted by the clerk, ***unless*** directed to do so by a party or by the clerk of the court of appeals. A party must make advance arrangements with the clerks for the transportation and receipt of such exhibits.

263 App.R. 10(B).

264 *Id.*

When Is Transmission of the Record Official?

Transmission of the record is official when the clerk of the trial court forwards the record to the clerk of the court of appeals. The clerk of the trial court shall indicate the date upon which it is transmitted to the court of appeals and shall note the transmission on the appearance docket.

For additional details, see App.R. 10.

What Is the Timeline for Transmission of the Record?[265]

The clerk is required to transmit the record, transcript, and exhibits when the record is complete (for purposes of appeal) or within 40 days after the notice of appeal is filed. If the court has an accelerated calendar, the record must be transmitted within 20 days. The trial court may extend the time for transmission of the record for cause shown set forth in the order. If an extension is granted, then the clerk shall certify the order of extension to the court of appeals.

What Are Expedited Appeals?[266]

Appeals in certain actions shall be expedited and given calendar priority over all other cases. The appellate rules, including the rules outlined previously, apply, with the following modifications:

Adoption and parental rights appeal.[267] Appeals from orders granting or denying adoption of a minor child or termination of parental rights shall be given priority over other cases except for abortion-related appeals from juvenile court.

Special considerations for adoption and parental rights appeals include:

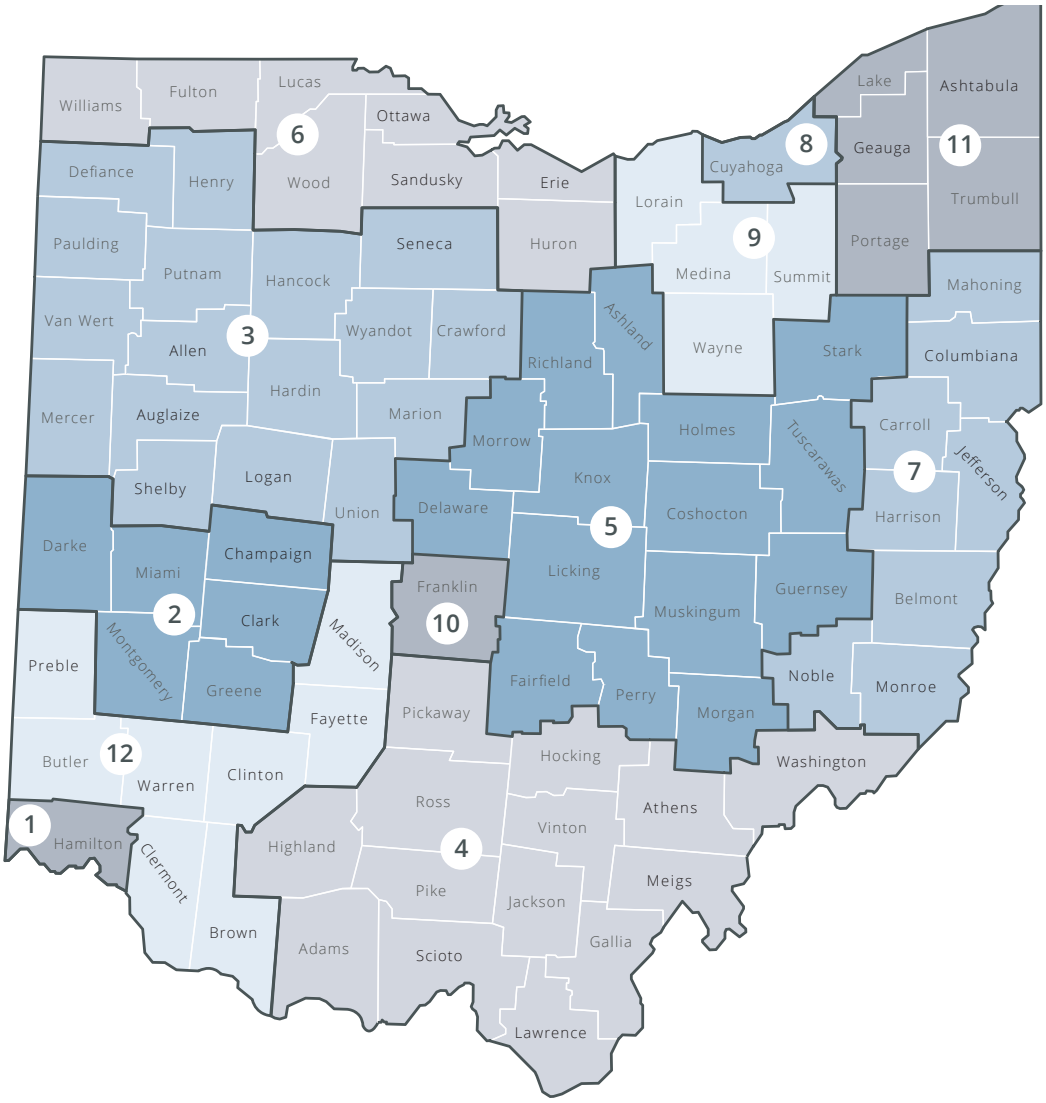
- Preparation of the record shall be given priority over the preparation and transmission of the records in all cases other than abortion-related appeals from juvenile court.
- Extensions of time for filing briefs shall not be granted, except in the most unusual circumstances and only for the most compelling reasons in the interest of justice.
- Oral arguments will only be held if requested or ordered. Otherwise, the case shall be considered submitted for immediate decision after briefs are filed. If oral argument is held, it must be within 30 days after the briefs are filed.
- The court shall enter judgment within 30 days of submission of the briefs or of the oral argument, whichever is later, unless compelling reasons require a longer time.

265 App.R. 10(A) & (C).

266 App.R. 11.2(A).

267 App.R. 11.2(C).

COURT OF APPEALS DISTRICTS



District	Number of Judges	Number of Counties
First	6	1
Second	5	6
Third	4	17
Fourth	4	14
Fifth	6	15
Sixth	5	8
Seventh	4	8
Eighth	12	1
Ninth	5	4
Tenth	8	1
Eleventh	5	5
Twelfth	5	8

District	Total Population	Population per Juge
First	802,374	133,729
Second	1,030,621	206,124
Third	787,269	196,817
Fourth	633,838	158,460
Fifth	1,484,932	247,489
Sixth	886,720	177,344
Seventh	560,760	140,190
Eighth	1,280,122	106,677
Ninth	1,129,989	225,998
Tenth	1,163,414	145,427
Eleventh	796,658	159,332
Twelfth	979,807	195,961

21d. PUBLIC ACCESS TO COURT PROCEEDINGS

In General, Are Probate Proceedings Open to the Public?

Probate hearings shall be open to the public. However, all **adoption hearings** held under R.C. 3107.01 to 3107.19 are to be held in closed court, without the admittance of any person other than essential officers of the court, the parties, witnesses of the parties, counsel, persons who have not previously consented to an adoption, but who are required to consent, and representatives of the agencies present to perform their official duties.

Similarly, initial hearings and full hearings to determine whether a respondent is a **mentally ill person subject to court order** shall be closed to the public, unless counsel for the respondent, with the permission of the respondent, requests the hearing be open to the public.[268] If the full hearing is closed to the public, then the court, for good cause shown, may admit persons who have legitimate interests in the proceedings. If the respondent, the respondent's counsel, or the designee of the director or of the chief clinical officer objects to the admission of any person, then the court shall hear the objection and any opposing argument and shall rule upon the admission of the person to the hearing.[269]

Proceedings for the **involuntary institutionalization** (developmental disabilities) of a person, including the probable cause hearing[270] and the full hearing,[271] shall be closed to the public, unless counsel for the respondent requests the hearing be open to the public.[272]

If a Proceeding Is Open to the Public, May the Media Attend?

The judge shall permit the broadcasting or recording and the taking of photographs in court proceedings that are open to the public as provided by Ohio law.[273] Thus, if the proceedings are open, then the judge must allow the media access. In these proceedings, requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.[274]

If the Court Permits Media Access, What Happens Next?

