

2005-2006 ANNUAL REPORT
OF THE
PROBATE AND ESTATE PLANNING SECTION

Highlights of the 2005-2006 Year of the Probate and Estate Planning Section include the following:

Economics of Law Practice Survey: Thanks to the generosity of the Community Foundation for Southeast Michigan, an Economics of Law Practice Survey was sent to all members of the Probate and Estate Planning Section via e-mail. This is the latest version of the fee survey which is conducted periodically by the Section (the last was done in 2001). A separate survey was sent electronically to all Probate Judges; a strong response was received. The results of both surveys will be published in an upcoming edition of the Probate and Estate Planning Journal.

Certificate Program: In 2003, the Probate and Estate Planning Certificate Program was initiated in cooperation with the Institute of Continuing Legal Education (ICLE). Participation continues to exceed all expectations. The Certificate Program involves a series of educational courses which must be completed within a three-year period. To date, 142 attorneys have completed the program and earned their Certificate; 1073 practitioners are enrolled.

Uniform Trust Code (i.e., Michigan Trust Code): Work on this item has continued throughout 2005-06. The concept driving this project is that it would be useful to codify Michigan trust law. Kudos to Committee Chair Mark Harder and all Committee members for their hard work. Their Committee and the Probate Council are conducting a section by section review of this proposed Code. To date, approximately 2/3 of the sections have been analyzed so far. Some of the controversial sections (i.e., creditor's rights, etc.) have not yet been taken up. Upon completion of the review process and approval by the Council, legislation on this topic will be introduced.

Legislation: With the help of our lobbyist, the Council has actively monitored and been involved in the legislative process. Legislation has been introduced to improve the laws governing burial decisions (priority for who can make, judicial mechanism to resolve disputes, etc.) and to make minor technical corrections to the Estates and Protected Individuals Code (EPIC). The Council is also assisting in the drafting of legislation that would protect the concept of insurable interests in life insurance policies and the holding of shares of professional corporations for a limited period in a trust. We are also working to prevent enactment of legislation requiring background checks for all prospective guardians and conservators of all children and adults and mandatory registration of powers of attorney with the Probate Court.

Uniformity of Practice\Court Rules\Court Forms: Per the effort of the Uniformity of Practice Committee (Chaired by Joan Von Handorf & Sebastian Grassi), new court rules have been adopted which help promote uniformity of procedure among Michigan Probate

Courts. These include: net inventory fee calculation is now a universal practice; the requirement that a death certificate (or alternative documentation if a certificate is not available) be provided with any application or petition to open a decedent estate; and creating a standard social history form for minor guardianships. An on-line attorney survey regarding uniformity of practice was conducted. Also, additional court rules designed to further enhance uniformity of practice were submitted to the Supreme Court to provide additional clarification and guidance to some of the probate court rule amendments adopted by the Supreme Court on November 15, 2005 and given immediate effect.

Through the work of Joan Von Handorf and Harold Schuitmaker, several new probate court forms were adopted and others modified to assist in the administration of probate cases. These include: Friend of the Court notification (new form), ancillary administration filing (new form), and deletion of driver's license number from acceptance of appointment.

Specialization and Certification: The Probate Council, with assistance from ICLE, is continuing to investigate the possibility of proposing a State-Bar sponsored specialization in Probate Administration and Estate Planning. As part of this plan, two questions regarding specialization and certification were included in the Economics of Law Survey. A Council Committee is conducting an ongoing analysis of the economic feasibility and an evaluation of whether this is on balance desirable for the Section.

Participation and Responding to Section Needs: The Probate Council strives to respond to the needs of our Section, and to improve the Probate and Estate Planning practice in Michigan. We welcome participation in the Council. Our meetings are held approximately once a month on Saturday mornings at the University Club in East Lansing. The Committee on Special Projects meets at 9 AM. The Probate and Estate Planning Council meets at 10:15 AM; meeting typically concludes at 12 PM. A full list of meeting dates for 2006-07 will be included in the Probate Section Journal and also posted on our Section's space on the Michigan State Bar's website.

Thanks for Outstanding Service to the Section: Kenneth J. Seavoy has completed six years of service on the Council. Ken, who lives and practices in Marquette, has served as an extremely valuable conduit for bringing the needs and concerns of probate and estate planning attorneys in the Upper Peninsula to the attention of the Council. We appreciate the extraordinary dedication and personal sacrifice which Ken made in attending our meetings in Lansing. Chris Edgar has also finished up his terms on the Council. We thank Chris for all the time, effort, and energy Chris has devoted to the Section over the years.