

**STATE BAR OF MICHIGAN
FAMILY LAW COUNCIL**

MINUTES

Date: June 5, 2021
Location: Zoom
Time: Networking 9:00 a.m.; Meeting 9:30 a.m.

I. Administrative Matters

A. Call to Order/Quorum

The council was called to order by Chair Sahera Housey, at 9:32 a.m.

B. Introduction of Council Members

The following (19) council members were present: Sean Blume, Matt Catchick, James Chryssikos, Christopher Harrington, Steven Heisler, Joe Hohler, III, Jennifer Johnsen, Shelley Kester, Viola King, Peter Kulas-Dominguez, Michelle Letourneau-McAvoy, Anthea Papista, Randall Pitler, Kristen Robinson, Amy Spilman, Gail Towne, Randy Velzen, Donald Wheaton, and Hon. Tina Yost Johnson.

The following council members were absent: Liisa Speaker

Ex-Officio, former council members, liaisons, non-council member committee chairs, and lobbyists present: Anne Argiroff, Scott Bassett, Elizabeth Bransdorfer, Ed Gold, Stephanie Johnson, Mathew Kobliska, Joshua Pease, Steve Reinheimer, Dion Roddy, Elizabeth Sadowski, and Amy Yu.

Guests present: Jason Blevins, Jade Edwards, Erin Magley, Alicia Storm, Pamela Wall, and Stephanie Witucki.

C. Chair Report (Sahera Housey)

Sahera Housey, first addressed the issue regarding the day and time of the monthly Council meeting. She reiterated that never has holding the Council meeting on Saturday been intentional to exclude anyone and she understands and appreciates that the Saturday meeting may exclude some people who may want to participate. There is a lot of planning that goes into scheduling these meetings many months in advance and contracts are signed. In recent years the leadership of the family law council has attempted to schedule meetings on days other than Saturday. There were meetings in conjunction with the State Bar of Michigan annual meeting as well as following the Family Law Institute. These

non-Saturday meetings were schedule with the specific intent to allow more people to participate. Sahera then turned it over to Chair-elect, Christopher Harrington, to discuss next year's schedule. Chris reported that the meeting dates for the 2021 - 2022 council term have been set and the meeting dates will appear in the next Family Law Journal and he will email council members. Chris reported that having midweek council meetings makes it challenging to have the meetings in various locations across the state. He is investigating adding council updates at other Family Law Section events that take place on various days throughout the week. He is also looking at keeping Zoom as a component of future in-person meetings. Sahera continued with her chair report discussing the special election. She introduced the three candidates and each spoke briefly.

D. Recording Secretary Report/Approval of Minutes (Liisa Speaker). Liisa circulated council meeting minutes for the May 1, 2021 meeting. Kristen Robinson moved to approve the May minutes and Tina Yost-Johnson seconded. **Passed unanimously. 19-0-0.**

E. Corresponding Secretary. (Kristen Robinson). No report.

F. Treasurer's Report (Shelley Kester). Shelly Kester moved to approve both the March and April 2021 Treasurer's Reports and Tina-Yost Johnson seconded both motions. **Both motions passed unanimously. 19-0-0.**

G. Special election to fill Council vacancy. Candidates having submitted applications: Jason Blevins, Shon Cook, Joshua Pease, and Alicia Storm. Shon Cook withdrew her application the morning of this meeting. There were no nominations from the floor. After electronic vote of council members only, Joshua Pease was the highest vote recipient. He will finish this council term and may run for a new council seat in September at the annual meeting.

II. Key Committee Reports

A. Amicus – Anne Argiroff/Gail Towne. Gail reported there are no action items.

1. Gail reported that regarding *AFT Michigan vs. Project Veritas, Marisa L. Jorge*, Michigan Supreme Court Case No. 162121, on May 26, 2021, the Michigan Supreme Court issued an order declining oral argument and the request to answer the certified question as to whether or not *Sullivan v Gray* is good law (whether Michigan remains a one-party consent state for purposes of its eavesdropping statute like a clear majority of other states). This leaves the law as is for now – Michigan remains a one-party consent state.
2. Gail reported that Amicus committee received a formal request regarding *In Re Estate of Hermann A. Von Greiff*, Michigan Supreme Court No. 161535. from counsel for Anne Jones-Von Greiff's in this probate appeal applying MCL 700.2801(2)(e)(i) – defining surviving spouse -- in a divorce context.

The statute excludes anyone who is “willfully absent” from the decedent as a surviving spouse. The parties were living separately, Ms. Von Grieff claimed domestic abuse. Mr. Von Grieff died after settlement, but prior to entry of the judgment. The committee will discuss the issues at their upcoming meeting on June 16, 2021. They have also heard from the Appellant’s attorney, who would also like to present to the committee. Amicus committee will vote on a position to make a recommendation to the Family Law Council. Sandy Glazier has agreed to be the primary drafter of the brief if the committee decides to proceed.

