Agendas & Attachments for

- Meeting of the Committee on Special Projects (CSP); and
- Meeting of the Council of the Probate and Estate Planning Section

Saturday, October 25, 2014
9:00 a.m.
Weber's Inn
Ann Arbor, Michigan
Probate and Estate Planning Section of the State Bar of Michigan

Notice of Meetings

Meeting of the Section's Committee on Special Projects (CSP)

and

Meeting of the Council of the Probate and Estate Planning Section

October 25, 2014
9:00 a.m.
Weber's Inn
3050 Jackson Road
Ann Arbor, MI 48103

The above stated meetings of the Section will be held at Weber's Inn on Saturday, October 25, 2014, at 9:00 a.m., at the above address. The Section's Committee on Special Projects (CSP) meeting will begin at 9:00 a.m., followed immediately by the meeting of the Council of the Section.

Marlaine C. Teahan
Secretary

Fraser Trebilcock
124 West Allegan Street, Suite 1000
Lansing MI 48933
Phone: (517) 377-0869
Fax: (517) 482-0887
e-Mail: mteahan@fraserlawfirm.com
CSP and Council Meetings of the
Probate and Estate Planning Section
of the
State Bar of Michigan

Schedule and Location of Future Meetings

All meetings will be held at the
University Club, 3435 Forest Road, Lansing, Michigan 48910

Meetings begin at 9:00 a.m.
unless otherwise noted on the Meeting Notice

The following is a list of the remaining meetings for 2014-15:

November 15, 2014
December 13, 2014
January 17, 2015
February 14, 2015
March 14, 2015
April 11, 2015
June 13, 2015
September 12, 2015 (Annual Section Meeting)
## Officers for 2014-2015 Term

<table>
<thead>
<tr>
<th>Officer</th>
<th>Position</th>
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<tbody>
<tr>
<td>Chairperson</td>
<td>Amy N. Morrissey</td>
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<tr>
<td>Chairperson Elect</td>
<td>Shaheen I. Imami</td>
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<td>Vice Chairperson</td>
<td>James B. Steward</td>
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<tr>
<td>Secretary</td>
<td>Marlaine C. Teahan</td>
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<td>Treasurer</td>
<td>Lentz, Marguerite Munson</td>
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## Council Members for 2014-2015 Terms

<table>
<thead>
<tr>
<th>Council Member</th>
<th>Year elected to current term (partial, first or second full term)</th>
<th>Current term expires</th>
<th>Eligible after Current term?</th>
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<tbody>
<tr>
<td>Ard, W. Josh.</td>
<td>2012 (2nd term)</td>
<td>2015</td>
<td>No</td>
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<tr>
<td>Ouellette, Patricia M.</td>
<td>2012 (2nd term)</td>
<td>2015</td>
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<td>Spica, James P.</td>
<td>2012 (2nd term)</td>
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<tr>
<td>Clark-Kreuer, Rhonda M.</td>
<td>2012 (1st term)</td>
<td>2015</td>
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<tr>
<td>Lucas, David P.</td>
<td>2012 (1st term)</td>
<td>2015</td>
<td>Yes (1 term)</td>
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<tr>
<td>Skidmore, David L.J.M.</td>
<td>2012 (1st term)</td>
<td>2015</td>
<td>Yes (1 term)</td>
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<tr>
<td>Brigman, Constance L.</td>
<td>2010 (2nd term)</td>
<td>2016</td>
<td>No</td>
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<tr>
<td>Allan, Susan M.</td>
<td>2010 (2nd term)</td>
<td>2016</td>
<td>No</td>
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<tr>
<td>Mills, Richard C.</td>
<td>2014 (1st partial term)</td>
<td>2016</td>
<td>Yes (2 terms)</td>
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<tr>
<td>Marquart, Michele C.</td>
<td>2013 (1st term)</td>
<td>2016</td>
<td>Yes (1 term)</td>
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<tr>
<td>New, Lorraine F.</td>
<td>2013 (1st term)</td>
<td>2016</td>
<td>Yes (1 term)</td>
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<tr>
<td>Vernon, Geoffrey R.</td>
<td>2013 (1st term)</td>
<td>2016</td>
<td>Yes (1 term)</td>
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<tr>
<td>Ballard, Christopher A.</td>
<td>2014 (2nd term)</td>
<td>2017</td>
<td>No</td>
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<tr>
<td>Bearup, George F.</td>
<td>2014 (2nd term)</td>
<td>2017</td>
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<td>Welber, Nancy H.</td>
<td>2014 (2nd term)</td>
<td>2017</td>
<td>No</td>
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<td>Jaconette, Hon Michael L.</td>
<td>2014 (1st term)</td>
<td>2017</td>
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<td>Kellogg, Mark E.</td>
<td>2014 (1st term)</td>
<td>2017</td>
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<td>Malviya, Raj A.</td>
<td>2014 (1st term)</td>
<td>2017</td>
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<td>Patricia Gormely Prince</td>
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<td>Lauren M. Underwood</td>
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<td>W. Michael Van Haren</td>
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<td>Susan S. Westerman</td>
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<td>Everett R. Zack</td>
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Probate & Estate Planning Section Committees 2014-2015

**Budget Committee**
*Mission: To develop the annual budget and to alert the Council to revenue and spending trends*

Marlaine C. Teahan, Chair
Marguerite Munson Lentz
James B. Steward

**Annual Meeting**
*Mission: To arrange the annual meeting at a time and place and with an agenda to accomplish all necessary and proper annual business of the Section*

Shaheen I. Imami

**Bylaws Committee**
*Mission: To review the Section Bylaws and recommend changes to ensure compliance with State Bar requirements, best practices for similar organizations and assure conformity of the Bylaws to current practices and procedures of the Section and the Council*

Nancy H. Welber, Chair
Christopher A. Ballard
David P. Lucas

**Awards Committee**
*Mission: To periodically award the Michael Irish Award to a deserving recipient and to consult with ICLE concerning periodic induction of members in the George A. Cooney Society*

Douglas A. Mielock, Chair
Robert D. Brower, Jr.
George W. Gregory
Phillip E. Harter
Nancy L. Little
Amy N. Morrissey

**Planning Committee**
*Mission: To periodically review and update the Section’s Strategic Plan and to annually prepare and update the Council’s Biennial Plan of Work*