After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in

268 R.C. 5122.141; R.C. 5122.15(A)(5).

269 R.C. 5122.15(A)(6).

270 R.C. 5123.75.

271 R.C. 5123.76.

272 R.C. 5123.76(5).

273 Sup.R. 12(A).

274 *Id.*

the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.[275]

Additional Considerations Regarding Media in the Courtroom[276]

Administration. If the court approves the media's request for access, then the court's entry should contain specific conditions that the media will follow. The written order will be made a part of the record.[277]

Pooling. Arrangements shall be made between the media for "pooling" of equipment and personnel to cover the court sessions. These arrangements must be made outside of the courtroom and without imposing on the judge or court personnel.[278]

Equipment and Personnel. More than one portable television, videotape, movie camera, or photographer may not be used without prior permission of the judge.[279]

Light and Sound Criteria. Only professional-quality equipment that does not produce distracting sound or light may be used in the courtroom. Where available and suitable, audio should be acquired by already-existing devices in the courtroom, unless otherwise authorized in advance.[280]

Location of Equipment and Personnel. The television, broadcast, and still-camera operators shall find a location in the courtroom that does not cause a distraction and their equipment must not be moved until after court adjourns.[281]

Limitations. There are limits placed on the filming or recording of conferences between counsel and client and counsel and judge. The judge must advise parties of their right to object to being filmed, videotaped, recorded, or photographed.[282]

Revocation of Permission. The judge may revoke the permission to broadcast, photograph, or record the trial or hearing in the event any of the above stipulations are violated by a media representative.[283]

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275 *Id.*

276 Sup.R. 12.

277 Sup.R.12(A).

278 Sup.R. 12(B)(5).

279 Sup.R. 12(B)(1).

280 Sup.R. 12(B)(3) & (6).

281 Sup.R. 12(B)(7).

282 Sup.R. 12(C)(1) - (2).

283 Sup.R. 12(D).

21e. JURY MANAGEMENT

When May a Jury Be Requested in Probate Court?

Each party to a will contest action has the right to a jury trial of the action.[284] A jury demand shall be filed by any party, in writing, not later than 14 days after service of the last pleading directed to the issue.[285]

How Are Jurors Selected?

When a jury is required in probate court, the probate judge notifies the jury commissioner. The commissioner[286] then draws a list of 16 names from the annual jury list;[287] additional names may be drawn as required. The list is certified to the probate court and the court issues summons to those whose names are on the list. Summons are delivered by the sheriff.[288]

In civil actions, other than actions for appropriation for a right of way, the jury is composed of eight members. Fewer members may be used if requested in the filed jury demand.[289]

When May a Juror Be Excused?

It is the policy of the state of Ohio that every qualified citizen has an obligation to serve on petit juries when summoned, unless excused.[290]

A juror may be excused pursuant to the specific conditions outlined in R.C. 2313.14. This includes, but is not limited to: juror's spouse or near relative recently died or is dangerously ill; the juror has a mental or physical condition that causes the juror to be incapable of performing jury service; the juror is over 75 years old and requests to be excused; or the juror is Amish and requests to be excused. Also, the judge or designee may excuse an individual if jury service woudl result in undue or extreme physical or financial hardship.

Additionally, a juror may be **discharged** for past service if the juror served in any county of the state for two consecutive calendar weeks. The person is prohibited from jury services in any court of the state until the second jury year after the day of the person's last service. In counties where the population is less than 100,000, the court shall make rules as to subsequent jury service.[291]

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284 R.C. 2107.72(B)(1).

285 Civ.R. 38(B).

286 See R.C. 2313.01-2313.04 for more information on commissioners of jurors.

287 See R.C. 2313.06-09 for more information on the annual compilation of the jury source list.

288 R.C. 2101.30.

289 Civ.R. 38(B).

290 R.C. 2313.12.

291 R.C. 2313.21(B).

May a Juror Postpone Their Appearance for Jury Duty?

A juror may request a postponement, at least two business days before initial appearance. The postponement may be granted if the juror has not previously been granted a postponement and the juror agrees to a specific date to appear for jury service. Additional postponements may be granted in extreme circumstances, as outlined by law.[292]

Automatic postponements may be granted for those who are employed by businesses with fewer than 25 full-time employees and another employee of the employer was summoned to appear and served within 30 days prior to the date the juror is summoned to appear.[293]

What Happens if a Juror Does Not Appear?

Whomever is summoned and fails to testify or fails to attend may be punished for contempt of court.[294]

How Are Jurors Compensated?

Compensation of jurors is fixed by the board of county commissioners and payable out of the county treasury.[295]

The fees of sworn jurors shall be taxed as costs, unless the court determines that payment of the fees by a party would not be in the interest of justice.[296]

When jurors are summoned, but not sworn and the case settles or does not go forward, then the fee of summoned jurors is taxed as costs, at the discretion of the trial court. If the case is settled after the jurors are sworn, then the costs are paid in accordance with the settlement agreement or at the discretion of the court if not included in the settlement agreement. [297]

What Resources Are Available to the Court in the Event of a Jury Request?

- National Center for State Courts, Center for Jury Studies; www.ncsc-jurystudies.org.
- Ohio Jury Management Association. http://www.ohiojury.org.
- Ohio State Bar Association, Law Facts: Jury Service; ohiobar.org/public-resources/commonly-asked-law-questions-results/law-facts/law-facts-jury-service.
- Supreme Court of Ohio, Ohio Trial Court Jury Use and Management Standards; Appendix B, p. 456; sc.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf.

292 R.C. 2313.15.

293 R.C.2313.15(E).

294 R.C. 2313.99.

295 R.C. 2313.22(A).

296 R.C. 2335.28(A).

297 R.C. 2335.28(B).

Note: Courts are required to include a jury-management plan for the purposes of ensuring the efficient and effective use and management of jury resources, pursuant to Sup.R. 5.

22. NATIONAL INSTANT BACKGROUND CHECK (NICS) & BUREAU OF CRIMINAL INVESTIGATION (BCI) REPORTING

Summary of NICS Reporting in the U.S. & Ohio[298]

In 1993, Congress passed the Brady Handgun Violence Prevention Act (Brady Act) that, among other things, created the National Instant Criminal Background Check System (NICS).

The Ohio Attorney General's Bureau of Criminal Investigation (BCI) houses the Computerized Criminal History (CCH) repository, which is the primary source of criminal-history records maintained at the state. Ohio Court Network, (OCN) is one vehicle used by courts statewide to submit disposition data.

NICS is the national system that enables Federal Firearms Licensees (FFL), such as gun sellers, to initiate a background check through the FBI or a State Point of Contact (POC). The FBI or POC will check all available records to identify persons who may be prohibited from receiving or possessing firearms. The records may be included in the following databases:

- **National Crime Information Center** (NCIC). An electronic database consisting of 21 files, 10 of which are queried for a NICS-related background check. These files help criminal justice professionals apprehend fugitives from justice, locate missing persons, recover stolen property, identify terrorists, and verify persons subject to domestic-violence protection orders.
- **Interstate Identification Index** (III). Administered by the FBI and participated in by all states, the III is a fingerprint supported automated criminal-records-exchange system that includes arrest and disposition information for individuals charged with felonies or misdemeanors. Additional information that may be available via III includes persons who are fugitives from justice, persons found not guilty by reason of insanity or adjudicated to be incompetent to stand trial, persons found guilty of misdemeanor crimes of domestic violence, persons subject to domestic-violence protection orders, and persons under indictment.
- **NICS Index**. A database, separate from NCIC and III, created specifically for the purpose of conducting a firearm-related background check, the NICS Index contains information contributed by local, state, tribal, and federal agencies pertaining to persons prohibited from receiving or possessing a firearm pursuant to state and/or federal law. While any disqualifying record may be entered into the NICS Index, it is not intended to duplicate information entered in NCIC or III. Instead, the database was designed to house disqualifying information not available at the national level.

298 fbi.gov/services/cjis/nics/nics-information-sheet.

- **Department of Homeland Security's U.S. Immigration and Customs Enforcement** (ICE). Relevant databases of the ICE are queried for non-U.S. citizens attempting to receive firearms in the United States.

