

STATE BAR OF MICHIGAN
FAMILY LAW COUNCIL

MINUTES

Date: 5 March 2022
Location: Amway Grand Plaza Hotel, Grand Rapids, 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, starting with 17 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), Steve Reinheimer, Gail Towne, Josh Pease, Jim Chryssikos, Keela Johnson, Randy Pitler, Alicia Storm, Amy Spilman, The Hon. Tina Yost-Johnson, Steve Heisler, Jenny Johnsen Sarber, Kristen Wolfram, and Randy Velzen [left early].
 - 2. Council Members Absent: Peter Kulas-Dominguez, Matt Catchick, Amanda Shelton, and Sean Blume.
 - 3. Council Members Excused: none
 - 4. Ex-Officio, Former Council Members, Liaisons, Non-Council Member Committee Chairs, and Lobbyists present: Liz Bransdorfer (former Chair) and Liz Sadowski (former Chair, listserv Mom).
 - 5. Guests: The Hon. Jon VanAllsburg (Judge – Ottawa County), Craig Feringa (Referee – Wayne County), Cara Willing, and Julie Griffiths.
- C. Chair Report – Chris Harrington
 - 1. Bar Leadership Forum will be happening this year on Mackinac Island, and we are able to send one person for certain, perhaps two, and that those individuals are to be determined.
 - 2. Women’s Lawyer’s Association of Michigan solicited the Section for a contribution for their annual meeting in June. Chris tasked the member education and public relations committee with coming up with criteria to determine when it’s appropriate for our Section to support other groups through contributions.
 - 3. The MJI is looking for a new Director and this could be a valuable job opportunity.
 - 4. The Family Law Section will have a featured/special edition in February 2023 and we need to get topics and articles and authors secured soon.
- D. Recording Secretary Report: The Minutes from the 15 January 2022 Meeting had been circulated. **Motion:** Don Wheaton moved their approval and Kristen Robinson seconded. **Vote: 17-0.**
- E. Corresponding Secretary Report: No report.

- F. Treasurer's Report: Kristen Robinson received from the State Bar the corrected first three months (Oct-Dec 2021) trial balance, and moved the approval of the reports. Liisa Speaker seconded. **Vote: 17-0.** Also, reimbursement requests must be submitted within 45 days of their occurrence.

II. Key Committee Reports

- A. *Legislative*: Several bills came before the Committee and it had recommendations.
1. HB 5860 and 5861 (introduced 3/2/22) – Bills seeking to make fathers responsible for children born out of wedlock, particularly when Medicaid is involved. Each requires the father to be responsible for not less than 50% of pregnancy expenses and a child's health insurance until the child is no longer a dependent or age 26, whichever is earlier. The intent is to get money back to the State for money the State is paying to hospitals. There are concerns with uninvolved fathers, too. The argument was made that states can charge fathers for these costs, but based on their ability to pay, whereas mandating fathers to pay an amount beyond that which they can afford then affects their ability to pay and the State's ability to collect child support. That, and MCL 722.712 already provides for this, as does MCL 552.452(1). As to pregnancy expenses, the child support formula doesn't address this, but it's part of normal processing of IV-D case and that issue has already been addressed through the existing statutes. The Bills don't factor in same-sex marriages/couples, either, as it references only "biological fathers". A motion was made to oppose both bills. Randy V. moved and Jim seconded that the Section oppose HBs 5860 and 5861. **Vote: 16-0.**
 2. SB 856, 857, and 858 (introduced 2/8/22). SB 856 is a bill creating the "extreme risk protection order act." It provides for the issuance of restraining orders prohibiting certain individuals from possessing or purchasing firearms and ordering the surrender and seizure of a restrained individual's firearms; provides for the powers and duties of certain state and local governmental officers and entities; prescribes penalties; and provides remedies. SB 857 prohibits an individual from purchasing firearms if the individual has an extreme risk personal protection order. SB 858 enacts sentencing guidelines for making a false statement in support of an extreme risk protection order. The discussion focused largely on due process concerns and the potential for abuse, and that burden of proof is too low. A better solution may be to address these concerns in the existing PPO statute or the mental health code. Police officers have objected because they don't want the liability nor do they have the storage for these firearms. Argument in favor was that taking action *after* an extreme risk person acts is too late, and this expands the class of persons who can petition the court, which could avoid tragedy. Randy V. moved and Jim seconded that Council OPPOSE SBs 856, 857 and 858. **Vote: 15-1.**
 3. HB 5758 and 5759 (introduced 2/16/22). These eliminate the sunset provisions from the probate code for electronic execution of certain documents, including for minor guardianships. They expand and modify the abilities of notaries public to notarize virtually/electronically. Jim moved and Randy V. seconded that Council SUPPORT HBs 5758 and 5759. **Vote: 16-0.**
 4. Randy V. detailed the work of the Pre-Nup/Post-Nup Committee and its endorsement of the Uniform Premarital and Marital Agreements Act with minimal and relatively minor revisions requested to accommodate nuances of existing Michigan law. Randy V. moved and Jim seconded that the work of this ad hoc subcommittee be presented for

legislative drafting and that Council direct Stephanie Johnson to identify a sponsor for it.
Vote: 16-0.