Shaheen I. Imami, Chair

**Committee on Special Projects**
*Mission: The Committee on Special Projects is a working committee of the whole of the Section that considers and studies in depth a limited number of topics and makes recommendations to the Council of the Section with respect to those matters considered by the Committee. The duties of the Chair include setting the agenda for each Committee Meeting, and in conjunction with the Chair of the Section, to coordinate with substantive Committee chairs the efficient use of time by the Committee*

Christopher A. Ballard, Chair

**Nominating Committee**
*Mission: To annually nominate candidates to stand for election as the officers of the Section and members of the Council*

George W. Gregory, Chair
Mark K. Harder
Thomas F. Sweeney
Legislation Committee
Mission: In cooperation with the Section’s lobbyist, to bring to the attention of the Council recent developments in the Michigan legislature and to further achievement of the Section’s legislative priorities, as well as to study legislation and recommend a course of action on legislation not otherwise assigned to a substantive committee of the Section

William J. Ard, Chair
Christopher A. Ballard
Mark E. Kellogg
Sharri L. Rolland Phillips
Harold G. Schuitmaker

Amicus Curiae Committee
Mission: To review requests made to the Section to file, and to identify cases in which the Section should file, amicus briefs in pending appeals and to engage and oversee the work of legal counsel retained by the Section to prepare and file its amicus briefs

David L. Skidmore, Chair
Kurt A. Olson
Patricia M. Ouellette
Nazneen H. Syed
Nancy H. Welber

Probate Institute
Mission: To consult with ICLE in the planning and execution of the Annual Probate and Estate Planning Institute

James B. Steward

State Bar and Section Journals Committee
Mission: To oversee the publication of the Section’s Journal and periodic theme issues of the State Bar Journal that are dedicated to probate, estate planning, and trust administration

Richard C. Mills, Chair
Nancy L. Little, Managing Editor
Melisa M. W. Mysliwiec, Assoc. Editor

Citizens Outreach Committee
Mission: To provide for education of the public on matters related to probate, estate planning, and trust administration, including the publication of pamphlets and online guidance to the public, and coordinating the Section’s efforts to educate the public with the efforts of other organizations affiliated with the State Bar of Michigan

Constance L. Brigman, Chair
Michael P. Dean
Kathleen M. Goetsch
Phillip E. Harter
Michael J. McClory
Neal Nusholtz
Michael L. Rutkowski
Rebecca A. Schnelz, (Liaison to Solutions on Self-help Task Force)
Melinda V. Sheets
James B. Steward
Ellen Sugrue Hyman
Nancy H. Welber
Melisa M. W. Mysliwiec
Electronic Communications Committee
Mission: To oversee all forms of electronic communication with and among members of the Section, including communication via the Section’s web site, the Section listserv, and the ICLE Online Community site, to identify emerging technological trends of importance to the Section and its members, and to recommend to the council best practices to take advantage of technology in carrying out the section’s and Council’s mission and work

William J. Ard, Chair
Stephen J. Dunn
Phillip E. Harter
Nancy L. Little
Amy N. Morrissey
Jeanne Murphy (Liaison to ICLE)
Neal Nusholtz
Michael L. Rutkowski
Serene K. Zeni

Ethics Committee
Mission: To consider and recommend to the Council action with respect to the Michigan Rules of Professional Conduct and their interpretation, application, and amendment

David P. Lucas, Chair
William J. Ard
J. David Kerr
Robert M. Taylor

Unauthorized Practice of Law and Multidisciplinary Practice Committee
Mission: To help identify the unauthorized practices of law, to report such practices to the appropriate authorities and to educate the public regarding the inherent problems relying on non-lawyers

Patricia M. Ouellette, Chair
William J. Ard
J. David Kerr
Robert M. Taylor
Amy Rombyer Tripp

Court Rules, Procedures and Forms Committee
Mission: To consider and recommend to the Council action with respect to the Michigan Court Rules and published court forms, and the interpretation, use, and amendment of them

Michele C. Marquardt, Chair (Liaison to SCAO for Estates & Trusts Workgroup)
James F. (“JV”) Anderton
Constance L. Brigman (Liaison to SCAO for Guardianship, Conservatorship, and Protective Proceedings Workgroup)
Rhonda M. Clark-Kreuer
Phillip E. Harter
Shaheen I. Imami
Hon. Michael L. Jaconette
Hon. David M. Murkowski
Rebecca A. Schnelz (Liaison to SCAO for Mental Health/Commitment Workgroup)
David L. Skidmore
Updating Michigan Law Committee
*Mission: To review, revise, communicate and recommend Michigan’s trusts and estates law with the goal of achieving and maintaining leadership in promulgating probate laws in changing times*

Geoffrey R. Vernon, Chair
Robert P. Tiplady, II, Vice Chair
Susan M. Allan
Howard H. Collens
Mark K. Harder
Shaheen I. Imami
Henry P. Lee
Marguerite Munson Lentz
Michael G. Lichterman
Christine M. Savage
James P. Spica

Insurance Ad Hoc Committee
*Mission: To recommend new legislation related to insurability and the administration of irrevocable life insurance trusts*

Geoffrey R. Vernon, Chair
Stephen L. Elkins
Mark K. Harder
James P. Spica
Joseph D. Weiler, Jr.

Membership Committee
*Mission: To strengthen relations with Section members, encourage new membership, and promote awareness of and participation in Section activities*

Raj A. Malviya, Chair
Christopher J. Caldwell
Nicholas R. Dekker
Daniel A. Kosmowski
Katie Lynwood
Julie A. Paquette
Nicholas A. Reister
Marlaine C. Teahan
Joseph J. Viviano

Artificial Reproductive Technology Ad Hoc Committee
*Mission: To review the 2008 Uniform Probate Code Amendments for possible incorporation into EPIC with emphasis on protecting the rights of children conceived through assisted reproduction*

Nancy H. Welber, Chair
Christopher A. Ballard
Keven DuComb
Robert M. O’Reilly
Lawrence W. Waggoner

Real Estate Committee
*Mission: To recommend new legislation related to real estate matters of interest and concern to the Section and its members*

George F. Bearup, Chair
Jeffrey S. Ammon
William J. Ard
Stephen J. Dunn
David S. Fry
Mark E. Kellogg
J. David Kerr
Michael G. Lichterman
David P. Lucas
Katie Lynwood
Douglas A. Mielock
Melissa M. W. Mysliwiec
James T. Ramer
James B. Steward

Transfer Tax Committee
*Mission: To monitor developments concerning Federal and State transfer taxes and to recommend appropriate actions by the Section in response to developments or needs*