Reporting Requirements for Probate Courts

A comprehensive summary of disqualifying events that would prohibit an individual from purchasing or receiving a firearm may be found at the Governor's Warrant Task Force website.[299]

All involuntary commitment adjudications of individuals found by a court to be mentally ill must be reported. The probate judge or the chief clinical officer must notify the Ohio Attorney General's Office no later than seven days after the adjudication of mental illness.[300] Who reports this information should be determined through an arrangement between the probate court and mental health provider's chief clinical officer.[301]

There are two methods to send mental illness adjudication information to BCI:

1. Electronically via Mental Illness Adjudication Reporting (MIAR) through OCN to BCI. For information on using the MIAR system available within the OCN portal, contact the Supreme Court of Ohio's OCN Help Desk at 1.888.558.8994 or ocnhelpdesk@sc.ohio.gov. A user guide providing an overview of the features of the MIAR system is available at: https://www.ohiocourts.gov/ocn/help/Documents/Mental_Illness_Adjudication_Reporting_Instructions.pdf.
2. Manually complete and mail BCI 2-71 form directly to BCI Identification, P.O. Box 365, London, OH 43140. These forms may be requested from BCI through the Ohio Attorney General. See link in footnotes.[302]

For questions, contact: Mona Barnes at 740.845.2015[303] or review the information available on the Ohio Attorney General's website.[304] Other resources are available on the Supreme Court of Ohio's website.[305]

> PRACTICE TIP: the court should maintain a copy of any documentation submitted to BCI. This information may be audited.

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299 Of particular assistance for Ohio courts is the NICS Manual, which may be downloaded from the Taskforce website. The Governor's Warrant Task Force is located at ocjs.ohio.gov/nics/.

300 R.C. 5122.311(A).

301 NICS Manual, p. 6; ocjs.ohio.gov/nics.

302 www.ohioattorneygeneral.gov/Files/Forms/Forms-for-BCI-Criminal-Records-and-Background-Chec/Background-Check-Forms/2019-07-09_SupplyRequisitionForm_BCI-pdf.aspx.

303 NICS Manual, p. 6; ocjs.ohio.gov/nics.

304 www.ohioattorneygeneral.gov/Law-Enforcement/Bureau-of-Criminal-Investigation/Identification-Division/Reporting-Criminal-Histories.

305 sc.ohio.gov/JCS/courtSvcs/NICS.

23. REPORTS, INVENTORY, AND LOCAL RULES

Quarterly Statistical Report, Form C

Probate courts are required to submit quarterly reports to the Supreme Court of Ohio, Case Management Section.[306] The information contained in this report includes the number of new cases filed with the court and the number of cases terminated during the reporting period. The probate court's case management system assists in this process by pulling the necessary information for the reports. These reports are submitted electronically via eStats, on or before the 15th day of each quarter: April 15, July 15, October 15, and January 15.

The completion of the annual case inventory must be documented on Statistical Report Form C, by indicating the date the most recent inventory was completed.

What Is Electronic Statistical Reporting (eStats)?

Each judge, or their authorized staff, will upload Form C using standardized Excel file templates via the eStats portal. Each court is provided with a password and login credentials to the eStats portal. The eStats portal, Excel templates, statistical reporting instructions, and additional resources are found on the Supreme Court of Ohio website at sc.ohio.gov/JCS/casemng/estats.

Annual Case Inventory[307]

The Rules of Superintendence require all divisions of Ohio's common pleas courts to complete an annual case inventory no later than the first day of October. If a new judge takes office, this inventory must take place within three months of taking office.

The purpose of the inventory for newly elected or appointed judges is to ensure no conflicts of interests. For all judges, the inventory allows for a review of every pending case to ensure an accurate count and to evaluate the accuracy of the case management practice. Each case should have a next-scheduled-event date, or be terminated or closed. Those cases that are ripe for settlement or resolution should be identified and monitored for timely termination; and those cases that were incorrectly classified should be corrected and any reports amended as needed.

For more information on the Annual Case Inventory, see Section 3, Judicial Requirements. Also see Commentary to Sup.R. 38.

306 Sup.R. 37.02.

307 Sup.R. 38.

Local Rules of Court

On or before the first day of February of each year, the probate division must file with the clerk of the Supreme Court either a complete copy of all local rules or certify to the clerk that no changes were made to the local rules of practice for the division.[308] The email address for the clerk receiving local rules is: LocalRules@sc.ohio.gov. All of Ohio courts' local rules are located at sc.ohio.gov/JudSystem/trialCourts.

Local rules shall not be inconsistent with rules promulgated by the Supreme Court. However, nothing prevents a division from adopting any local rule that promotes the use of any device or procedure to facilitate the expeditious disposition of cases.[309] The numbering of local rules must correspond with the numbering of the Rules of Superintendence and must incorporate the number of the rule it is intended to supplement. For example, a local rule that supplements Sup.R. 61 shall be designated Loc.R. 61.1 of the Court of Common Pleas of (County Name) County, (Division Name) Division.[310]

All probate divisions are required to adopt guardianship rules, pursuant to Sup.R. 66.03. These rules govern the establishment of guardianships and must:

- Establish a process for emergency guardianships.
- Establish a process for submitting in electronic format or hard copy all comments and complaints regarding the performance of guardians appointed by the court and for considering such comments and complaints. The process shall include each of the following:
    - The designation of a person to accept and consider comments and complaints;
    - A requirement that a copy of the submitted comment or complaint be provided to the guardian who is the subject of the comment or complaint;
    - A requirement that the court give prompt consideration to the comment or complaint and take appropriate action;
    - A requirement that the court maintain a record regarding the nature and disposition of the comment or complaint; and
    - A requirement that the court notify the person making the comment or complaint and the guardian of the disposition of the comment or complaint.
- Address other provisions as the court considers necessary and appropriate, including, but not limited to, indicating where filed comments and complaints will be kept.

See Chapter 24, Guardianship, p. 103.

308 Sup.R. 5(C).

309 Sup.R. 5(A).

310 Sup.R. 75.

24. GUARDIANSHIP

On March 10, 2015, the Supreme Court of Ohio adopted nine rules to govern adult guardianships in Ohio. The new rules are based on the National Guardianship Association's "Standards of Practices for Guardianships." The purpose of the rules is to bring uniformity and consistency to Ohio's adult guardianship practices by providing clear guidance for best practices in adult guardianship cases. The rules underscore the importance of educated and knowledgeable guardians and the importance of courts taking an active role to ensure that court-appointed guardians are qualified and skilled to serve Ohio's adult wards. The rules seek to protect the safety and well-being of adult wards by establishing clear guidelines, while respecting judicial integrity and discretion of probate courts.[311]

Who Is a "Guardian?"

Any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or both of an incompetent or minor is a guardian. This definition also includes an agency under contract with the department of developmental disabilities for the provision of protective service under R.C. 5123.55 to 5123.59 when appointed by the probate court to have the care and management of the person of an incompetent.[312]

At all times, the probate court is the superior guardian of wards who are subject to its jurisdiction. All guardians who are subject to the jurisdiction of the court shall obey all orders of the court that concern their wards or guardianships.[313]

What Information Must a Court Provide to Guardians?

Guardianship Guide. The clerk of the probate court shall furnish a guardianship guide, prepared either by the Ohio attorney general with the approval of the Ohio Judicial Conference or by the Ohio Judicial Conference itself.[314] This guide shall be given either upon the appointment of the guardian or, if the guardian was appointed prior to September 16, 2016, upon the first filing by the guardian with the probate court.[315]

311 sc.ohio.gov/Boards/judCollege/adultGuardianship/FAQ.asp.

312 R.C. 2111.01(A).

313 R.C. 2111.50.

314 Ohio Attorney General, Ohio Guardianship Guide: An Overview of the Guardianship Process; childrenservices. franklincountyohio.gov/public/documents/PDF/3571CE3F-09F5-5A66-B3DF4B4AC6BC49F0.pdf.

315 R.C. 2111.011(A).

Guardianship Guide Acknowledgment. The probate court shall establish a form for a guardian to sign acknowledging that the guardian received a guardianship guide pursuant to this section. Upon receiving a guardianship guide, the guardian shall sign the form and the signed form shall be kept permanently in the guardianship file of the probate court.[316]

Local Rules. The probate court shall adopt local rules governing the establishment of guardianships that establish a process for emergency guardianships; establish a process for submitting comments and complaints regarding the performance of guardians appointed by the court; and address other provisions as the court considers necessary and appropriate, including, but not limited to, indicating where filed comments and complaints will be kept.[317] *(See p. 102.)*

What Are the Responsibilities of a Court Establishing Guardianships?

