

**STATE BAR OF MICHIGAN
FAMILY LAW COUNCIL**

MINUTES

Date: January 18, 2020
Location: Doubletree Hotel, 4747 28th Street, SE, Grand Rapids
Time: Breakfast 9:00 a.m.; Meeting 9:30 a.m.

I. Administrative matters

A. Call to Order/ No Quorum

The council was called to order by Chair, Elizabeth Bransdorfer.

B. Introduction and Attendees

The following (9) council members were present: James Chryssikos, Shon Cook, Christopher Harrington, Jennifer Johnson, Shelley Kester, Randall Pitler, Kristen Robinson, Randy Velzen, Donald Wheaton.

Chairperson Elizabeth Bransdorfer was present.

Council members absent: Sean Blume, Matt Catchick, Joe Hohler, III, Sahera Housey, Mathew Kobliska, Michelle Letourneau-McAvoy, Anthea Papista, Steven Reinheimer, Liisa Speaker, Amy Spilman, Vanessa Moss Wilson, Hon. Tina Yost Johnson.

Ex-Officio and former council members: none

Guests present: Hon. Jon Van Allsburg, Jessica Larson, Kristen Wolfram, Melissa Kelleigh, Alicia Storm.

C. Chair Report: Liz Bransdorfer. No Report

D. Recording Secretary Report. December 7, 2019 minutes were circulated and will be voted on at the March meeting.

E. Treasurer's Report. No Report

II. Key Committee Reports

A. Legislative - James Chryssikos/Randy Velzen, Co-Chairs

1. HB 5296 – Jim reported that this bill provides that “a complaint for divorce shall not be made available to the public until the defendant has been served or received notice of the complaint”. The Committee had numerous questions regarding the wording and the interpretation of that wording in the bill. First the Committee considered the meaning of “received notice of the complaint” and discussed the effect of the proof of service being filed or specific number of days. Also, does “made available to the public” mean the case is visible on the court

website, but only the documents cannot be accessed? If so, the Committee didn't think this would accomplish the objective of the bill. The Committee liked the approach that the information is not available to public for period of time after filing, but that language needs to be fleshed out. The Legislative Committee voted that Council should support this bill if amended to read that, "any complaint filed in a domestic relations matter shall not be made available to the public until an affidavit of service is filed with court" and that the term "made available" be defined as "including being made available on a public website." As there was no quorum, no action was taken; however, there was a discussion by those present at the Council meeting regarding whether this bill is intended to be an "anti-trolling" bill. There was concern among those present that the inability of an attorney to see when a case has been filed could be detrimental on several levels: both parties filing and incurring the cost when the case has already been filed; whether a divorce is filed may be relevant to other actions (PPOs, abuse and neglect proceedings, CPS investigations, DV actions, etc.). There was talk of the solicitation letters that are sent to defendant's on the east side of the state and whether this bill prevents that practice. Jim stated he would follow the course of this bill and let counsel know if action will be needed prior to our next meeting in March.

2. Draft Bill #1 – This draft bill was provided by the Friend of the Court Association and attempts to fix the problem created in *Weaver v Giffels*, by eliminating language that the child must live full time with the recipient of support. It also further defines "attending high school on a full time basis" to include "postsecondary enrollment in or engagement in an internship or work experience, including necessary travel time. Attending high school on a full time basis includes enrollment in a virtual course". The Legislative committee discussed whether "full time basis attending high school" should be deleted as well. But that could also result in a child taking their time to graduate. The committee addressed the *Weaver v Giffels* issue and the committee voted to accept deletion of "residing with a parent on a full-time basis" was approved. They had extensive discussion about subparagraph (a) and what the objective of the paragraph was and what in fact constitutes "post-secondary education". The Legislative Committee determined that the purpose of the paragraph was to not cut off support for students still enrolled in high school while earning college credits or other post-secondary training pre-graduation. The committee voted to amend (a) to read "Attending high school on a full-time basis includes a child's time, prior to high school graduation, . . .". Lastly, there was discussion about whether to use this as an opportunity to extend the definition of "high school" and to add "or equivalent" following "high school" on line 5, line 7 and line 12 in subparagraph (a) of the draft bill. As there was no quorum, no action was taken.