Lorraine F. New, Chair
Marguerite Munson Lentz
Geoffrey R. Vernon
Nancy H. Welber
Guardianship, Conservatorship, and End of Life Committee
Mission: To monitor the need for and make recommendations with respect to statutory and court rule changes in Michigan related to the areas of legally incapacitated individuals, guardianships, and conservatorships
Rhonda M. Clark-Kreuer, Chair
Katie Lynwood, Vice Chair
William J. Ard
Michael W. Bartnik
Raymond A. Harris
Phillip E. Harter
Michael J. McClory
Richard C. Mills
Kurt A. Olson
James B. Steward

Charitable and Exempt Organization Committee
Mission: To educate the Section about charitable giving and exempt organizations and to make recommendations to the Section concerning Federal and State legislative developments and initiatives in the fields of charitable giving and exempt organizations
Lorraine F. New, Chair
Christopher A. Ballard
Michael W. Bartnik
William R. Bloomfield
Robin D. Ferriby
Richard C. Mills

Specialization and Certification Ad Hoc Committee
Mission: To make recommendations to the Section with respect to the creation and implementation of a program that recognizes specialization and certification of specialization in the fields of probate, estate planning, and trust administration
James B. Steward, Chair
William J. Ard
Wendy Parr Holtvluwer
Patricia M. Ouellette
Sharri L. Rolland Phillips
Daniel D. Simjanovski
Richard J. Siriani
Serene K. Zeni

Fiduciary Exception to Attorney Client Privilege Ad Hoc Committee
Mission: To review the statutes, case law, and court rules of Michigan and other jurisdictions concerning the scope of the Attorney Client Privilege for communications between trustees and their counsel and if necessary or appropriate, to recommend changes to Michigan law in this area
George F. Bearup, Chair
Kalman G. Goren
Shaheen I. Imami
David G. Kovac
Michael J. McClory
David L. Skidmore
Serene K. Zeni

Alternative Dispute Resolution Section Liaison
vacant
Probate & Estate Planning Section Committees 2014-2015

**Business Law Section Liaison**
*Mission: The liaison to the Business Law Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the Business Law Section on matters of mutual interest and concern*

John R. Dresser

**Law Schools Liaison**
*Mission: The Law Schools Liaison is responsible for developing and maintaining bilateral communication between the Section and the law schools located in the State of Michigan in matters of mutual interest and concern*

William J. Ard

**Elder Law and Disability Rights Section Liaison**
*Mission: The liaison to the Elder Law and Disability Rights Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the Elder Law Section on matters of mutual interest and concern*

Amy Rombyer Tripp

**Michigan Bankers Association Liaison**
*Mission: The liaison to the Michigan Bankers Association is responsible for developing and maintaining bilateral communication between the Section and the Michigan Bankers Association in matters of mutual interest and concern*

Susan M. Allan

**Family Law Section Liaison**
*Mission: The liaison to the Family Law Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the Family law Section on matters of mutual interest and concern*

Patricia M. Ouellette

**Probate Judges Association Liaisons**
*Mission: The liaisons to the MPJA are responsible for developing and maintaining bilateral communication between the Section and the MPJA on matters of mutual interest and concern*

Hon. David M. Murkowski
Hon. Michael L. Jaconette

**ICLE Liaison**
*Mission: The liaison to ICLE is responsible for developing and maintaining bilateral communication between the Section and the Institute for Continuing Legal Education*

Jeanne Murphy

**Probate Registers Liaison**
*Mission: The liaison to the Michigan Probate and Juvenile Registers Association is responsible for developing and maintaining bilateral communication between the Section and the Probate and Juvenile Registers Association on matters of mutual interest and concern*

Rebecca A. Schnelz
SCAO Liaisons
Mission: The liaisons to SCAO are responsible for developing and maintaining communications between the Section and SCAO on matters of mutual interest and concern

Constance L. Brigman
Michele C. Marquardt
Rebecca A. Schnelz

Solutions on Self-help Task Force Liaison
Mission: The liaison to the Solutions on Self-help (SOS) Task force is responsible for maintaining bilateral communications between the Section and the Task Force

Rebecca A. Schnelz

State Bar Liaison
Mission: The liaison to the State Bar is responsible for maintaining bilateral communication between the Section and the larger State Bar of Michigan, including the Board of Commissioners and staff of the State Bar

Richard J. Siriani

Taxation Section Liaison
Mission: The liaison to the Taxation Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the Taxation Section on matters of mutual interest and concern

George W. Gregory
CSP Agenda – Probate and Estate Planning Council

October 25, 2014

9:00 a.m.

1. Fiduciary Access to Digital Assets Legislation – Meg Lentz

Revised proposed legislation (Exhibit A-1)
Redline to draft legislation presented at the September meeting (Exhibit A-2)

2. Proposed modifications to MCL 700.1513 – Geoffrey Vernon

Exculpation of trustees of life insurance trusts from liabilities related to the administration of policies held in the trust

Memo summarizing the issue (Exhibit B-1)
Proposed statute (Exhibit B-2)
FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

SECTION 1. SHORT TITLE. This act may be cited as the Michigan Fiduciary Access to Digital Assets Act.

SECTION 2. DEFINITIONS. In this act:

(1) “Account holder” means:

(a) a person that has entered into a terms-of-service agreement with a digital custodian; and

(b) a fiduciary for a person described in subsection (1)(a).

(2) “Agent” means an attorney-in-fact granted authority under a durable or nondurable power of attorney.

(3) “Carries” means engaging in the transmission of electronic communications.

(4) “Catalogue of electronic communications” means information that identifies each person with which an account holder has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5) “Conservator” means a person that is appointed by a court to manage all or part of the estate of a protected person, including, without limitation, a conservator or limited conservator for a protected individual as defined in MCL 700.1106(v); a plenary guardian or partial guardian for an individual who is developmentally disabled as defined in MCL 300.1100a(25); a guardian for a minor if no conservator has been appointed, and a parent for the parent’s minor child if no conservator, plenary guardian, or partial guardian has been appointed for the minor child.

(6) “Content of an electronic communication” means information not readily accessible to the public concerning the substance or meaning of an electronic communication.

(7) “Court” means the probate court or, when applicable, the circuit court.

(8) “Digital asset” means a record that is electronic. The term does not include an underlying asset or liability unless the asset or liability is itself a record that is electronic.

(9) “Digital custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of an account holder.

(10) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
(11) “Electronic communication” means a digital asset stored by an electronic communication service or carried or maintained by a remote-computing service. The term includes the catalogue of electronic communications and the content of an electronic communication.

