

STATE BAR OF MICHIGAN
FAMILY LAW COUNCIL

MINUTES

Date: 6 November 2021
Location: Courtyard By Marriott, (Downtown) Lansing, Michigan
Time: 9:30 a.m.

I. Administrative Matters

- A. Chair Chris Harrington called the meeting to Order at 9:31 a.m. A Quorum was present, with 15 Council Members in attendance.
- B. Introductions of Attendees:
 - 1. Council Members Present: Shelley Kester (Chair-Elect), Liisa Speaker (Corresponding Secretary), Kristen Robinson (Treasurer), Don Wheaton (Recording Secretary), Matt Catchick, Alicia Storm, Randy Pitler, Jenny Johnsen Sarber, Steve Heisler, Josh Pease, Amy Spilman, Sean Blume, Gail Towne, Jim Chryssikos, and The Hon. Tina Yost-Johnson.
 - 2. Council Members Absent: Peter Kulas-Dominguez, Kristen Wolfram, Randy Velzen, Steve Reinheimer, and Viola King.
 - 3. Ex-Officio, Former Council Members, Liaison, Non-Council Member Committee Chairs, and Lobbyists present: Stephanie Johnson (Lobbyist), and Liz Bransdorfer and Liz Sadowski (former Chairs).
 - 4. Guests: Amanda Shelton, Theresa Wozniak-Jenkins, Julie Griffiths, Cara Willing, Laura Garneau, and Keela Johnson.
- C. Chair Report – Chris Harrington
 - 1. Council Vacancy (resignation of Anthea Papista): three candidates submitted resumes – Amanda Shelton, Keela Johnson, and Angela Medley. Amanda and Keela spoke on behalf of their candidacies, and Sean Blume spoke on behalf of Angela Medley (who could not be present). The votes were collected and counted by Liz Bransdorfer and Kristen Robinson, and Keela Johnson was elected, making 16 Council Members present.
 - 2. Josh Pease has graciously volunteered to be the Parliamentarian and totes the Roberts' Rules book in case of disbelief.
 - 3. Chris announced that he had been approached by several people regarding the subject and he will be creating an *ad hoc* GAL/LGAL Committee.
 - 4. Chris announced that a special edition of the State Bar Journal in 2023 will be featuring Family Law. While 2023 sounds like it's a long way off, we need to brainstorm and submit authors and articles on "hot" topics/issues.
 - 5. Stephanie Johnson's lobbyist firm has requested a two-year extension on their contract. Stephanie provides invaluable strategic assistance, and Marcie assists with facilitating our monthly meetings and much more. **Motion:** Tina Yost-Johnson moved to approve the contract extension, at no additional cost/increase for the monthly rate. Josh Pease seconded. **Vote: 16-0-0.**

6. Chris is still considering giving access to Council meetings virtually to the rest of the section membership/members otherwise unable to be present, and asked if anyone had an “owl” or “365” camera available to test the viability of the idea.
- D. Recording Secretary Report: The Minutes from the 9 October 2021 Council Meeting had been circulated with the Agenda/Packet. **Motion:** Don Wheaton moved their approval and Shelley Kester seconded. **Vote: 14-0-2 (Keela Johnson, Steve Heisler)**
 - E. Corresponding Secretary Report: Liisa sent a thank you note and gift to Ross Stancati for his longtime service as Parliamentarian.
 - F. Treasurer’s Report: The reports from the State Bar for the 2020-2021 year were circulated with the Agenda and meeting materials. **Motion:** Kristen Robinson moved for approval of the reports, and Sean Blume seconded. **Vote: 15-0-1 (Keela Johnson)**