The probate court must obtain a criminal background check of the applicant to serve as a guardian. If the applicant is an attorney, the court may accept a certificate of good standing from the Supreme Court of Ohio's Office of Attorney Services in place of a criminal background check.[318]

The court also must require each appointed guardian to submit proof of education attendance, as required in Sup.R. 66.06 and 66.07.[319]

If a guardian has 10 or more wards, special responsibilities are placed upon the court. When a guardian has 10 or more wards, the probate division shall maintain an updated roster of the guardians stating their name, address, telephone number, and email address; obtain a certification stating that the guardian is unaware of any circumstances that may disqualify them from serving as a guardian; require the guardian to submit an annual fee schedule that differentiates guardianship services fees, as established pursuant to local rule, from legal or other direct services; and review the list of guardians annually to ensure they are in compliance with the education requirements.[320]

Who Is Required to Attend Guardianship Educational Courses?

All guardians are required to attend a one-time fundamentals course and continuing education course for each following year.[321]

316 R.C. 2111.011(C).

317 Sup.R. 66.03.

318 Sup.R. 66.05(A)(1).

319 Sup.R. 66.05(A)(2).

320 Sup.R. 66.05(B).

321 sc.ohio.gov/Boards/judCollege/adultGuardianship/default.asp.

How Many Hours of Education Are Required?

Prior to being appointed as guardian or within six months from appointment, each guardian shall successfully complete the *six-hour* fundamentals course provided by the Supreme Court or, with the prior approval of the court, provided by another entity.[322]

Each year following the initial six-hour fundamentals course, a guardian must complete a continuing education course that is at least *three hours* and specifically designed for continuing education needs of guardians.[323]

May a Court Waive the Educational Requirements?

The guardian pre-appointment/fundamentals education requirement may be waived or extended by the appointing court for good cause.[324]

Where Does a Guardian Find Information on Available Education Courses?

The Supreme Court of Ohio, Judicial College offers ongoing training opportunities for guardians who are both newly appointed, as well as those seeking their required three-hour, annual continuing education course. Information on these offerings are found at sc.ohio.gov/Boards/judCollege/guardians. Guardians also may contact the probate court to check on availability of courses offered locally.

Who Tracks Attendance at the Educational Courses?

On or before January 1 of each year, a guardian shall report information documenting compliance with the continuing education requirement. This documentation shall be filed in each probate court from which the guardian receives appointments.[325]

What Happens if a Guardian Fails to Complete the Required Education?

If a guardian fails to comply with the continuing-education requirement, then the guardian shall not be eligible for new appointments to serve as a guardian until the requirement is satisfied. If the deficiency in continuing education is more than three calendar years, then the guardian shall complete, at a minimum, a six-hour fundamentals course pursuant to Sup.R. 66.06(A) to qualify again to serve as a guardian.[326]

322 Sup.R. 66.06.

323 Sup.R. 66.07(A).

324 Sup.R. 66.06(B).

325 Sup.R. 66.07(B).

326 Sup.R. 66.07(C).

Does a Ward Have the Right to Object to Decisions Made by the Guardian?

When a guardian is appointed to have the custody and maintenance of the ward, the guardian may authorize and approve the ward's medical, health, or professional care, unless the ward or an interested party files an objection with the probate court and the court rules otherwise.[327]

How Is Guardianship Terminated?

The paths for terminating guardianship through the probate court include:

- Proof that the guardianship is no longer necessary;[328]
- A showing that the letters of appointment were improperly issued; [329] or
- Upon written request of the ward, ward's attorney, or any other interested party.[330]

Additionally, the marriage of the ward terminates the guardianship of the person, but does not terminate the guardianship of the estate of the ward.[331]

327 R.C. 2111.13(C).

328 R.C. 2111.47.

329 *Id.*

330 R.C. 2111.49(C).

331 R.C. 2111.45.

APPENDIX A: COURT COSTS AND FEES

R.C. Section	Title	Amount	Recipient/Note
307.515(C)	Fines, penalties, and monies from forfeited bail for offenses and misdemeanors brought for prosecution in those courts	Not more than $1,250 per year	Recipient: county law library resource fund
1313.52	Fee in assignment of property in trust for benefit of creditors		
1313.52(A)	For hearing and deciding each application	$2.00	
1313.52(B)	For appointing or removing an assignee or trustee	$1.00	
1313.52(C)	For filing assignment, inventory, and schedule	$0.10 each	
1313.52(D)	For filing other papers	$0.05 each	
1313.52(E)	For other services, the same compensation as for like services, in the settlement of the estate of deceased persons	Varies	
2101.07	Fees allowable to a special master commissioner	See note	Note: Fee allowed to other officers for similar service; taxed as costs
2101.16(A)	Fees		
2101.16(A)(1)	Account, in addition to advertising charges	$12.00	
2101.16(A)(1)	Waivers and proof of notice of hearing on account, per page, minimum $1.00	$1.00	
2101.16(A)(2)	Account of distribution, in addition to advertising charges	$7.00	
2101.16(A)(3)	Adoption of child, petition for	$50.00	Note: $30 of the fee shall be deposited in the "putative father registry fund" created in the state treasury. R.C. 2101.16(F)(1)
2101.16(A)(4)	Alter or cancel contract for sale or purchase of real property, complaint to	$20.00	
2101.16(A)(5)	Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E of this section)	$5.00	
2101.16(A)(6)	Appropriation suit, per day, hearing in	$20.00	
2101.16(A)(7)	Birth, application for registration of	$7.00	
2101.16(A)(8)	Birth record, application to correct	$5.00	
2101.16(A)(9)	Bond, application for new or additional	$5.00	
2101.16(A)(10)	Bond, application for release of surety or reduction of	$5.00	
2101.16(A)(11)	Bond, receipt for securities deposited in lieu of	$5.00	
2101.16(A)(12)	Certified copy of journal entry, record, or proceeding, per page, minimum fee one-dollar	$1.00	
2101.16(A)(13)	Citation and issuing citation, application for	$5.00	
2101.16(A)(14)	Change of name, petition for	$20.00	
2101.16(A)(15)	Claim, application of administrator or executor for allowance of administrator's or executor's own	$10.00	
2101.16(A)(16)	Claim, application to compromise or settle	$10.00	
2101.16(A)(17)	Claim, authority to present	$10.00	
2101.16(A)(18)	Commissioner, appointment of	$5.00	

APPENDIX A: COURT COSTS AND FEES - *cont.*

R.C. Section	Title	Amount	Recipient/Note
2101.16(A)(19)	Compensation for extraordinary services and attorney's fees for fiduciary, application for	$5.00	
2101.16(A)(20)	Competency, application to procure adjudication of	$20.00	
2101.16(A)(21)	Complete contract, application to	$10.00	
2101.16(A)(22)	Concealment of assets, citation for	$10.00	
2101.16(A)(23)	Construction of will, complaint for	$20.00	
2101.16(A)(24)	Continue decedent's business, application to	$10.00	
2101.16(A)(24)	Monthly reports of operation	$5.00	
2101.16(A)(25)	Declaratory judgment, complaint for	$20.00	
2101.16(A)(26)	Deposit of will	$5.00	
2101.16(A)(27)	Designation of heir	$20.00	
2101.16(A)(28)	Distribution in kind, application, assent, and order for	$5.00	
2101.16(A)(29)	Distribution under R.C. 2109.36, application for an order of	$7.00	
2101.16(A)(30)	Docketing and indexing proceedings, including the filing and noting of all necessary documents; maximum fee $15.00.	$15.00	
2101.16(A)(31)	Exceptions to any proceeding named in this section, contest of appointment	$10.00	
2101.16(A)(32)	Election of surviving partner to purchase assets of partnership, proceedings relating to	$10.00	
2101.16(A)(33)	Election of surviving spouse under will	$5.00	
2101.16(A)(34)	Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of	$35.00	Note: $30 shall fund the county indigent guardianship fund. R.C. 2101.16(C) and R.C. 2111.51
2101.16(A)(35)	Foreign will, application to record	$10.00	
2101.16(A)(35)	Record of foreign will, additional, per page	$1.00	
2101.16(A)(36)	Forms when supplied by the probate court, not to exceed	$10.00	
2101.16(A)(37)	Heirship, complaint to determine	$20.00	
2101.16(A)(38)	Injunction proceedings	$20.00	
2101.16(A)(39)	Improve real property, petition to	$20.00	
2101.16(A)(40)	Inventory with appraisement	$10.00	
2101.16(A)(41)	Inventory without appraisement	$7.00	
2101.16(A)(42)	Investment or expenditure of funds, application for	$10.00	
2101.16(A)(43)	Invest in real property, application to	$10.00	
2101.16(A)(44)	Lease for oil, gas, coal, or other mineral, petition to	$20.00	
2101.16(A)(45)	Lease or lease and improve real property, petition to	$20.00	
2101.16(A)(46)	Marriage license	$10.00	
2101.16(A)(46)	Certified abstract of each marriage	$2.00	
2101.16(A)(47)	Minor or incompetent person, etc., disposal of estate under $25,000 of	$10.00	