(12) “Electronic communication service” means a digital custodian that provides to the public the ability to send or receive an electronic communication.

(13) “Fiduciary” means each person who is an original, additional, or successor personal representative, conservator, agent, or trustee. If a court or a governing instrument appoints a “special fiduciary”, for purposes of this act, the special fiduciary shall be treated as a personal representative if such fiduciary controls all or part of a decedent’s estate or is appointed in a will, as a trustee if such fiduciary controls all or part of a trust or is appointed in the terms of a trust, as a conservator if such fiduciary controls all or part of the assets of a protected person, or as an agent if such fiduciary is appointed in a power of attorney.

(14) “Governing instrument” means a will, a trust, an instrument creating a power of attorney, or other dispositive or nominative instrument.

(15) “Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(16) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(17) “Personal representative” has the meaning as stated in MCL 700.1106(o).

(18) “Power of attorney” means a record that grants an agent authority to act in the place of a principal.

(19) “Principal” means an individual who grants authority to an agent in a power of attorney.

(20) “Protected person” includes a protected individual as defined in MCL 700.1106(v); a legally incapacitated individual as defined in MCL 700.1105(i); a minor for whom a guardian has been appointed but no conservator has been appointed; and an individual who is developmentally disabled as defined in MCL 330.1100a(25).

(21) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(22) “Remote-computing service” means a digital custodian that provides to the public computer processing services or storage of digital assets by means of an electronic communication system, as defined in 18 U.S.C. Section 2510(14).
“Terms-of-service agreement” means an agreement that controls the relationship between an account holder and a digital custodian.

“Trustee” has the meaning stated in MCL 700.1107(o).

“Will” has the meaning stated in MCL 700.1108(b).

SECTION 3. ACCESS BY PERSONAL REPRESENTATIVE TO DIGITAL ASSETS OF A DECEDENT.

(a) Subject to Section 7(b) and unless otherwise provided by the court or the will of a decedent, a personal representative of the decedent has the right to access:

1. the content of an electronic communication sent or received by the decedent if the electronic communication service or remote-computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b), as amended;
2. the catalogue of electronic communications sent or received by the decedent; and
3. any other digital asset in which the decedent had a right or interest.

(b) A person interested in an estate as defined in MCL 700.1105(c) may file a petition in the court for an order to limit, eliminate, or modify the personal representative’s power over the decedent’s digital assets. On receipt of a petition under this subsection, the court shall set a date for a hearing on the petition. The hearing date shall not be less than 14 days and not more than 56 days after the date the petition is filed.

SECTION 4. ACCESS BY CONSERVATOR TO DIGITAL ASSETS OF A PROTECTED PERSON.

(a) The court, after an opportunity for a hearing, may grant a conservator the right to access:

1. the content of an electronic communication sent or received by the protected person if the electronic communication service or remote-computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b), as amended;
2. the catalogue of electronic communications sent or received by the protected person; and
3. any other digital asset in which the protected person has a right or interest.

(b) In granting to a conservator the right to access under subsection (a), the court shall consider:
(1) the intent of the protected person with respect to the access granted to the extent that intent can be ascertained; or
(2) whether granting access to a conservator is in the protected person’s best interest.

SECTION 5. ACCESS BY AGENT TO DIGITAL ASSETS.

(a) To the extent a power of attorney grants authority to an agent over the content of an electronic communication of the principal, the agent has the right to access the content of an electronic communication sent or received by the principal if the electronic communication service or remote-computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b), as amended.

(b) Except as provided in subsection (a) and unless otherwise provided by a power of attorney or the court, an agent has the right to access:

(1) the catalogue of electronic communications sent or received by the principal; and

(2) any other digital asset in which the principal has a right or interest.

SECTION 6. ACCESS BY TRUSTEE TO DIGITAL ASSETS. Subject to Section 7(b) and unless otherwise provided by the court or the settlor in the terms of a trust, a trustee:

(a) that is an original account holder has the right to access each digital asset held in trust, including the catalogue of electronic communications sent or received by the trustee and the content of an electronic communication; and

(b) that is not an original account holder has the right to access:

(1) the content of an electronic communication sent or received by the original or any successor account holder if the electronic communication service or the remote-computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b), as amended;

(2) the catalogue of electronic communications sent or received by the original or any successor account holder; and

(3) any other digital asset in which the original or any successor account holder has a right or interest.

SECTION 7. FIDUCIARY ACCESS AND AUTHORITY.

(a) A fiduciary that is an account holder or has the right under Sections 3, 4, 5, or 6 of this act to access a digital asset of an account holder:
(1) subject to the terms-of-service agreement and copyright or other applicable law, may take any action concerning the digital asset to the extent of the account holder’s authority and the fiduciary’s powers under law of this state;

(2) has, under applicable electronic privacy laws, the lawful consent of the account holder for the digital custodian to divulge the content of an electronic communication to the fiduciary; and

(3) is, under applicable computer fraud and unauthorized access laws, including MCL 752.795 and MCL 750.540, an authorized user.

(4) is deemed to have the consent of the device holder under MCL 750.157n to the extent that the digital asset is a financial transaction device within the meaning of MCL 750.157n; and

(5) is deemed to have the authority to access the digital assets under MCL 752.795 and MCL 750.540 to the extent that the digital asset is subject to MCL 752.795 or MCL 750.540.

(b) If a provision in a terms-of-service agreement limits a fiduciary’s access to the digital assets of the account holder, the provision is void as against the strong public policy of this state.

(c) A choice-of-law provision in a terms-of-service agreement is unenforceable against a fiduciary acting under this act to the extent the provision designates law that enforces a limitation on a fiduciary’s access to digital assets which limitation is void under subsection (b).

(d) A fiduciary’s access under this act to a digital asset does not violate a terms-of-service agreement, notwithstanding a provision of the terms-of-service agreement which limits third-party access or requires notice of change in the account holder’s status.

(e) As to tangible personal property capable of receiving, storing, processing, or sending a digital asset, a fiduciary with authority over the property of a decedent, protected person, principal, or settlor:

(1) has the right to access the property and any digital asset stored in it; and

(2) is an authorized user for purposes of any applicable computer fraud and unauthorized access laws, including MCL 752.795, MCL 750.540, and MCL 750.157n.

SECTION 8. COMPLIANCE.