II. Key Committee Reports

- A. *Legislative:* Jim Chryssikos presented for the committee. The Committee had its usual vigorous discussion, including:
 1. HB 5459 and 5460 (presumption of equal or approximately equal parenting time, rebuttable only by clear and convincing evidence, and family court judge must prepare findings in writing, among other highlights) were discussed. Concerns: parent-focused, not child-focused; requiring written findings can cause delays, when time is of the essence; presumptions have no place in these matters; etc. **Motion:** Jim Chryssikos moved for the Section to oppose the bills, and Don Wheaton seconded. **Vote: 15-0-0** (Matt Catchick had left the room momentarily.)
 2. HB 5464 (require cooperation with child support enforcement program to qualify for food assistance) was discussed. Concerns included vagueness and lack of exceptions. **Motion:** Jim Chryssikos moved for the Section to oppose this bill, and Tina Yost-Johnson seconded. **Vote: 16-0-0**
 3. HB 5340 (creation of a family treatment court) was discussed. The Committee felt this was a good idea but it was fatally flawed, including the waiver of the right to be represented by an attorney as part of the admission into the treatment court, and disqualifications for convictions for violent crime (no matter when the conviction occurred), and no judicial discretion permitted. **Motion:** Jim Chryssikos moved for the Section to oppose this bill but stating the reasons for the opposition, and Kristen Robinson seconded. **Vote: 16-0-0.**
- B. *Ad hoc* Shared Parenting Time Committee: Shelley Kester, chair, reported. The 2018 Section-endorsed “skinny bill” was revised with respect to eliminating considerations of gender and to emphasize child-focused parenting time schedules and the prohibition of using a “standard schedule” for parenting time that was not in compliance with the SCAO Parenting Time Guidelines. **Motion:** Shelley Kester moved for the Section to support introduction and passage of the proposed bill, and Don Wheaton supported. Tina Yost-Johnson offered a friendly amendment for the committee to add major points to the bill, and Shelley initially accepted the friendly amendment for discussion purposes. Much discussion ensued, after which Shelley withdrew agreement for the comprehensive Yost-Johnson friendly amendment. Jim Chryssikos then offered a friendly amendment to insert

language into the alternate bill, and Kristen Robinson seconded. Shelley refused to accept the friendly amendment. Tina Yost-Johnson offered a different insertion to the skinny bill as a whole new subsection 1 of MCL 722.24, and Shelley accepted that friendly amendment. Tina also offered, but Shelley did not accept, another friendly amendment. **Vote on the Motion with the one accepted Friendly Amendment: 16-0-0.**

The bill, as supported by Council, therefore reads as follows:

722.24 Child custody disputes; powers of court; appointment of lawyer-guardian ad litem.

Sec. 4.

(1) Any cases filed under this section or chapter must be assigned to the family division of the Circuit Court. Cases must be assigned by family and not by Judge or hearing officer. If there was a prior or current case or proceeding involving the same family, the new case must be assigned to the same family law judge and referee team.

(2) ~~(1)~~ In all actions involving dispute of a minor child's custody, the court ~~shall~~ **must** declare the child's inherent rights and establish the rights and duties as to the child's custody, support, and parenting time in accordance with this act.

(3) In making temporary or permanent decisions regarding custody and parenting time, the gender of a parent or of a child must not be a consideration.

(4) ~~(2)~~ In making temporary or permanent decisions regarding custody or parenting time, the court must not use a pattern or standard parenting time schedule unless it is consistent with the Michigan Parenting Time Guideline adopted by the State Court Administrator's Office. Parenting time arrangements must be child focused. A court may consider the Michigan Parenting Time Guideline adopted by the Michigan State Court Administrative Office in fashioning parenting time.

(5) ~~(3)~~ If, at any time in the proceeding, the court determines that the child's best interests are inadequately represented, the court may appoint a lawyer-guardian ad litem to represent the child. A lawyer-guardian ad litem represents the child and has powers and duties in relation to that representation as set forth in section 17d of chapter XIA of 1939 PA 288, MCL 712A.17d. All provisions of section 17d of chapter XIA of 1939 PA 288, MCL 712A.17d, apply to a lawyer-guardian ad litem appointed under this act.

(6) ~~(4)~~ In a proceeding in which a lawyer-guardian ad litem represents a child, ~~he or she~~ **they** may file a written report and recommendation. The court may read the report and recommendation. The court ~~shall~~ **must** not, however, admit the report and recommendation into evidence unless all parties stipulate the admission. The parties may make use of the report and recommendation for purposes of a settlement conference.

(7) ~~(5)~~ After a determination of ability to pay, the court may assess all or part of the costs and reasonable fees of the lawyer-guardian ad litem against 1 or more of the parties involved in the proceedings or against the money allocated from marriage license fees for family counseling services under section 3 of 1887 PA 128, MCL 551.103. A lawyer-guardian ad litem appointed under this section ~~shall~~ **must** not be paid a fee unless the court first receives and approves the fee.

