

# Michigan Courts: An Historical Perspective

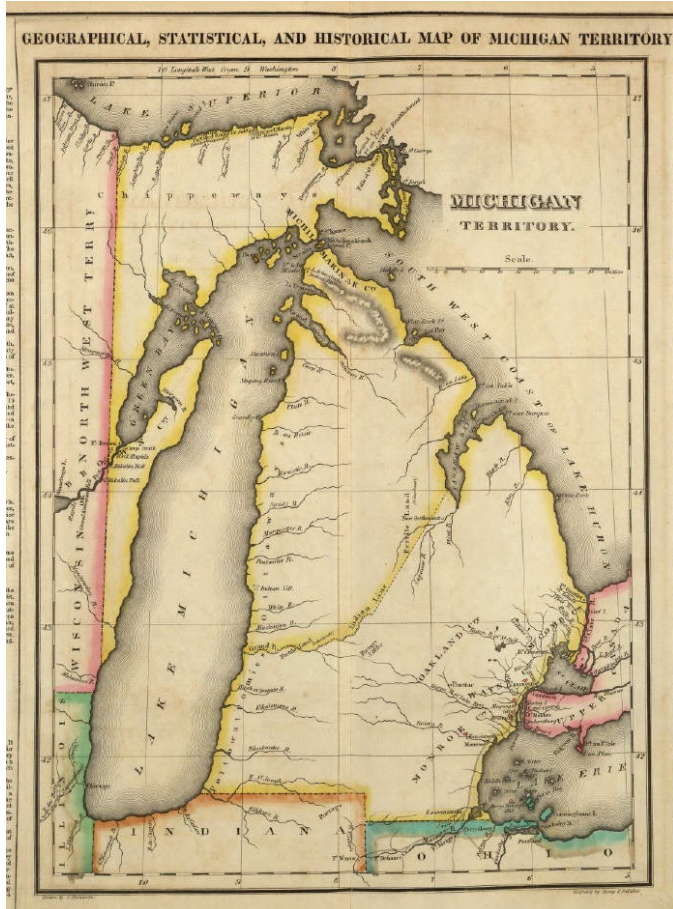
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1835-~~2009~~-2017

# Structure

# The Michigan Territory

## Pre-constitution



## 1800—Michigan 's First Legal System

Michigan's first American legal system was composed of appointed justices of the peace who played numerous roles on various courts such as “The Court of Common Pleas” and “The Court of General Quarter Sessions.” In this early period—around 1800—it was very difficult to find qualified men to serve as justices. Language was also a problem as most of the loyal inhabitants of the Michigan region spoke French instead of English.

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# Constitutional Eras

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1835-1850 (15 yrs.)

1850-1908 (58 yrs.)

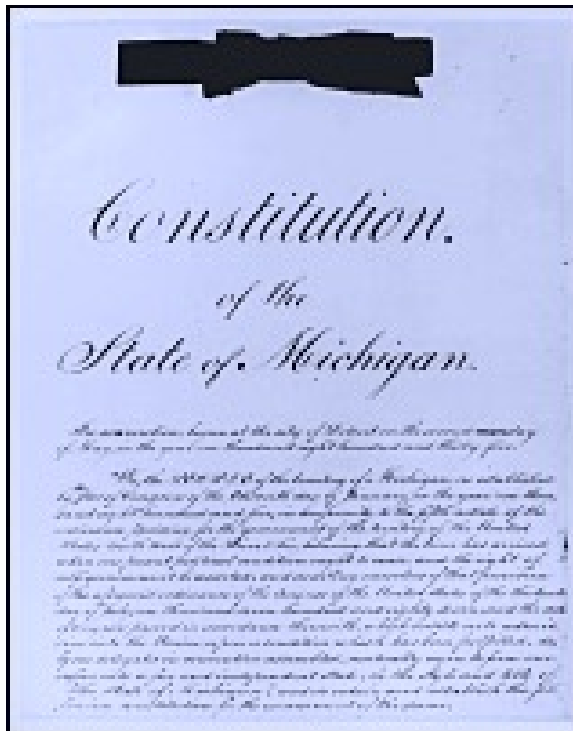
1908-1963 (55 yrs.)