(a) If a fiduciary with a right under this act to access a digital asset of an account holder complies with subsection (b), the digital custodian shall comply with the fiduciary’s request in a record for:
(1) access to the digital asset;
(2) control of the digital asset; or
(3) a copy of the digital asset to the extent permitted by copyright law.

(b) If a request under subsection (a) is made by:

(1) a personal representative with the right of access under Section 3, the request must be accompanied by a certified copy of the letters of the personal representative as defined in MCL 700.1105(j) or a small estate affidavit pursuant to MCL 700.3983;

(2) a conservator with the right to access under Section 4, the request must be accompanied by a certified copy of the court order that gives the conservator authority over the digital asset or by a certified copy of the letters of the conservator as defined in MCL 700.1105(j) that gives the conservator authority over the digital asset;

(3) an agent with the right of access under Section 5, the request must be accompanied by an original or a copy of a currently-effective power of attorney that authorizes the agent to exercise authority over the digital asset and a sworn statement executed by the agent pursuant to MCL 700.5505; and

(4) a trustee with the right of access under Section 6, the request must be accompanied by a certificate of the trust under MCL 700.7913 that authorizes the trustee to exercise authority over the digital asset.

(c) A digital custodian shall comply with a request made under subsection (a) not later than 56 days after receipt of the request. If the digital custodian fails to comply, the fiduciary may petition the court for an order directing compliance. A digital custodian is liable for damages, costs, expenses, and legal fees if the court determines that the digital custodian was not acting pursuant to a legal requirement in failing to comply with a request made under subsection (a).

(d) So long as any payments under an applicable terms-of-service agreement are kept current or brought current within 56 days of any default, a digital custodian may not destroy, disable or dispose of any digital assets of the protected person for 2 years after the custodian receives a request or order under subsections (a) and (c). If the digital custodian has obligations under other state or federal laws to preserve records, this act does not override those other obligations.

(e) A recipient of a certificate of trust under subsection (b)(4) may require the trustee to provide copies of excerpts from the original trust instrument and later amendments which designate the trustee and confer on the trustee the power to act in the pending transaction.
(f) A digital custodian that acts in reliance on a certificate under subsection (b)(4) without knowledge that the representations contained in it are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certificate.

(g) A person that in good faith enters a transaction in reliance on a certificate of trust under subsection (b)(4) may enforce the transaction against the trust assets as if the representations contained in the certificate were correct.

(h) A person that demands the trust instrument in addition to a certificate of trust under subsection (b)(4) or excerpts under subsection (e) is liable for damages to the same extent the person would be liable under MCL 700.7913(8).

(i) This section does not limit the right of a person to obtain a copy of a trust instrument in a judicial proceeding concerning the trust.

SECTION 9. DIGITAL CUSTODIAN IMMUNITY. A digital custodian and its officers, employees, and agents are immune from liability for any action done in good faith in compliance with this act.

SECTION 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 11. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 12. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 13. APPLICABILITY.

(a) Subject to subsections (b) and (c), this act applies to:

(1) A fiduciary acting under a will, trust, or power of attorney executed before, on, or after the effective date of this act, except as otherwise provided in this act.

(2) Each proceeding pending in court or commenced after the effective date of this act, unless the court determines that it is not feasible to apply the act or, in the interests of justice, the act should not apply.
(b) This act does not impair an accrued right or an action taken in a proceeding before the effective date of this act in a proceeding.

(c) This act does not apply to a digital asset of an employer used by an employee in the ordinary course of business.

SECTION 14. EFFECTIVE DATE. This act takes effect immediately.
SECTION 1. SHORT TITLE. This act may be cited as the Michigan Fiduciary Access to Digital Assets Act.

SECTION 2. DEFINITIONS. In this act:

(1) “Account holder” means:
   (a) a person that has entered into a terms-of-service agreement with a digital custodian; and
   (b) a fiduciary for a person described in subsection (1)(a).

(2) “Agent” means an attorney-in-fact granted authority under a durable or nondurable power of attorney.

(3) “Carries” means engaging in the transmission of electronic communications.

(4) “Catalogue of electronic communications” means information that identifies each person with which an account holder has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5) “Conservator” means a person that is appointed by a court to manage all or part of the estate of a protected individual. The term includes a limited conservator-person, including, without limitation, a conservator or limited conservator for a protected individual as defined in MCL 700.1106(v); a plenary guardian or partial guardian for an individual who is developmentally disabled as defined in MCL 300.1100a(25); a guardian for a minor if no conservator has been appointed, and a parent for the parent’s minor child if no conservator, plenary guardian, or partial guardian has been appointed for the minor child.

(6) “Content of an electronic communication” means information not readily accessible to the public concerning the substance or meaning of an electronic communication.

(7) “Court” means the probate court or, when applicable, the circuit court.

(8) “Digital asset” means a record that is electronic. The term does not include an underlying asset or liability unless the asset or liability is itself a record that is electronic.

(9) “Digital custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of an account holder.

(10) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
(11) “Electronic communication” means a digital asset stored by an electronic communication service or carried or maintained by a remote-computing service. The term includes the catalogue of electronic communications and the content of an electronic communication.

(12) “Electronic communication service” means a digital custodian that provides to the public the ability to send or receive an electronic communication.

(13) “Fiduciary” means each person who is an original, additional, or successor personal representative, conservator, agent, or trustee. If a court or a governing instrument appoints a “special fiduciary”, for purposes of this act, the special fiduciary shall be treated as a personal representative if such fiduciary controls all or part of a decedent’s estate or is appointed in a will, as a trustee if such fiduciary controls all or part of a trust or is appointed in the terms of a trust, as a conservator if such fiduciary controls all or part of the assets of a protected person, or as an agent if such fiduciary is appointed in a power of attorney.

(14) “Governing instrument” means a will, a trust, an instrument creating a power of attorney, or other dispositive or nominative instrument.

(15) “Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(16) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(17) “Personal representative” has the meaning as stated in MCL 700.1106(o).

(18) “Power of attorney” means a record that grants an agent authority to act in the place of a principal.

(19) “Principal” means an individual who grants authority to an agent in a power of attorney.

(20) “Protected individual” includes a protected individual as defined in MCL 700.1106(v); a legally incapacitated individual as defined in MCL 700.1105(i); a minor for whom a guardian has been appointed but no conservator has been appointed; and an individual who is developmentally disabled as defined in MCL 330.110330.1100a(25).