R.C. Section	Title	Amount	Recipient/Note
2101.16(A)(48)	Mortgage or mortgage and repair or improve real property, complaint to	$20.00	
2101.16(A)(49)	Newly discovered assets, report of	$7.00	
2101.16(A)(50)	Nonresident executor or administrator to bar creditors' claims, proceedings by	$20.00	
2101.16(A)(51)	Power of attorney or revocation of power, bonding company	$10.00	
2101.16(A)(52)	Presumption of death, petition to establish	$20.00	
2101.16(A)(53)	Probating will	$15.00	
2101.16(A)(53)	Proof of notice to beneficiaries	$5.00	
2101.16(A)(54)	Purchase personal property, application of surviving spouse to	$10.00	
2101.16(A)(55)	Purchase real property at appraised value, petition of surviving spouse to	$20.00	
2101.16(A)(56)	Receipts in addition to advertising charges, application and order to record	$5.00	
2101.16(A)(56)	Record of those receipts, additional, per page	$1.00	
2101.16(A)(57)	Record in excess of fifteen hundred words in any proceeding in the probate court, per page	$1.00	
2101.16(A)(58)	Release of estate by mortgagee or other lienholder	$5.00	
2101.16(A)(59)	Relieving an estate from administration under R.C. 2113.04 or granting an order for a summary release from administration under R.C. 2113.031.	$60.00	Note: $20 shall fund the county indigent guardianship fund. R.C. 2101.16(C) and R.C. 2111.51
2101.16(A)(60)	Removal of fiduciary, application for	$10.00	
2101.16(A)(61)	Requalification of executor or administrator	$10.00	
2101.16(A)(62)	Resignation of fiduciary	$5.00	
2101.16(A)(63)	Sale bill, public sale of personal property	$10.00	
2101.16(A)(64)	Sale of personal property and report, application for	$10.00	
2101.16(A)(65)	Sale of real property, petition for	$25.00	
2101.16(A)(66)	Terminate guardianship, petition to	$10.00	
2101.16(A)(67)	Transfer of real property, application, entry, and certificate for	$7.00	
2101.16(A)(68)	Unclaimed money, application to invest	$7.00	
2101.16(A)(69)	Vacate approval of account or order of distribution, motion to	$10.00	
2101.16(A)(70)	Writ of execution	$5.00	
2101.16(A)(71)	Writ of possession	$5.00	
2101.16(A)(72)	Wrongful death, application and settlement of claim for	$20.00	
2101.16(A)(73)	Year's allowance, petition to review	$7.00	
2101.16(A)(74)	Guardian's report, filing and review of	$5.00	
2101.16(A)(75)	Mentally ill person subject to court order, filing of affidavit and proceedings for	$25.00	Note: This fee may be waived if affiant is indigent or for good cause shown. R.C. 2101.16(B)(3)

APPENDIX A: COURT COSTS AND FEES - *cont.*

R.C. Section	Title	Amount	Recipient/Note
2101.16(B)(1) - (2)	Investigation expenses related to application to appoint guardian	Not specified	Note: Applicant or the estate may be directed to pay investigation expenses. If investigation by paid public employee, money paid into county treasury. This cost may be waived for indigent parties.
2101.16(B)(3)	Waive fees related to affidavit of mental illness	N/A	Note: The court may waive the $25 fee if affiant is indigent or for good cause shown. R.C. 2101.16(A)(75)
2101.16(E)	Advanced deposit for costs	Not to exceed $125	Note: May be required by the court at the time an application is made for an appointment as executor or administrator or at the time a will is presented for probate.
2101.17	Fees from county treasury		
2101.17(A)	For each hearing to determine if a person is a mentally ill individual subject to hospitalization when the person is committed to a state hospital or to relatives	$12.00	Recipient: To the probate court from the county treasury. Note: Upon the warrant of the county auditor, which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings
2101.17(B)	When the person is discharged [from hospitalization for mental illness]	$7.00	Recipient: To the probate court from the county treasury. Note: Upon the warrant of the county auditor which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings
2101.17(C)	For order of return of a mentally ill person to a state hospital or removal therefrom	$2.00	Recipient: To the probate court from the county treasury. Note: Upon the warrant of the county auditor which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings
2101.1 (D)	For proceedings for committing a person to an institution for persons with intellectual disabilities	$10.00	Recipient: To the probate court from the county treasury. Note: Upon the warrant of the county auditor which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings
2101.17(E)	For habeas corpus proceedings when a person is confined under color of proceedings in a criminal case and is discharged	$10.00	Recipient: To the probate court from the county treasury. Note: Upon the warrant of the county auditor which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings

R.C. Section	Title	Amount	Recipient/Note
2101.17(F)	When acting as a juvenile judge, for each case filed against a delinquent, dependent, unruly, or neglected child, or a juvenile traffic offender	$5.00	Recipient: To the probate court from the county treasury. Note: Upon the warrant of the county auditor which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings
2101.17(G)	For proceedings to take a child from parents or other persons having control thereof	$5.00	Recipient: To the probate court from the county treasury. Note: Upon the warrant of the county auditor which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings
2101.18	Fees for other services (solemnizing marriages within county)	See note	Recipient: County treasurer. Note: Same as allowed the clerk of common pleas.
2101.21	Fiduciary payment of costs in advance	N/A	Note: Court may require payment of the costs of the incident before appointing fiduciary.
2101.27	Fee for solemnizing marriages	Reasonable fee	Recipient: County treasurer, general fund.
2101.32	Costs may be taxed against and apportioned between parties	None	
2101.162(A)	Computerizing court of paying cost of computerized legal research	Not to exceed $3	Recipient: County treasury, to place in a separate fund to be disbursed upon an order of the probate judge. Note: The probate judge may determine that, for the efficient operation of the probate court, additional funds are required to computerize the court, make available computerized legal research services, or to do both.
2101.162(B)	Computerizing court of paying cost of computerized legal research	Not to exceed $10	Recipient: County treasurer, to be disbursed upon an order of the probate judge and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the probate court of procuring and maintaining computer systems for the office of the clerk of the court
2101.163	Dispute Resolution Fund	Not to exceed $15	Recipient: County treasurer, in separate fund to be disbursed upon an order of the probate judge. Note: To be collected on the filing of each action or proceeding and that is to be used to implement the [dispute resolution] procedures
2107.07	Deposit of Will	$25.00	
2109.31(C)(4)	Citation to Fiduciary to file account	$100, plus $25 for costs	