1963-Present (54 yrs.)



# The First Constitution

1835-1850



- State judiciary centered around the Supreme, Chancery, and Probate Courts.
- Elected County Clerk responsible for records of Circuit Court.
- Court of Chancery had jurisdiction in cases of equity, presided over by a Chancellor.
- Judges paid from litigants' fees.

# Court of Chancery

1835-1847



"But the question arises why if the court of chancery filled so important a place in the judicial system of the state was it abolished by the Legislature? The citizens of Michigan whose memory will carry them back will remember the popular agitation in regard to the courts and the administration of justice which prevailed in 1845 and a few years subsequently. It was a cry for so-called reform.

**It was urged that the expense of the courts was too large; that a more simple system should be adopted; that justice should be brought to everyman's door, and that the higher tribunals should be abolished or curtailed.**

It was insisted that the Supreme Court and Court of Chancery were aristocratic in their character and should give place to the more humble and simple institutions which belong to a Republican government. This agitation, I am sorry to say, was to a considerable extent carried into the political contests of the day, and it was not without its effect on the public mind. Its influence is apparent in the radical changes in the judiciary system of this state made by the revised statutes of 1846. The Court of Chancery, as we have already seen, was abolished by that revision. A County Court was established in every organized county, and for it a judge and a second judge were to be elected by the people every four years, and they were to be paid by fees taxed to the parties litigant; but this was afterwards changed to an annual compensation to be paid from the county treasury." --Ex-Governor Alpheus Felch: Read before the Michigan Pioneer and Historical Society June 2, 1892.



# The Second Constitution

1850-1908

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- Authorized the Legislature to establish Municipal Courts of civil and criminal jurisdiction, intended for the benefit of the cities in which they were established, not intended to give them a jurisdiction coextensive with the county.
- Detroit Records Court established in 1857.



# The Third Constitution

1908-1963



Supreme Court of eight Justices.

All judges in Michigan run on a non-partisan ballot, but Justices nominated at a party's convention.

Legislature to establish enumerated courts.

**Consolidated basic structure of what we still have today—county-based system of circuit and probate courts, with county clerk as clerk of circuit court records.**

# The Fourth Constitution

1963-present

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The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

”

## Paradigm Shift

Declared one court of justice, introducing the concept that Michigan has a single court with several divisions each devoting its attention to a certain level of judicial administration.

# Key Trial Court Constitutional Changes

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- Creates Court of Appeals, elected by districts but with statewide jurisdiction.
- Provides that a person must be a lawyer to be a judge.
- Removes the constitutional status of the justice of the peace system and authorized the Legislature to create a flexible and modern local court of limited jurisdiction to meet the differing needs of large and small counties and communities.
- Bans judges being paid from fees or amount of judicial activity of their office

# Key Trial Court Legislation



**1968** Created District Court to hear misdemeanor criminal cases and some civil matters, and small claims division within it to hear minor matters that could be processed without lawyers, formal rules of evidence, or appeal.

**1996** Created Family Division of the Circuit Court, transferring juvenile jurisdiction from Probate to Circuit Court.

**1997** Abolished Detroit Recorder's Court, transferring jurisdiction to the 3<sup>rd</sup> Judicial Circuit Court in Wayne County.

# But ... the new constitution

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- Retains role of county clerk in circuit court recordkeeping, from 1835
- Default remains an elected probate judge in every county
- Counties free to supplement state portion of a circuit judge's salary, as long as all judges within the circuit are paid equally

# Role of Legislature in setting trial court trial court judge compensation expands

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## **§ 17 Judicial salaries and fees.**