(21) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(22) “Remote-computing service” means a digital custodian that provides to the public computer processing services or storage of digital assets by means of an electronic communication system, as defined in 18 U.S.C. Section 2510(14).
“Terms-of-service agreement” means an agreement that controls the relationship between an account holder and a digital custodian.

“Trustee” has the meaning stated in MCL 700.1107(o).

“Will” has the meaning stated in MCL 700.1108(b).

SECTION 3. ACCESS BY PERSONAL REPRESENTATIVE TO DIGITAL ASSETS OF A DECEDENT.

(a) Subject to Section 7(b) and unless otherwise provided by the court or the will of a decedent, a personal representative of the decedent has the right to access:

(1) the content of an electronic communication sent or received by the decedent if the electronic communication service or remote-computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b), as amended;

(2) the catalogue of electronic communications sent or received by the decedent; and

(3) any other digital asset in which the decedent had a right or interest.

(b) A person interested in an estate as defined in MCL 700.1105(c) may file a petition in the court for an order to limit, eliminate, or modify the personal representative’s power over the decedent’s digital assets. On receipt of a petition under this subsection, the court shall set a date for a hearing on the petition. The hearing date shall not be less than 14 days and not more than 56 days after the date the petition is filed.

SECTION 4. ACCESS BY CONSERVATOR TO DIGITAL ASSETS OF A PROTECTED INDIVIDUAL PERSON.

(a) The court, after an opportunity for a hearing, may grant a conservator the right to access:

(1) the content of an electronic communication sent or received by the protected individual person if the electronic communication service or remote-computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b), as amended;

(2) the catalogue of electronic communications sent or received by the protected individual person; and

(3) any other digital asset in which the protected individual person has a right or interest.

(b) In granting to a conservator the right to access under subsection (a), the court shall consider:
(1) the intent of the protected individual with respect to the access granted to the extent that intent can be ascertained; or
(2) whether granting access to a conservator is in the protected individual’s best interest.

SECTION 5. ACCESS BY AGENT TO DIGITAL ASSETS.

(a) To the extent a power of attorney grants authority to an agent over the content of an electronic communication of the principal, the agent has the right to access the content of an electronic communication sent or received by the principal if the electronic communication service or remote-computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b), as amended.

(b) Except as provided in subsection (a) and unless otherwise provided by a power of attorney or the court, an agent has the right to access:

(1) the catalogue of electronic communications sent or received by the principal; and
(2) any other digital asset in which the principal has a right or interest.

SECTION 6. ACCESS BY TRUSTEE TO DIGITAL ASSETS. Subject to Section 7(b) and unless otherwise provided by the court or the settlor in the terms of a trust, a trustee or a successor of the trustee:

(a) that is an original account holder has the right to access each digital asset held in trust, including the catalogue of electronic communications sent or received by the trustee and the content of an electronic communication; and

(b) that is not an original account holder has the right to access:

(1) the content of an electronic communication sent or received by the original or any successor account holder if the electronic communication service or the remote-computing service is permitted to disclose the content under the Electronic Communications Privacy Act, 18 U.S.C. Section 2702(b), as amended;

(2) the catalogue of electronic communications sent or received by the original or any successor account holder; and

(3) any other digital asset in which the original or any successor account holder has a right or interest.

SECTION 7. FIDUCIARY ACCESS AND AUTHORITY.

(a) A fiduciary that is an account holder or has the right under Sections 3, 4, 5, or 6 of this act to access a digital asset of an account holder:
(1) subject to the terms-of-service agreement and copyright or other applicable law, may take any action concerning the digital asset to the extent of the account holder’s authority and the fiduciary’s powers under law of this state;

(2) has, under applicable electronic privacy laws, the lawful consent of the account holder for the digital custodian to divulge the content of an electronic communication to the fiduciary; and

(3) is, under applicable computer fraud and unauthorized access laws, including MCL 752.795, 752.795 and MCL 750.540, an authorized user.

(4) is deemed to have the consent of the device holder under MCL 750.157n to the extent that the digital asset is a financial transaction device within the meaning of MCL 750.157n; and

(5) is deemed to have the authority to access the digital assets under MCL 752.795 and MCL 750.540 to the extent that the digital asset is subject to MCL 752.795 or MCL 750.540.

(b) If a provision in a terms-of-service agreement limits a fiduciary’s access to the digital assets of the account holder, the provision is void as against the strong public policy of this state.

(c) A choice-of-law provision in a terms-of-service agreement is unenforceable against a fiduciary acting under this act to the extent the provision designates law that enforces a limitation on a fiduciary’s access to digital assets which limitation is void under subsection (b).

(d) A fiduciary’s access under this act to a digital asset does not violate a terms-of-service agreement, notwithstanding a provision of the terms-of-service agreement which limits third-party access or requires notice of change in the account holder’s status.

(e) As to tangible personal property capable of receiving, storing, processing, or sending a digital asset, a fiduciary with authority over the property of a decedent, protected individual, principal, or settlor:

(1) has the right to access the property and any digital asset stored in it; and

(2) is an authorized user for purposes of any applicable computer fraud and unauthorized access laws, including MCL 752.795, 752.795, MCL 750.540, and MCL 750.157n.

SECTION 8. COMPLIANCE.

(a) If a fiduciary with a right under this act to access a digital asset of an account holder complies with subsection (b), the digital custodian shall comply with the fiduciary’s request in a record for:
(1) access to the digital asset;
(2) control of the digital asset; or
(3) a copy of the digital asset to the extent permitted by copyright law.

(b) If a request under subsection (a) is made by:

(1) a personal representative with the right of access under Section 3, the request must be accompanied by a certified copy of the letters of the personal representative as defined in MCL 700.1105(j) or a small estate affidavit pursuant to MCL 700.3983;

(2) a conservator with the right to access under Section 4, the request must be accompanied by a certified copy of the court order that gives the conservator authority over the digital asset or by a certified copy of the letters of the conservator as defined in MCL 700.1105(j) that gives the conservator authority over the digital asset;

(3) an agent with the right of access under Section 5, the request must be accompanied by an original or a copy of a currently-effective power of attorney that authorizes the agent to exercise authority over the digital asset and a sworn statement executed by the agent pursuant to MCL 700.5505; and

(4) a trustee with the right of access under Section 6, the request must be accompanied by a certificate of the trust under MCL 700.7913 that authorizes the trustee to exercise authority over the digital asset.