APPENDIX A: COURT COSTS AND FEES - *cont.*

R.C. Section	Title	Amount	Recipient/Note
2111.031	Costs, fees, expenses related to the appointment of guardian	Varies	Note: If found incompetent and guardian appointed, then the costs, fees, or expenses shall be charged either against the estate of the person or against the applicant, unless the court determines, for good cause shown, that the costs, fees, or expenses are to be recovered from the county, in which case they shall be charged against the county If not determined incompetent or no guardian appointed, then the costs, fees, or expenses incurred shall be charged against the applicant, unless the court determines, for good cause shown, that the costs, fees, or expenses are to be recovered from the county Note: Court may require the applicant to make an advance deposit of the amount the court determines necessary to defray the anticipated costs of examination and fees or expense incurred to assist in deciding issue.
2111.51	Indigent Guardianship Fund	$30 from R.C. 2101.16(A)(34) $20 from R.C. 2101.16(A)(59)	Note: Expenditures from the fund shall be made only upon order of the probate judge and only for payment of any cost, fee, charge, or expense associated with the establishment, opening, maintenance, or termination of a guardianship for an indigent ward. A surplus may be declared by the probate court and used to fund other guardianship expenses or for other court purposes.
2111.52(F)(5)	County probate court guardianship services fund; Multicounty probate court guardianship services fund.	See note	Note: Reasonable fee for services provided to wards.
2127.19	Failure to enter a release and satisfaction in action to obtain authority to sell real estate	Cost bill plus $0.25 cents to the court	
2303.20	Fees		
2303.20(A)	Fees (Docketing, Indexing etc.)	$25.00	Note: For each cause of action, this amount may be charged to cover docketing, issuing certificates, indexing. etc. See Revised Code for full list.
2303.20(B)	For undertaking, bond, recognizance	$2.00	
2303.20(C)	For issuing each writ, order, or notice, except subpoena	$2.00	
2303.20(D)	For each name for issuing subpoena, swearing witness, entering attendance, and certifying fees	$2.00	
2303.20(E)	For calling a jury in each cause	$25.00	
2303.20(F)	For each page, for entering on journal, indexing, and posting on any docket	$2.00	
2303.20(G)	For each execution or transcript of judgment, including indexing	$3.00	
2303.20(H)	For each page, for making complete record, including indexing	$1.00	

R.C. Section	Title	Amount	Recipient/Note
2303.20(I)	For certifying a plat recorded in the county recorder's office	$5.00	
2303.20(J)	For issuing certificate to receiver or order of reference with oath	$5.00	
2303.20(K)	For entering satisfaction or partial satisfaction of each lien on record in the county recorder's office, and the clerk of courts' office	$5.00	
2303.20(L)	For each certificate of fact under seal of the court, to be paid by the party demanding it	$1.00	
2303.20(M)	For taking each affidavit, including certificate and seal	$1.00	
2303.20(N)	For acknowledging all instruments in writing	$2.00	
2303.20(O)	For making certificate of judgment	$5.00	
2303.20(P)	For filing, docketing, and endorsing a certificate of judgment, including the indexing and noting the return of the certificate	$10.00	
2303.20(Q)	For each cause of action for each judgment by confession, including all docketing, indexing, and entries on the journal	$25.00	
2303.20(R)	For recording commission of mayor	$5.00	
2303.20(S)	For issuing any license except the licenses issued pursuant to sections 1533.101, 1533.11, 1533.13, and 1533.32 of the Revised Code	$1.00	
2303.20(T)	For docketing and indexing each aid in execution or petition to vacate, revive, or modify judgment, including the filing and noting of all necessary documents	$15.00	
2303.20(U)	For docketing and indexing each appeal, including the filing and noting of all necessary documents	$25.00	
2303.20(V)	For receiving and disbursing money, other than costs and fees, paid to or deposited with the clerk of courts in pursuance of an order of court or on judgments, including moneys invested by order of the court and interest earned on them	See note	Note: A commission of 2% on the first $10,000.00 and 1% on all exceeding $10,000.00.
2303.20(W)	For numbering, docketing, indexing, and filing each authenticated or certified copy of the record, or any portion of an authenticated or certified copy of the record, of an extra county action or proceeding	$5.00	
2303.20(Y)	For each electronic transmission of a document, plus one dollar for each page of that document.	$2.00	Note: These fees are to be paid by the party requesting the electronic transmission.
2303.20(Z)	For each page, for copies of pleadings, process, record, or files, including certificate and seal	$1.00	
2303.21	Fees for reporters	$25/day	Recipient: Treasury of the county, general fund.
2303.201	Computerizing court or paying cost of computerized legal research		

APPENDIX A: COURT COSTS AND FEES - *cont.*

R.C. Section	Title	Amount	Recipient/Note
2303.201(A)	To computerize the court	Not to exceed $6 on each cause of action	Recipient: County treasurer. Disbursed either upon an order of the court, subject to an appropriation by the board of county commissioners, or upon an order of the court, subject to the court making an annual report available to the public listing the use of all such funds, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.
2303.201(B)	To computerize the clerk of court	See note	Recipient: County treasurer, to be disbursed upon an order of the court of common pleas and subject to appropriation by the board of county commissioners. Note: Not to exceed $20 on each cause of action, certificate of judgment, or petition; not to exceed $1 for services described in R.C. 2303.20. See Revised Code for full list.
2303.201(C)	To provide financial assistance to legal aid societies that operate within the state and to support the office of the state public defender)	$26 in each new civil action	Recipient: Treasurer of State (less 1-percent administrative fee) Note: Upon the warrant of the county auditor, which shall issue upon the certificate of the probate judge and shall be in full for all services rendered in the respective proceedings. Note: This fee applies to name change, guardianship, adoption, and decedants' estate proceedings.
2303.201(E)	Special projects	Unspecified	Recipient: County treasurer. Note: Disbursed upon an order of the court, subject to an appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of a project.
2333.26	Order for examination of a judgment debtor	$5.00	Note: Taxed as costs (R.C. 2333.27)
2335.32	Itemized Bill of Costs	$0	
2746.01	Court fees and costs in all courts of record; civil actions and certain criminal actions		
2746.01(A)	Appraisers fee for valuation of property	See note	Note: As deemed reasonable by the court. (R.C. 2335.02)
2746.01(B)	Auctioneers appointed to conduct any public auction	See note	Note: As the court finds reasonable and proper. (R.C. 2335.021)
2746.01(C)	Commissioners appointed to make partition of lands	Not to exceed $10	Note: See R.C. 2335.01.
2746.01(E)	Interpreters in hearing for violation of ordinance or before a coroner	See note	Note: Paid as witnesses (R.C. 2335.09); Witness paid $12/day; $6/half day and mileage as set by commissioners, not to exceed $0.505 per mile. (R.C. 2335.08)
2746.01(G)	Procurement of a transcript of a judgment or proceeding or exemplification of a record in an appeal or other civil action		Note: See R.C. 2303.21 for applying costs for the expense of transcript.

R.C. Section	Title	Amount	Recipient/Note
2746.01(H)	Publication of an advertisement, notice, or proclamation		Note: See R.C. 7.13 for publishing expenses allowed as costs.
2746.01(I)	Publication of calendars, motion dockets, legal advertisements, and notices		Note: See R.C. 2701.09. Where fees for aforementioned are not fixed by law, the publisher shall receive a sum fixed by the judges for each case brought. To be paid In advance by the party filing the petition, appeal transcripts, or lien. If that party is indigent, fees are to be taxed as costs.
3113.34	Additional fee for marriage license; used for financial assistance to shelters for victims of domestic violence	$17.00	Recipient: County treasury.

APPENDIX B: SUPREME COURT OF OHIO WEBSITE RESOURCES

The Supreme Court of Ohio assists Ohio courts with numerous services, including education, technical assistance, court operations analysis, and making recommendations for greater efficiency. These services, as well as resources to better understand statutes and current and emerging justice-related issues, are available to all Ohio court judges and staff. These services and resources are accessible through the Supreme Court of Ohio's website. Below is a list of services and resources available on the website.

OFFICE OF JUDICIAL SERVICES

The Office of Judicial Services provides leadership and administration of the Judicial and Education Services Division. It also provides oversight of the judges' database and the assignment of visiting judges.

Publications

- Court-Ordered Sealing of Criminal Record with Consideration of Indigency
- Collection of Fines and Court Costs Bench Card

Resources

- Judicial Assignment Program

Judicial College

The Judicial College provides continuing legal and professional education for judges, magistrates, acting judges, and non-judicial court personnel. The college also offers educational opportunities for guardians ad litem and guardians of adults.