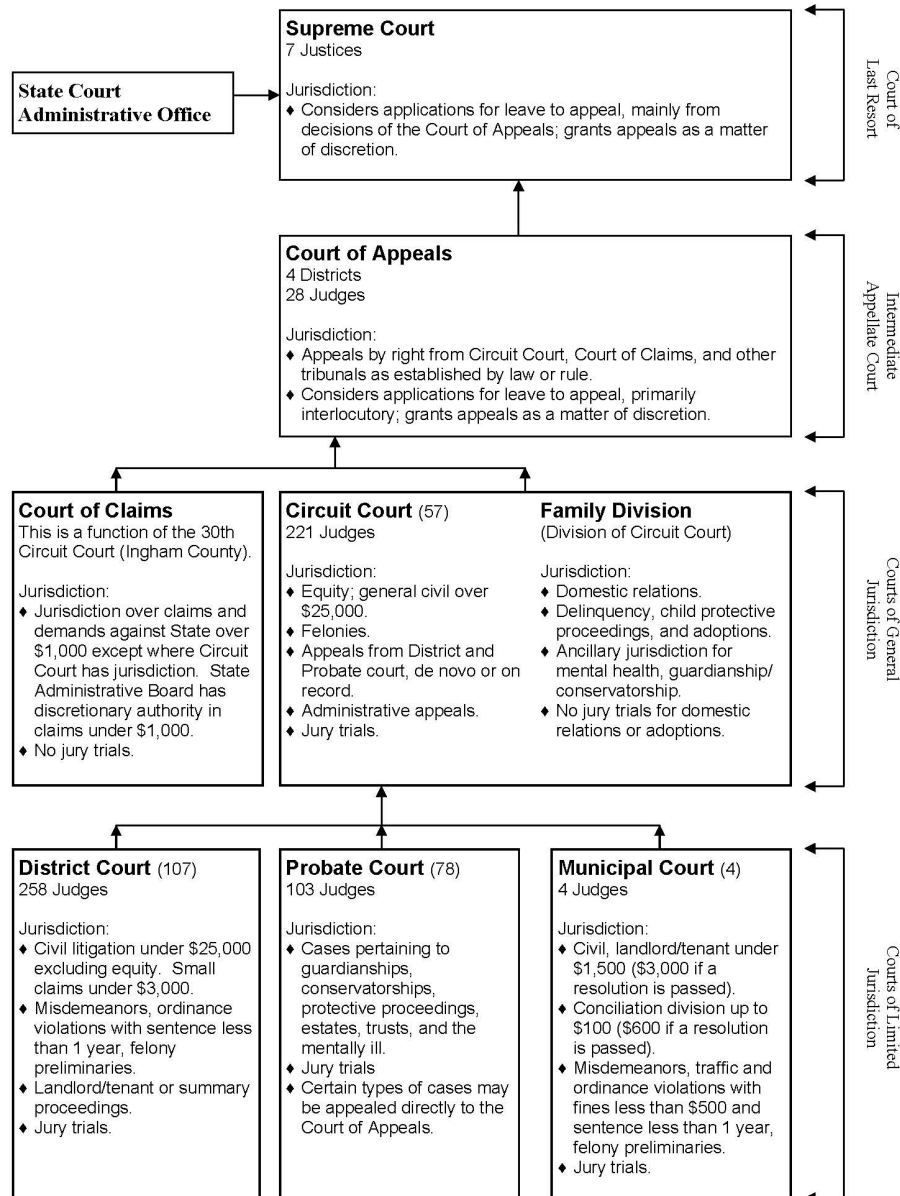
### **Sec. 17.**

No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

### **Now:**

- Pay for judges within each type of trial court standardized
- Pay for judges across trial courts almost equalized

# Michigan Judicial Branch



## 2008 Michigan Judicial Structure

# Trial Courts

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## **57 Circuit Courts**

39 single county

18 multiple county, includes 44 counties.

## **78 Probate Courts**

73 single county

5 multiple county, includes 10 counties.

## **107 District Courts**

40 1<sup>st</sup> class single county

16 1st class multiple county

6 2<sup>nd</sup> class

45 3rd class.