(c) A digital custodian shall comply with a request made under subsection (a) not later than 56 days after receipt of the request. If the digital custodian fails to comply, the fiduciary may petition the court for an order directing compliance. A digital custodian is liable for damages, costs, expenses, and legal fees if the court determines that the digital custodian was not acting pursuant to a legal requirement in failing to comply with a request made under subsection (a).

(d) So long as any payments under an applicable terms-of-service agreement are kept current or brought current within 56 days of any default, a digital custodian may not destroy, disable or dispose of any digital assets of the protected individual for 2 years after the custodian receives a request or order under subsections (a) and (c). If the digital custodian has obligations under other state or federal laws to preserve records, this act does not override those other obligations.

(e) A recipient of a certificate of trust under subsection (b)(4) may require the trustee to provide copies of excerpts from the original trust instrument and later amendments which designate the trustee and confer on the trustee the power to act in the pending transaction.
(f) A digital custodian that acts in reliance on a certificate under subsection (b)(4) without knowledge that the representations contained in it are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certificate.

(g) A person that in good faith enters a transaction in reliance on a certificate of trust under subsection (b)(4) may enforce the transaction against the trust assets as if the representations contained in the certificate were correct.

(h) A person that demands the trust instrument in addition to a certificate of trust under subsection (b)(4) or excerpts under subsection (e) is liable for damages to the same extent the person would be liable under MCL 700.7913(8).

(i) This section does not limit the right of a person to obtain a copy of a trust instrument in a judicial proceeding concerning the trust.

SECTION 9. DIGITAL CUSTODIAN IMMUNITY. A digital custodian and its officers, employees, and agents are immune from liability for any action done in good faith in compliance with this act.

SECTION 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 11. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

SECTION 12. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 13. APPLICABILITY.

(a) Subject to subsections (b) and (c), this act applies to:

(1) A fiduciary acting under a will, trust, or power of attorney executed before, on, or after the effective date of this act, except as otherwise provided in this act.

(2) Each proceeding pending in court or commenced after the effective date of this act, unless the court determines that it is not feasible to apply the act or, in the interests of justice, the act should not apply.
(b) This act does not impair an accrued right or an action taken in a proceeding before the effective date of this act in a proceeding.

(c) This act does not apply to a digital asset of an employer used by an employee in the ordinary course of business.

SECTION 14. EFFECTIVE DATE. This act takes effect immediately.
# Document Comparison

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EXHIBIT B-1
MEMORANDUM

TO:    Insurance Committee
       Probate and Estate Planning Council
FROM:  Geoffrey R. Vernon
RE:    Consideration of a Statute Relieving ILIT Trustees From
       Compliance With the Prudent Investor Rules
DATE:  3/12/14

INTRODUCTION

Fifteen states have enacted statutes providing various forms of protection to trustees of trusts that acquire and/or retain life insurance policies. There are two public policy reasons cited in support of such laws. First, many grantors of irrevocable life insurance trusts ("ILITs") do not expect or intend to burden the trustee of the ILIT they created (who are frequently family members or friends rather than professional trustees) with the fiduciary duties of administering a trust that is intended to simply own a life insurance policy.¹ Second, trustee protection laws may make a state a more attractive situs for businesses that provide trustee services.

The initial question that this committee and our council needs to address is whether an ILIT trustee protection statute is sound public policy that we should support. We obviously need to weigh the advantages of relieving ILIT trustees from certain fiduciary duties (or simply exculpating them from damages caused by breaching them) against the possible harm to trust beneficiaries. Additionally, however, we should determine the likelihood that an ILIT trustee exculpation statute will be drafted by groups other than our council, the probability of it becoming law, and the potential ramifications of a poorly drafted or ill considered statute.

If it is decided that we should proceed to draft the law, the next question is how to best tailor the statute in order to create sound public policy that protects beneficiaries from improper trustee action or inaction. The several considerations that must be scrutinized when deciding the extent of the protection to be provided to ILIT trustees are discussed below.

¹ There appears to be some question as to whether an irrevocable life insurance trust that holds assets other than life insurance should be considered an "ILIT" and whether the trustees of trusts owning additional assets should be held to a higher standard than those holding only life insurance. Neither the ILIT trustee exculpation statutes passed by other states nor this memo makes any such distinction.
PUBLIC POLICY CONCERNS AND CURRENT MICHIGAN LAW

As indicated above, a purported problem to be alleviated through the enactment of a trustee protection statute is that many grantors who establish ILITs do not want the trustees to be subject to onerous duties when the intent of the trust is simply to hold life insurance on the grantor’s life. Grantors of ILITs often wish to name a trusted family member or friend to simply pay the premiums when they come due (often with money that must be given to the trust by the grantor on an annual basis) or do nothing except serve as the owner of the policy.

Further, trustees of ILITs are often constrained by the fact that the grantor selects the policy and pays the premiums through gifts to the trust (or even makes the premium payment directly). It is frequently the case that an ILIT grantor and trustee do not know whether the life insurance policy owned by the trust is a sound investment. Additionally, the grantor rarely expects the trustee to have such knowledge or take any action with respect to the policy. Unfortunately, the terms of many insurance trust instruments are not consistent with the parties’ intentions that the trustee’s fiduciary duties be limited.

It is important to note that, except for specific circumstances, the trustees’ duties and liabilities are determined by the terms of the trust instruments. The Michigan Trust Code ("MTC") provides that Michigan trustees are bound by the terms of the trust instrument and, in the absence of trust provisions to the contrary, the prudent investor rules of Estates and Protected Individuals Code ("EPIC"). Michigan’s prudent investor rules do not contain provisions that are specific to acquiring and retaining life insurance. Inasmuch, a trustee’s duties with respect to insurance policies are determined by analyzing the same factors as are considered with respect to any other type of investment. The Michigan prudent investor rule provides that a trustee’s investment and management decisions must "be evaluated as a part of an overall investment strategy having risk and return objectives reasonably suited to the fiduciary estate." Circumstances that must be considered by a trustee include:

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2 See MCL 700.7105. See also MCL 700.7803.
3 MCL 700.1502, the Michigan prudent investor rule, provides: "(1) A fiduciary shall invest and manage assets held in a fiduciary capacity as a prudent investor would, taking into account the purposes, terms, distribution requirements expressed in the governing instrument, and other circumstances of the fiduciary estate. To satisfy this standard, the fiduciary must exercise reasonable care, skill, and caution. (2) The Michigan prudent investor rule is a default rule that may be expanded, restricted, eliminated, or otherwise altered by the provisions of the governing instrument. A fiduciary is not liable to a beneficiary to the extent that the fiduciary acted in reasonable reliance on the provisions of the governing instrument."
4 MCL 700.1501 defines "portfolio" as "all property of every kind and character held by a fiduciary on behalf of a fiduciary estate."
5 MCL 700.1503(1).
(1) General economic conditions.\(^6\)

(2) The possible effect of inflation or deflation.\(^7\)

(3) The expected tax consequences of an investment decision or strategy.\(^8\)

(4) The expected total return from income and the appreciation of capital.\(^9\)

(5) The need for liquidity, regularity of income, and preservation or appreciation of capital.\(^10\)

Following are several commonly referenced obligations imposed upon a trustee dealing with life insurance policies:

(A) Determining the suitability of the insurance policy at trust inception.