Education Information

- OhioCourtEDU
- Course Calendar
- Online Self-Study Course Calendar
- Ohio Probation Officer Training Program
- Court Security Officer Education
- Ohio Adult Guardianship Education Program
- Ohio Guardian ad Litem Education Program
- Non-Judicial College Related Education and Resources

OFFICE OF COURT SERVICES

The Office of Court Services oversees several Sections and Programs that provide traditional and innovative services for the courts and the public. In addition, the office supports the local court roundtables program.

Local Court Roundtable Meetings

The Case Management Section and the Children and Families Section host local court roundtable meetings for judges, magistrates, clerks, court administrators, chief probation officers, and other court and justice system partners.

- Schedule and registration information

Mediation Roundtable Meetings

The Dispute Resolution Section hosts mediation roundtables for mediators and professionals who manage mediation services.

- Schedule and registration information

Specialized Dockets Roundtable Meetings

The Specialized Dockets Section hosts roundtables with peer groups.

- Schedule and registration information

Case Management Section

The Case Management Section provides resources, consulting services, and educational instruction to judges and court personnel regarding caseflow management and delay reduction.

Advisory Committee on Case Management

Caseflow and Operations Management Consulting Services

Superintendence Rules Quick Reference Guide

Resource Sharing in Ohio Courts

Statistical Reporting

eStats Portal (electronic report submission)

Answers to Frequently Asked Questions

General Resources

- Recommended Data Quality Checks
- Quick Guides

- Form D
- Statistical Reporting Instructions (Form D)
- Statistical Reporting Instructional Videos
  - For All Courts
    - Rules of Superintendence Instructions for Preparation of Statistical Report Forms (Video)

- This video presents an overview of the various Rules of Superintendence for the Courts of Ohio that pertain to statistical reporting.

Dispute Resolution Section

The Dispute Resolution Section promotes statewide rules and uniform standards concerning dispute resolution programs; sponsors training programs for judges, court personnel, and dispute resolution professionals; and provides mediation for Supreme Court litigants, Court of Claims litigants, and Ohio public officials.

Commission on Dispute Resolution

Vision

Frequently Asked Questions

Supreme Court Case Mediation

History of Dispute Resolution in Ohio

Government Conflict-Resolution Services

Dispute Resolution Resources

Training

Dispute Resolution Education Trainings & Roundtables

Additional Outside Trainings Approved by the Supreme Court of Ohio

Domestic Violence Program

The Domestic Violence Program assists local courts and justice system partners develop and strengthen effective responses to domestic violence and related cases.

Advisory Committee on Domestic Violence

Legal Resources

Other Resources

Protection Order Forms

Domestic Violence Protection Order Forms

Language Services Program

The Language Services Program provides technical assistance, training, resources and policy recommendations to improve equal access to courts in cases involving limited English proficient, deaf and hard of hearing individuals.

Advisory Committee on Language Services

Calendar of Events

Language Services Program Resources

- FAQ
- Legal Requirements for Language Access
- ELEARNING: The Language of Justice: Ensuring Access to Ohio Courts
- Court Interpreter Certification Forms
- Certified and Provisionally Qualified Interpreter Roster
- General Resources for Court Interpreters
- Archive

Complaint Resolution

- Complaint Resolution Process (7 languages)
- Complaint Resolution Poster
- Complaint Forms (13 languages)
- Working With Your Interpreter: Information for Deaf & Limited-English Litigants (7 languages)
- Information for Attorneys and Their Clients

Telephonic Interpretation

- Interpretation Services Language Card
- Language Identification Card
- How to Access an Interpreter

Translated Forms

- Translation Forms Project (General Forms)
- Filing a Grievance (Against Lawyers and Judges)

Specialized Dockets Section

The Specialized Dockets Section provides technical support to trial courts in analyzing the need for, planning of, and implementation and certification of specialized docket programs.

- Supreme Court Specialized Docket Certification Procedures
- Commission on Specialized Dockets

Specialized Dockets

- Mental Health Courts
- Drug Courts
- OVI/DUI Courts
- Domestic Violence Courts
- Child Support Enforcement Courts
- Re-entry Courts
- Sex Offender Courts

- Veterans Courts
- Family Dependency Treatment Courts

Events

- Ohio Judicial Symposium on Opiate Addiction
- Ohio Specialized Dockets Annual Conference
- Specialized Dockets Trainings
- Statewide Conferences
- National Conferences

Resources

- Ohio Statewide System Reform Program
- Specialized Dockets Newsletter
- Funding Opportunities
- Research
- Job Opportunities
- Related Links
- Handbook Guides Judges in Creating Mental Health Court Dockets - June 17, 2008

OTHER SUPREME COURT OF OHIO SERVICES

Court Security Services

The Office of Court Security is committed to providing professional security services to the courts of Ohio in order to maintain the integrity of the judicial process and ensure the safety of those who work in or visit court facilities.

- Advisory Committee on Court Security
- Court Security Standards (Rules of Superintendence, Sup.R. 9, and Appendix C)
- Court Facilities Standards (Rules of Superintendence, Appendix D)
- Available Equipment
- Listing of security screening equipment available for Ohio courts
- Frequently Asked Questions
- Links of Interest
- Contact Us

Services Provided

The following is a partial list of some of the services that may be provided by the Office of Court Security, upon request.

- Assist county and local courts in conducting comprehensive court security surveys and site surveys

Assist county and local courts in the development of emergency and security procedures

Provide assistance in the operational planning and coordination for high-risk or sensitive trials

Security education for new judges and their families

Judicial Family Network

The Judicial Family Network exists to identify the needs and concerns of judicial families in Ohio and to offer a supportive network and educational opportunities to the spouses/partners and their families.

Judicial Family Network Brochure

Overview & Calendar of Events

Operating Guidelines

Roster

Annual Report

Resources

Websites

- Judicial Family Institute
- National Center for State Courts

Public Information Office (PIO)

The Public Information Office assists local courts with such items as press releases and technical assistance related to media relations. The office also provides news about the courts at courtnewsohio.gov.

Case Information

Case News

Supreme Court Opinion Summaries

Oral Argument Previews

Case Activity Notification Service

Information Technology Division

IT Resources for Courts

Commission on Technology and the Courts

Ohio Courts Network (OCN)

Appellate Case Management System (ACMS)

APPENDIX C: RECOMMENDED CASEFLOW AND OPERATIONS MANAGEMENT REPORTS

A. CASE-LEVEL REPORTS

The following reports constitute a recommended beginning set of case-level management reports that trial courts can employ to monitor and control the pace and activity of individual cases in their dockets. These reports are generally applicable to all case types.

1. **Case Aging.** This type of case-aging report lists active pending cases that have reached some predefined case age that signals the need for further scrutiny on case status. An example would be a case reaching 90% of the Supreme Court's time guideline. The report should permit flexibility in the establishment of multiple tiers of time standards. Details for each case include the case type, the last event, the next scheduled event, the date filed, and the total number of days each case has been pending, not counting any periods of placement on inactive reporting status (e.g., criminal cases in which a capias has been issued).
2. **Overage Cases.** This type of case aging report only lists cases that have exceeded the applicable Supreme Court of Ohio case-processing time standard. Details for each case include the last event, the next scheduled event, the date filed, and the total number of days each case has been pending, not counting any periods of placement on inactive reporting status (e.g., criminal cases in which a capias has been issued).
3. **Pending Motions.** This report lists all pending motions in each active pending case and show for each motion the date it was filed and the time, in days, the motion has been pending for comparison against the 120-day deadline for the court to rule on motions under Sup.R. 40(A)(3).
4. **Cases for Possible Dismissal for Want of Prosecution.** This report lists all active pending cases that have been pending for 6 months without any proceedings that are not otherwise awaiting trial assignment. The report identifies the type and date of the most recent event in the case. *See Sup.R. 40(A)(1)*.
5. **Cases with No Next Event Scheduled.** This lists all active pending cases that are not otherwise set for trial and have no further events scheduled.
6. **Court Trial Cases Awaiting Final Decision.** This report lists all active pending cases that have been fully submitted to the court following a court trial and are awaiting final decision. The report identifies the date of submission and the aging of the case in relation to the 90-day deadline for decision under Sup.R. 40(A)(2).