3. Liz B. commented that she was told by a Supreme Court Justice that amicus briefs are appreciated by the Supreme Court and Liz noted that we should do our best to submit briefs when feasible.

B. Court Rules – Jenny Johnsen/Peter Kulas-Dominguez.

ADM 2020-15. Peter reported that this ADM would impose new obligations on attorneys and create a new Interim Administrator Program within the State Bar of Michigan to require an attorney in private practice to nominate another attorney or law firm to serve as interim administrator if the nominating attorney becomes unable to practice. The Bar would confirm the nomination with the identified attorney, and that attorney would acknowledge agreement. Alternatively, an attorney could pay an annual fee (unspecified in the Bar’s proposal) to ensure that in the event of death or disability, the Bar would appoint an attorney to serve as interim administrator. The interim administrator would be eligible for compensation from the attorney’s law practice or estate; those who participate in the SBM Interim Administrator Program could be reimbursed through that program as a secondary source of compensation.

Peter moved to oppose this ADM File due to the numerous questions and concerns that the proposal raises. Michelle seconded the motion. **The motion unanimously passed 20-0-0.**

C. Legislation – Jim Chryssikos/Randy Velzen.

- **SB 387 and HB 4709** require that a married person petitioning to adopt a child must include their spouse as co-petitioner and also provide that two unmarried individuals may petition for adoption. The Family Law Section voted to oppose the same or similar legislation previously, citing that it no longer appeared necessary for two unmarried people to adopt post *Obergefell*. Other concerns regarding the lack of requirements for two unmarried people to adopt could create chaotic scenarios in the realm of family law. The Legislative Committee recommends and Jim Chryssikos moved that the Section oppose these bills. Second by Don Wheaton. **Motion passed 16-4-0.**
- **HB 4182** would add abuse of a step-sibling as a basis for parental termination. The

Children's Law Section has reviewed this bill already and decided to oppose it. Josh Pease explained the Children's Law Section's position was not in opposition to including abuse of a step-sibling as a basis for parental termination, but rather the placement provision in Section 14(a), which provides too much discretion to CPS workers (often overworked and untrained) in foster care placement decisions and separating step-siblings. A suggestion was made to replace 14(a) with the following: *"Siblings removed from their home, who are entering foster care at or near the same time, must be placed in the same foster care, kinship guardianship, or adoptive placement, unless the court determines that 1 or more of the following apply:"*. This would provide more discretion to the court as opposed to CPS workers. The Legislative Committee recommends and Jim Chryssikos moved that the Section support HB 4182 with the proposed amendment, and to further clarify that the Section would oppose the bill without the amendment. Second by Randy Velzen. **Motion passed 20-0-0.**

- **HB 4640** would modify the definition of "neglect" to include "threat of harm". It was noted that "threat of harm" is already included in the definition of abuse under the Act, as is mental abuse. The discussion focused on this being a very slippery slope when discussing "threat of harm." Some of the same concerns about CPS workers were repeated from earlier committee discussions. The point was made that the term "threat of harm" is very vague and potentially far reaching as parents may in jest make threats of harm i.e., "I brought you into this world, and I can take you out" or, "I made you once, if I have to, I can make you again." There was concern that this could lead to many cases that should not be included "in the system." The Legislative Committee recommends and Randy Velzen moved that the Section oppose the bill. Second by Don Wheaton. **Motion unanimously passed. 20-0-0.**
- **Uniform Premarital and Marital Agreements Acts subcommittee.** Randy Velzen reported that he is chairing this subcommittee to review the various uniform acts and bills related to these acts. The subcommittee will continue to meet over the summer with the intention of having something for council to review in the fall.
- **Shared parenting subcommittee.** No Report.
- **Surrogacy Subcommittee.** Stephanie Johnson reported that the package of bills is moving along and are close to being introduced in both the House and the Senate.
- **Post-Minority Support Subcommittee.** No Report.
- **Rep. LaGrand Central Registry Draft Bill** – Jim Chryssikos reported that council appointed Josh Pease and Viola King to serve on a work group organized by the bill sponsor; however, there is now no work group, but Josh and Viola have

reviewed the draft bill, and provided their input to the Legislative Committee. Josh and Viola reviewed their analysis with the Committee, and mostly concluded that the bill was making positive changes. However, some further revisions are recommended, including issues such as changing jurisdiction of such matters from administrative law court to family/circuit court where a judge can consider the equities of the situation and exercise some discretion. It was determined that Josh, Viola, and Tina Yost-Johnson will meet again and finalize their proposed feedback to the representative. In the meantime, Stephanie will report back to the Representative about council's/subcommittee's status and provide some indication of the committee's areas of concern.