3. Draft Bill #2 – The committee discussed the draft bill that would amend ROPA to eliminate the requirement that an alleged father was not aware that the mother was married at the time of conception. After lengthy discussion, the Committee voted to oppose the draft bill in favor of the idea that that marriage still means something and not kick the door wide open to paternity challenges. As there was no quorum, no action was taken.

4. The next Legislative Committee meeting is Thursday, March 5, 2020 at 4:30 p.m. The call-in number is 877-352-9775. Conference code is 1484302637#

B. Amicus. Anne Argiroff/Gail Towne, Co-chairs. No Report

C. Court Rules & Ethics. Jennifer Johnsen and Peter Kulas-Dominguez, Co-Chairs

Jenny Johnsen reported that the committee reviewed the following ADM files:

ADM File No. 2002-37. This is an amendment to rules 1.109, 2.002, 2.302, 2.306, 2.315, 2.603, 3.222, 3.618, 4.201 and 8.119 to continue the process of designing and implementing the statewide electronic-filing system. This was issued on December 18, 2019 and the comment period expires on April 1, 2020. The consensus of the Committee was that this ADM File was quite the kitchen sink of files. One question posed was whether an attorney exempted from e-filing due to disability had to make the request on every case or if there was a mechanism whereby the attorney could more broadly be exempted from the system. The “mandatory” part of e-filing is troublesome to many. The SBM Access to Justice Committee is looking at these amendments as well.

Since mandatory e-filing is likely to come whether we like it or not and most of the court rules amended did not specifically pertain to family law, the thought was to develop parameters that are important to our group to see as part of the system. Some suggestions were:

- a. Consistency from court to court.
- b. Should be more broad exemptions and easy for people to follow.
- c. If an attorney requests an exemption from the system due to disability, a mechanism to make that exemption long-term and not just on a case-by-case basis.
- d. Conscientious of in pro per, indigent, DV litigants (access to justice concerns).
- e. Making sure time-sensitive materials are properly served.

The Committee does not have any recommendations to make to Council at this time. Mat is going to check with Carrie Sharlow on a deadline for our position to be submitted to the SBM, and the Committee will work on a targeted list of important objectives. This may result in the need for an e-vote, depending on how things fall, but Peter and Jenny will coordinate getting parameter ideas from the Committee and taking any action that needs to be taken between now and April 1, 2020.

ADM File 2018-19. This is an amendment to rule 3.229 that requires the filer to identify nonpublic documents when they are submitted to the clerk and stipulates that the filer waives any claim of confidentiality where such documents are filed without a designation of confidentiality. This was issued on December 27, 2019 and there is no comment period for this ADM File, as it became effective December 27, 2019. The Committee felt that, while this has already been enacted, it was not necessarily a waste of time to voice our concerns to the SBM and SC. This amendment was in response to a concern that the clerk’s office was going to have to scrutinize every document filed and make a determination on confidentiality. The discussion centered around subpart (B) and the following language: **“The filer waives any claim of confidentiality to any item filed under subrule (A) that is not identified by the filer as confidential.”** The language seemed punitive and extreme. The intent of the language was not to impose a consequence, but rather take the onus off the clerk’s office for determining the confidentiality designation. The committee voted unanimously to suggest replacing the above bolded language with “The court assumes no responsibility in determining the confidentiality of any document not properly designated by the filing party.” However, as there was no quorum, no Council action was taken.

Regarding e-filing issues, Judge Van Allsberg addressed a concern re: titles of e-filed documents as related to Proofs of Service. He prefers that lawyers file separate actual POS so judges can see dates and who was served.

III. AD HOC COMMITTEE REPORTS

A. Twenty Year Review – Hon. Tina Yost Johnson/Liz Bransdorfer, Co-chairs

Report by Liz Bransdorfer. Update on council member assignments to find out which judges have been sitting on the family bench in order to get judges their banners. Also, Liz is following up on the Council member assignments on find the Family Court Plans for each county/circuit.