7. **Mediation Aging Status.** This report shows, for a point-in-time, a list of all active pending cases pending in a court-annexed mediation. In addition to basic case record information, the report includes, for each case, the number of days the case has been pending in mediation.
8. **Specialized Docket Aging Status.** This report shows, for a point-in-time, a list of cases placed on inactive reporting status following assignment to a certified specialized docket. In addition to basic case record information, the report includes, for each case, the number of days the case has been pending in the specialized docket.

B. SUMMARY-LEVEL REPORTS

The following reports constitute a recommended beginning set of summary-level management reports that trial courts can employ to monitor and control the pace and activity of their overall dockets. These reports break down the metrics by individual case type and by aggregated groups of case types, including the case type aggregations specified in Sup.R. 39.05(B). In multi-judge courts, the user should have the option to run the reports against each individual judge's assigned caseload, but also for the court as a whole.

1. **Overall Caseloads.** This report provides counts of active cases pending at a point in time, as well as counts over a defined period of new filings, reactivations, transfers-in, cases placed on inactive status, and cases disposed.
2. **Clearance Rates.** This report provides clearance rates, a measure of the effectiveness of the court in keeping pace with the volume of its incoming caseload. They are calculated by dividing the total number of case terminations (dispositions plus placement on inactive status) over a defined time period by the total number of incoming cases (new filings plus reactivated, reopened, and transferred-in cases) over that same time period. The ratio is expressed as a percentage. The target is a clearance rate of 100%. Options include the ability to run the measure against a series of time periods, such as over a series of months and over a series of years. This measure is standardized as CourTools Measure 2 within the CourTools court performance measures developed by the National Center for State Courts.
3. **Age of Active Pending Caseload.** This report provides a point-in-time overview of the age of the court's active pending caseload. The aging of the court's entire active docket is analyzed and presented against a series of 30-day case-aging segments showing the number and percentage of cases aging between 1 and 30 days, between 31 and 60 days, and so on, up to two times the applicable case-processing time standard. This measure is standardized as CourTools Measure 4 within the CourTools court performance measures developed by the National Center for State Courts.
4. **Time to Disposition.** This measure gauges how well the court is doing at disposing of its caseload within the Supreme Court's case-processing time standards. The report should display the number and percentage of cases disposed during a defined time period that were, at the time of disposition,

aged beyond the applicable primary and secondary time standards under Sup.R. 39. This measure is standardized as CourTools Measure 3 within the CourTools court performance measures developed by the National Center for State Courts.

5. **Manner of Disposition Details.** This report provides for each case type counts and percentages of the number of cases disposed over a defined time period through each manner of disposition, including each termination type specified in the applicable Supreme Court statistical report under Sup.R. 37.

6. **Continuances (Summary).** This report shows, for each case type, a summary of the frequency of continuances for each defined major type of case event in each case that reached final disposition over a defined time period. This only includes events that were scheduled, but did not go forward upon the request of a party or by sua sponte order of the court.

6a. **Continuances (Detail).** This report provides case-level supporting detail underlying the summary data presented in the "Continuances (Summary)" report, described above. This only includes events that were scheduled, but did not go forward upon the request of a party or by sua sponte order of the court. For each case with continuance records, the report shows basic case records, along with detail on each continuance, including the event type, the identity of the person who requested the continuance (or if the continuance was sua sponte ordered by the court), and the reason for the continuance.

7. **Event Settings (Summary).** This report shows, for each case type, a summary of the number of times each major type of case event was scheduled in each case that reached disposition over a defined time period.

8. **Pro Se (Lookback at Disposition).** This report provides, by case type, the number of cases with self-represented litigants disposed during a defined period. The report counts all cases disposed in which one or more parties was self-represented at any time during the life of the case.

9. **Pro Se (Event Level).** This report provides, by case type, counts of the number of events, by event type, in which one or more parties was self-represented. The report includes the party type (e.g., plaintiff/petitioner, defendant/respondent, or both).

10. **Cases with Interpreters.** This report provides, by case type, counts and percentages of disposed cases over a defined time period in which, at any point during the life of the case, one or more parties had a sign-language or spoken-language interpreter assigned by the court. This includes interpretation services in any or all three modes of interpretation (consecutive interpretation, simultaneous interpretation, and sight translation).

CourTools

CourTools provide a way for the judiciary, its justice partners, and the public to receive direct evidence into how well a court is functioning. When implemented, CourTools provide an effective framework for courts to establish performance baselines, diagnose existing problems, and plan for specific improvements. A complete list of CourTools is at courtools.org.

The Supreme Court of Ohio encourages Ohio's courts to measure their performance using the CourTools. Through the Case Management Section at the Supreme Court of Ohio, specific training on how to implement, interpret, and understand the CourTools is provided to the courts.

333 The term "case type" used in this document means, at a minimum, the case types specified by the Supreme Court in its statistical reporting framework under Sup.R. 37.

334 For more information on CourTools, see courtools.org.

APPENDIX D: USEFUL WEBSITES

State of Ohio Home Page

ohio.gov

Includes links to all state offices and agencies, the Ohio Constitution, State of Ohio telephone directory, and other Ohio sites.

Supreme Court of Ohio (SCO)

sc.ohio.gov

Includes links to rules, forms, services, eStats, e-filing and course listings of the Judicial College.

LAW Writer® Ohio Laws and Rules

codes.ohio.gov

Provides links to Ohio Revised Code and Administrative Code.

Probate Forms

sc.ohio.gov/LegalResources/Rules/superintendence/probate_forms

Ohio General Assembly

legislature.ohio.gov

Includes pending and enacted legislation; Legislative Service Commission analyses and fiscal notes; links to other legislative information.

Ohio House of Representatives

house.ohio.gov

Official Ohio House of Representatives web page.

Ohio Senate

senate.ohio.gov

Official Ohio Senate web page.

Legislative Service Commission

lsc.ohio.gov

Summaries of pending and enacted legislation and status of pending and enacted bills.

Ohio Bureau of Motor Vehicles (BMV)

bmv.ohio.gov

Includes information on all local and online services. Also includes a government section, with access to forms.

Ohio Attorney General (AG)

ohioattorneygeneral.gov

Contains links to forms, publications, BCI, and sex offender searches (http://www.icrimewatch.net/index.php?AgencyID=55149&disc=).

Ohio Legislature Live

OhioChannel.org

"Real time" broadcasts of voting sessions of the Ohio House of Representatives and Ohio Senate; archived audio and video broadcasts.

Office of Criminal Justice Services

ocjs.ohio.gov

Criminal justice information specific to Ohio, including grant opportunities

Court News Ohio

courtnewsohio.gov

Supreme Court of Ohio news; includes articles and videos related to the judicial system.

Office of the Ohio Public Defender

opd.ohio.gov

Contains links to their services, case law and resources.

Ohio Department of Education

education.ohio.gov

Provides educational resources, links to school report cards, and information on several education related topics.

Ohio Department of Disabilities

dodd.ohio.gov

Provides links to local services and providers.

Ohio Mental Health and Addiction Services (OMHAS)

mha.ohio.gov

Provides links to mental health and addiction treatment and prevention resources.

Vinelink

vinelink.com

Provides search functionality to determine the status of an offender and to receive notifications of changes to offender status; can search multiple states.

Ohio Department of Rehabilitation and Corrections (ODRC) Inmate Search

https://appgateway.drc.ohio.gov/OffenderSearch

Provides search functionality to find inmates in Ohio prisons or out on supervision; provides details regarding charges and release date.

Ohio Judicial Conference

ohiojudges.org

Contains links to resources, publications, and legislation affecting the judiciary.

Ohio Association for Court Administration (OACA)

ohiocourtadministration.org

Ohio's professional organization for court managers.

National Association for Court Management (NACM)

nacmnet.org

Provides resources for Court Managers and information on NACM events and initiatives.

National Center for State Courts (NCSC)

ncsc.org

Provides links to court specific resources, publications, and events, and includes information on the Court Management Program (CMP) certification.

United States Postal Service

usps.com

Provides the delivery status of a mailing and includes the date, time, and zip code of deliveries.

National Council for Juvenile and Family Court Judges

ncjfcj.org

Provides resources for Juvenile and Family Courts, including publications and events.

Published by
The Supreme Court of Ohio
Office of Court Services
Case Management Section
Date

THE SUPREME COURT *of* OHIO

OFFICE OF COURT SERVICES CASE MANAGEMENT SECTION