III. Standing Committee Reports

- A. Adoption** – Dion Roddy. Written report submitted with agenda packet. Next Adoption committee meeting will be in-person in Lansing on Friday, July 16, 2021. Contact Dion for more information.
- B. ADR/Collaborative** – Randy Pitler. No report.
- C. Annual Meeting** – Chris Harrington reported that we are keeping date of September 18, 2021; however, the annual meeting may now be an in-person meeting. Chris would like to investigate also including a Zoom interface for the annual meeting as well as other monthly meetings. The dinner will still in-person on September 17, but inviting only current council members and council members who finished their term last year. Both the dinner and meeting will be held at the Crown Plaza in Lansing.
- D. CLE/ICLE** – Shon Cook/Liz Bransdorfer/Steve Reinheimer. Liz reported that ICLE is working on the brochure for the November Family Law Institute. ICLE will be offering an in-person in Novi, as well as recorded versions of the seminar.
- E. Dedicated Family Court** – Tina Yost-Johnson/Liz Bransdorfer. Tina Yost Johnson reported that the committee is looking into the feasibility of allowing the section/counsel to rate or rank family law judicial candidates or otherwise qualify candidates. The committee is gearing up with a position to address the upcoming 50-50 parenting time bill stating that supporting a dedicated family bench is a better option to resolve some of the issues complained about by the supporters of the 50-50 parenting time bill. Further the committee is considering making an effort to let sitting judges know that they would be grandfathered into the existing system and the dedicated family seats would be prospective which may help stop some of the backlash from judges who do not support a dedicated family bench. The committee was considering putting out a survey to determine whether there is support from family division judges for the concept of a dedicated family bench. Discussion during the meeting seemed to trend towards not submitting a survey as it most likely will not be helpful. The committee spent

a substantial amount of time discussing the new subcommittee that was created to establish a nominating committee to recruit and recommend members to the judicial qualifications committee to the incoming president of the state bar. The committee shall be composed of not less than three members, one of which shall also be a member of the Children's Law Section the goal of the committee is to get qualified members interested and appointed to influential committees. Michelle Letourneau reported that the new subcommittee entitled "Nominations and Qualifications Committee" will reach out to the private bar in an effort to get those lawyers to advocate for a dedicated family bench in addition to the other goals of the committee.

- F. Domestic Violence** – Randy Pitler. Randy reported that the committee together with the Public Relations Committee has a webinar scheduled for June 11, 2021 at noon to educate attorneys on recognizing domestic violence. Additionally, SCAO has released the new Domestic Violence Screening Protocol for mediations.
- G. Family Court Forum** – Sahera Housey. No report.
- H. Family Law Journal** – Anthea Papista/Amy Spilman. No report.
- I. Family Law Journal Advertising** – Sean Blume. Sean reported that the advertising revenue is up from last year.
- J. Member Education and Public Relations** – Shelley Kester/Liisa Speaker. No report just a note that the chairs are working on getting this committee up and running.
- K. Membership** – Steve Reinheimer/Steve Heisler. No report.
- L. Midwinter/Midsummer** – Kristen Robinson/Liz Bransdorfer/Steve Reinheimer. Liz Bransdorfer reported that the midsummer registration is available but spots are going fast. There are currently 44 registrants with 4 rooms left. The conference is July 29 - August 1, 2021. Kristen Robinson reported that there are additional challenges revealed in scheduling Mid-Winter for 2022. She is still working on it and will provide updates as soon as available.
- M. Political Action Committee** – Matt Catchick. Matt reported a big thanks to attorney Alicia Storm for her recent contribution to the PAC.
- N. QDRO/Taxation** - Jenny Johnsen. No report.
- O. Listserv/Website** - Elizabeth Sadowski/Steve Heisler. Steve reported on website updates. Please respond to Steve's request to Committee Chairs.

IV. Ad Hoc Committees/ Liaison

- A. SCAO Child Support** – Kent Weichmann/Carlo Martina. No report.
- B. SCAO Forms** – Amy Yu/Gail Towne. No report.
- C. Children’s Law Section** - Josh Pease. Josh reported that the Children’s Law Section also voted to oppose HB 4182.
- D. LGBTQA Section** – Don Wheaton. The Section is joining with five other sections for a joint meeting and the section presented to the Michigan Judges Association.
- E. Probate and Estate Planning Section** - Anthea Papista. This section created a subcommittee to address the uniform premarital and marital acts.
- F. State Bar Board of Commissioners** - Kristina Bilowus. No report; however, the Family Law Section Bylaw changes were approved.
- G. Young Lawyers.** Kristina Bilowus. No report.

V. Announcements/New Business.

- There were numerous kudos from meeting attendees to Chair, Sahera Housey for her outstanding leadership during an unprecedented year where she was unable to hold any in-person meetings and had to navigate all Section business via Zoom. All meeting participants gave her a virtual round of applause.

VI. Adjournment.

Motion to adjourn by Joe Hohler, and Tina Yost Johnson seconded. Motion approved unanimously **20-0-0**. The meeting concluded at 11:42 a.m.

Respectfully submitted,

Kristen Robinson on behalf of
Liisa Speaker,
Recording Secretary.