## **4 Municipal Courts**

## **5 Unified Trial Courts**

Barry, Berrien, Isabella, Lake, Iron

## **15 Concurrent Jurisdiction Plans**

CO3,D19—Dearborn

CO3,D29—Wayne City

C03, D34—Romulus

C03, D35—Plymouth

C07, D67, D68, P25—Genesee

C22, D14A, D14B, D15, P81—Washtenaw

C36, D07, P80—Van Buren

C45, D03B—St. Joseph

C23, D81, P01, P06, P35, P68—Alcona, Arenac, Iosco, and Oscoda

C49, D77, PD18—Osceola and Mecosta

C28, D84—Wexford

C28, D84, P57—Missaukee

C32, P66—Ontonagon and Gogebic

C46, D87, P40, P69, P20—Crawford, Kalkaska, and Otsego

C53, P71--Cheboygan



# Key Court Administrative Changes

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Cross assignment of judges to serve as judges in any other court as necessary, cross-jurisdiction plans, facilitating forms of functionally unified trial courts.

# Funding

# Trial Court Funding

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A complicated, mixed method of funding for Trial Courts in Michigan, driven by history, economics, and politics.

Blend of state, local and federal dollars.

# Funding

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 1981

Courts were essentially locally funded. In 1980 the Legislature enacted PA 438 which included a plan for state funding at a level of 31.5% for all trial courts.

1981  1996

The first step toward that promise was full funding of the Wayne County Trial Courts. Due to extreme pressures of budget issues and considerable backlogs, the State Judicial Council was created to oversee the trial court operations including employee contracts.

1996  NOW

Grand Traverse County v State of Michigan Decision (1995)—Future Legislatures not bound by promises made by previous Legislatures, thus no promise of funding for the remaining 82 Counties.

# Funding

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Among other changes, **1996 PA 374** did the following:

Required appropriations for the Third Circuit Court, the Recorder's Court, and the 36th District Court to be provided by local counties and district court funding units effective October 1, 1996.

**Created a new formula for providing funding to all 83 counties through the newly created Court Equity Fund.**

Created a Hold Harmless Fund (FY 1996-97 through FY 2000-01) to phase in the impact of the 1996 legislation.

# Funding

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**Drunk Driving Caseflow Assistance Fund (1992)** provides source of funding for implementation of new case processing guidelines that promote timely disposition of qualifying drunk driving cases. Funded through portion of drivers license reinstatement fee paid to Secretary of State for OUIL related offenses. Annual distribution of the fund is to District and Municipal Courts based on formula of local OUIL caseload to statewide caseload.

# Funding

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**Drug Case Information Management Fund (1994)** Established to provide a source of funding for management and reporting of specific drug related cases. Funded through portion of drivers license reinstatement fee paid to Secretary of State.

# Funding



Abolished the Detroit Recorder's Court and merged it with the Third Circuit Court effective October 1, 1997.

Revised the method for determining salaries of judges and provided for 100% State funding effective January 1, 1997.

Provided for co-employer status for the County of Wayne and the Chief Judge of the Third Circuit Court and transferred the employment and funding obligation back to the local units.



# Funding



**Juror Compensation Reimbursement Fund (2003)** to provide a source of reimbursement to trial courts to cover legislated increases in juror compensation.

# Funding

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**Judicial Technology Improvement Fund (2005).** In fiscal year 2005 payments totaling \$1 million were distributed to counties from the fund to be used for court technology needs.

# Issues

# Issues

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64% all cases filed in circuit courts are family division cases.

Less than 2% of civil cases were resolved by a jury or bench trial.

Growing numbers of *pro se* litigants.

More people seeking self-help solutions to legal problems.

Aging population.

Since transfer of juvenile jurisdiction to family court division—Probate Court caseload has significantly decreased.

Long-term impact of Michigan's economic changes.

# Issues

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Disparity of local resources available to fund trial courts.

Convenience to the public of access to courts.

Adequate representation for criminal and civil litigants.

Alignment of judges to workload and caseload.

# Issues

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Increased opportunity for efficiency and improvement through technology and focus on data

Importance of perception of judicial system as responsive to current *and evolving* needs of society

Changing public expectations