Liz discussed training for new judges in both areas of Domestic Violence and Family Law. Judge Van Allsberg confirmed that MJA is also looking at new trainings for new judges.

Justice Clement spoke with Judge Tina Yost Johnson regarding implementing a task force vs. advisory team. The 20 Year Review Committee would like to have a seat on a task force. Liz described the difference between a “task force” and an “advisory committee”. Those present at the meeting engaged in a long discussion regarding the heart of the matter and what exactly the task force or advisory committee should be charged with . . . Supreme court wants to hear back from FLC in two ½ weeks.

B. SCAO Parenting Time Guidelines – Shelley Kester, Chair. No Report

C. SCAO Forms – Amy Yu/Gail Towne, Co-Chairs. No Report

D. SCAO Child Support – Kent Weichmann/Carlo Martina. No Report

IV. Standing Committee Reports

A. ADR/Collaborative – Randy Pitler, Chair

1. FOC/ADR Program. Sahera Housey/Michelle Letourneau-McAvoy, Co-chairs

Randy P. discussed Southeast Michigan FOC ADR date.

Rebecca Schemke and Randy P. discussed DV screening and how to implement it in new ADR rules

Jenny Johnsen is setting up Westside FOC ADR date.

B. Family Court Forum. No Report

C. Membership – Steve Reinheimer, Chair

Liz Bransdorfer reported that the Membership Committee is trying to get FOC/ADR attendees who are not FLS members to join the section due to cost to attend FOC/ADR meetings.

D. Midwinter/Midsummer. Kristen Robinson/Liz Bransdorfer, Chairs

Midwinter – Kristen Robinson reported that attendees are leaving a week from today: January 25 – February 2, 2020 in Jamaica.

Midsummer – Liz Bransdorfer reported the conference will be held July 30 – Aug 2, 2020 at Mission Point resort on Mackinac Island. Rooms are available now so section members can call the resort and reserve rooms. Shon Cook reported on speakers lined up.

E. Annual Meeting - Sahera Housey, Chair. No Report

F. CLE/ICLE – Shon Cook, Chair

Planning meeting for FLI coming up in February. Send topic ideas to Liz Bransdorfer or Shon Cook.

G. Technology/Social Media- Liz Sadowski/Peter Kulas-Dominguez, Co-chairs. No Report

H. Domestic Violence – Rebecca Shiemke, Chair

Kristen Wolfram participated in the Committee conference call and reported on the plan to institute new training at various venues. More to come regarding the training issue.

I. Adoption- Dion Roddy, Chair. No Report

J. Family Law Journal. Anthea Papista/Amy Spilman, Co-chairs

Shelley Kester reported that Anthy Papista needs counsel members for case summaries.

K. Family Law Journal Advertising. Sean Blume, Chair

ICLE paid their annual ad revenue and protentional new advertisers continue to inquire and submit ads.

L. Family Support – Kent Weichmann/Carlo Martina. No Report

Post majority support sub-committee report was submitted by Kent Weichman for review by council.

M. Political Action Committee – Matt Catchick, Chair. No Report

N. QDRO/Taxation – Bob Treat, Chair

Jenny Johnsen reported that UPS pension will be insolvent by 2025 and the Pension Benefit Guarantee Corporation will also be insolvent by 2025.

O. Alternative Family – Peter Kulas-Dominquez, Chair. No Report

V. LIAISON REPORTS

- A. Children's Law Section (Chris Piatkowski) – No Report
- B. Committee on Civil Procedure & Courts (liaison requested) – No Report
- C. Law Student Section (inactive per State Bar)
- D. LGBTQ Committee. Peter Kulas-Dominquez – No Report
- E. Probate and Estate Planning Section (Patricia Ouelette) – No Report
- F. State Bar Board of Commissioners (Judge Shauna Dunnings) – No Report

VI. NEW BUSINESS - none

VII. ANNOUNCEMENTS - none

VIII. ADJOURNMENT

Motion by Don Wheaton to adjourn. 2nd by Chris Harrington. Motion approved unanimously. The meeting adjourned at 10:55 a.m.

Respectfully Submitted – Kristen Robinson, Recording Secretary