History: 1970, Act 91, Eff. Apr. 1, 1971 ;-- Am. 1996, Act 19, Eff. June 1, 1996 ;--Am. 1998, Act 482, Eff. Mar. 1, 1999

- C. *Amicus: In Re Versalle* was filed this morning. Oral argument is scheduled for 12:30 pm on 11/9. Oral argument of *Foster* is scheduled for 9:30 am on 11/9. *Von Grieff* should be filed next week. Oral argument is scheduled in December.
- D. *Court Rules*: No report.
- E. *Dedicated Family Law*: Tina Yost-Johnson had circulated the proposal for revisions to the Revised Judicature Act of 1961 that the committee developed and endorse for introduction to the Legislature. **Motion**: Tina Yost-Johnson moved that the Section support presenting this bill to the Legislature through Stephanie Johnson identifying a sponsor, and Josh Pease seconded. **Vote: 15-0-0** (Matt Catchick had to leave.)

III. Standing Committee Reports

- A. *Adoption*: No oral report. A written report was circulated with the Agenda and packet.
- B. *ADR/Collaborative*: No report.
- C. *Annual Meeting*: No report.
- D. *CLE/ICLE*: Family Law Institute (FLI) is in two weeks.
- E. *Domestic Violence*: No oral report. A written report was circulated with the Agenda and packet.
- F. *Family Court Forum*: Sahera is requesting assistance to get this rebooted, and right now is a casualty of COVID-19 as there is no real organized effort to reboot.
- G. *Family Law Journal*: No report. Get Amy articles.
- H. *Family Law Journal Advertising*: Sean reports he does very little work and people contact him for advertisements.
- I. *Family Support*: No report.
- J. *Member Education and Public Relations*: Its meeting is Friday 19 November 2021 at noon (right after the FLI), and a written item was circulated with the Agenda and packet.
- K. *Membership*: Alicia reported that the \$500 authorization has been spent, and we will have Bic highlighters at our table at the FLI. We received two free registrations for our members, and those were sent to Lisa Gehrin at Legal Aid for them to use as scholarships.
- L. *Midwinter/Midsummer*: Kristen reported that for Midwinter, the airfare is full but there are two rooms still available. Speakers are lined up, and there are two sponsors. Midsummer: Liz reports that Mission Point is unavailable, and Shon is unable to assist this coming year. As a

result, Liz is exploring other properties (e.g., Crystal Mountain, Boyne, etc.) and Liz is looking for someone to “herd the cats” (speakers) -- finding speakers is relatively easy, but getting materials submitted on time? Tough.

- M. *Political Action Committee*: Matt Catchick earlier reported that some of the MSU fans on the Council had donated, and Matt donned a Spartan tee shirt as a result while averring, “It burns.”

- N. *QDRO/Taxation*: No report.

- O. *Technology/Social Media*: Our current Listserv host is giving us a grace period (with no deadline at the moment), and the provider that it had recommended has gone AWOL/ghosting Steve. Steve is looking at a less-expensive alternate provider with our own server (unlimited lists, as opposed to paying for each list) and is pursuing it with vigor, and he hopes that creating a list for the entire section will allow us to avoid e-blasts and their costs. **Motion:** Steve Heisler moved to work with the new provider and have our own server, and to charge other groups (e.g., Children’s Law) \$25 monthly toward costs. **Vote: 15-0-0.**

IV. Ad Hoc Committees

- A. SCAO Child Support: No report
- B. SCAO Forms: No report

V. Liaison Reports

- A. Children’s Law Section: Josh Pease is our new liaison.
- B. Committee on Civil Procedure and Courts: No report.
- C. LGBTQA Section: No report.
- D. Probate and Estate Planning Section: No report.
- E. State Bar Board of Commissioners: No report.

VI. New Business

- A. Discussion of a Judicial Qualifications Committee and attempts to “get a seat at the table” with the Governor.

VII. Announcements

Chris Harrington reminded that the 4 December 2021 Council Meeting will at Weber’s Inn, and the Memorial Luncheon for Bob Treat will immediately follow. There will be an open mic to give tribute to Bob, and some of his family members will be there.

VIII. Adjournment

Shelley Kester moved to adjourn, Sean Blume seconded, and the meeting was adjourned at 11:57 a.m.