B. *Amicus*: No formal report, and Gail made a few remarks.

C. *Court Rules*:

1. Jenny noted that Liz Bransdorfer reported an issue with 2.614(A)(2)(e) that says what judgments (and orders) can be enforced immediately (otherwise, must wait 21 days to enforce): it includes “support or custody of minor children and expenses” but does not specifically say “parenting time” and an opposing attorney raised that and said Liz’s client could not enforce it immediately. Because parenting time is not specifically included in MCR 2.614, does this mean it is excluded or because the term “custody” is being used interchangeably to mean “physical custody” (parenting time) as well parenting time orders may be immediately enforced? Although this is a unique situation that doesn’t regularly come up, **Jenny** moved and Randy P. seconded to recommend to the Supreme Court hat “parenting time” be added to MCR 2.614(A)(2)(e). **Vote: 16-0.**
2. Jenny also discussed the lack of consequences of failing to exchange a Verified Financial Information Form, and the timing of family law discovery.

D. *Dedicated Family Law*: Tina Yost-Johnson reported the committee had met briefly and is trying to get correspondence to and interaction with the Judicial Qualifications Committee whenever a family law bench position opens.

III. Standing Committee Reports

A. *Adoption*: Dion Roddy submitted a written report circulated with the Council packet.

B. *ADR/Collaborative*: No report.

C. *Annual Meeting*: Shelley is still working on The Inn at St. John’s.

D. *CLE/ICLE*: Liz Bransdorfer reported the Family Law Institute is scheduled for 17-18 November 2022, in-person at the Suburban Collection Showplace. Topics are to include: Form Filling Frenzy, Client Expectations, Spousal Support, ROPA, Parents Talking to Their Children About Divorce and Custody and Parenting Time, Joint Legal Custody, GALs, Deception/Alienation, Separate Property, Extracurricular Activities, Tax Tips, Software, Evidence, and more.

E. *Domestic Violence*: Rebecca Shiemke submitted a report that was circulated with the Council packet.

F. *Family Court Forum*: No report.

G. *Family Law Journal*: No report.

H. *Family Law Journal Advertising*: No report.

I. *Family Support*: No report.

- J. *Member Education and Public Relations*: The committee submitted a report that was circulated with the Council packet.
- K. *Membership*: No action items, yet Steve R. and Alicia riffed on pins, QR Codes, and more items on which the Committee is working to increase and engage members.
- L. *Midwinter/Midsummer*: Kristen R. reported and several others endorsed her remarks that the midwinter conference was a success despite several challenges and a couple harrowing travel glitches. Everyone who attended reported about the beauty of the location and how much they enjoyed the education and events. Liz B. reported that the block of rooms at Crystal Mountain for August 11-14 were now available for reservation and that soon the link will be live to register for the midsummer conference. Randy Pitler has taken over the CLE portion and will arrange the speakers.
- M. *Political Action Committee*: No report.
- N. *QDRO/Taxation*: No report.
- O. *Technology/Social Media*: Steve H. discussed the existence of some problems with and workarounds for the new ListServ, as several members (including those on Council) were having difficulties. The free listserv for the family law judges is in beta testing and has several Judges involved. A lengthier discussion about this Judges' listserv was scheduled for immediately following the conclusion of the Section meeting.

IV. Ad Hoc Committees

- A. SCAO Child Support: No report
- B. SCAO Forms: Gail reported that their next meeting is 17 March. Anyone who has a problem with a SCAO form should contact her or Amy Yu, or to send their concerns to CourtFormsInfo@courts.mi.gov.
- C. Shared Parenting: No report.
- D. GAL/LGAL: Josh reported this committee had met and began examining, updating, and suggesting some overhauls for the training for GALs/LGALs.
- E. Wayne County Clerk's Office: Chris addressed the issue of the filing status/backlog in Wayne County Circuit Court, that the Clerk's Office was making changes, including back to in-person filings, and that many backlogs were reduced but will continue to be monitored.

V. Liaison Reports

- A. Children's Law Section: No report.
- B. Committee on Civil Procedure and Courts: No report.

- C. LGBTQA Section: Don reminded that this Section filed an *amicus* brief in the *Rouch World* case, urging the broadest definition of “sex” as is possible, and that the case had been argued (even though no one could hear it remotely). This Section also sent a letter to Justice McCormack and Judge Gleicher regarding what that Section considered were Judge Boonstra’s ill-advised and intemperate remarks about using someone’s preferred pronouns in a criminal case involving a transgender defendant. That Section is also hard at work on membership outreach, will be hosting a LGBTQA Jeopardy Tournament at its 3 May 2022 meeting on Zoom, and more.
- D. Probate and Estate Planning Section: No report.
- E. State Bar Board of Commissioners: No report.

VI. New Business

None.

VII. Announcements

Discussion of Council Members running for Circuit or Appellate Judges’ positions and how we need to support them

VIII. Adjournment

Randy P. moved to adjourn, Don seconded, and the meeting adjourned at 12:22 p.m.