(B) Monitoring policy performance and the financial condition of the underwriting carrier.

(C) Evaluating the merits and liabilities of trustee actions concerning exercise of various policy options including the suspension or discontinuance of premium payments, policy surrender or replacement, entering loan transactions, etc.

(D) Inquiring as to the health and financial condition of the insured.\(^11\)

While these standards are not statutory duties, they will likely be considered when determining a trustee’s standard of care in dealing with life insurance policies. It seems evident that many trustees of insurance trusts are not aware of or following the above obligations on a regular basis, if at all. The frequency at which a trustee must make these determinations is uncertain but may be as often as annually.\(^12\)

With regard to the public policy issue, we generally must decide whether we want the default rule to stay as is (which potentially provides greater duties and liabilities than

\(^6\) MCL 700.1503(2)(a).

\(^7\) MCL 700.1503(2)(b).

\(^8\) MCL 700.1503(2)(c).

\(^9\) MCL 700.1503(2)(e).

\(^10\) MCL 700.1503(2)(g).


\(^12\) See Office of the Comptroller of the Currency regulations requiring annual review of fiduciary accounts at 12 CFR 9.6(c).
what many grantors and trustees desire and anticipate) or whether the default rule should be changed to specifically limit trustee liability (which might limit the claims available to trust beneficiaries for shoddy trust administration). Knowing, in either case, that the trust instrument can be drafted to place on the trustee nearly any duties and liabilities the grantor chooses.

**DRAFTING DECISIONS**

Assuming we are satisfied that public policy considerations can be adequately addressed, there are many drafting issues that must be considered. These issues are best analyzed through a review of legislation passed by other states. In this regard, attached as Exhibit A is a summary of the laws of the states that have passed laws exonerating trustees of ILITs (which is followed by printed copies of the state statutes). Also attached, as Exhibit B, is a chart prepared by Trent S. Kiziah which provides a breakdown of the components of such states’ laws.\(^{13}\)

Following is a short summary of the various considerations that should be addressed during the drafting process: \(^{14}\)

1. **Acquisition and Retention of Life Insurance**
   A primary consideration is whether a trustee should be exculpated for actions taken (or not taken) with regard to a life insurance policy that the trustee had an active role in acquiring as opposed to only those policies which are transferred to the trust by the grantor and retained by the trustee.

2. **Default Law or Election by Notice to Beneficiaries**
   It must be decided whether the exonerating statute applies to all trustees as a default rule or whether a trustee must "opt-in" by providing notice to the beneficiaries.\(^{15}\) The details of the notice requirement should also be addressed if it is determined that the opt-in method is preferable.

3. **Relieving Trustee from Fiduciary Duties and/or Damages**
   Another issue is whether to relieve the ILIT trustee of the fiduciary duties related to the insurance policy or simply provide that the trustee is not liable for damages caused by a breach of the enumerated duties. All the states that have passed ILIT trustee protection statutes have exculpated the trustees but a few have not relieved them of their fiduciary duties (perhaps unintentionally). A possible reason for not

---

\(^{13}\) The chart omits two states that have passed similar legislation, Maryland and West Virginia.


\(^{15}\) Note that while South Dakota requires notice to the settlor, such notice seems illogical since the trustee owes duties to the beneficiaries.
eliminating the duty is that a breach may still be grounds for trustee removal despite the trustee being relieved from liability for the loss.

4. Limitations as to Identity of the Insured

An additional concern is whether the trust owned policy must insure only the life of the grantor as opposed to also permitting exculpation with respect to policies insuring the grantor's spouse, other relatives, and/or any other person.

5. Identity of Duties Waived

The following duties have been waived in the other states' exculpation statutes:

A. Determine whether the contract is a proper investment.
B. Investigate the financial strength of the insurance company.
C. Exercise nonforfeiture provisions under the policy.
D. Diversify the contract.
E. Determine whether to exercise any policy option (Maryland makes specific reference to borrowing the cash value or reserve, acquiring a paid-up policy, or converting to a different policy).
F. Pay premiums (unless there is sufficient cash or other marketable assets available to pay the premium).
G. Inquire about changes in the health or financial condition of the insured.

6. Other Issues

A. Exculpating attorneys

Ohio has a specific provision exonerating the "attorney who drafted a trust, or any person who was consulted with regard to the creation of a trust" with respect to any loss "arising from the absence of" the stated duties.

B. Omitting certain trustees from protection

Florida does not provide protection to trustees who are affiliated with the life insurance company or who are paid a commission for the sale of the policy.

C. Prohibiting payment to a trustee for services related to insurance

Florida's statute prohibits compensation of a "trustee who performs fiduciary or advisory services related" to the policy for performing services for which they would not be held liable under the statute.
CONCLUSION

I would like to present this issue to the Committee on Special Projects for consideration and discussion. Please let me know your thoughts on the above as soon as convenient.
EXHIBIT A

SUMMARY OF EXCULPATION STATUTES

Alabama - Exculpation for failure to diversify.

Arizona - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) investigate financial strength of insurance company, (iii) exercise nonforfeiture provisions, and (iv) diversify the contract.

Delaware - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) investigate financial strength of insurance company, (iii) exercise nonforfeiture provisions, (iv) diversify the contract, and (v) inquire about health or financial condition of insured.

Florida - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) investigate financial strength of insurance company, (iii) exercise nonforfeiture provisions, (iv) diversify the contract, and (v) inquire about health or financial condition of insured. Specific reference to exculpation statute must be in trust agreement and notice must be provided to beneficiaries (and no objections received from beneficiaries). Restrictions on trustees affiliated with life insurance companies and payment for services that are related to dealing with life insurance policies.

Maryland - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) diversify the investment, and (iii) exercise any policy options.

North Carolina - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) exercise any policy options, and (iii) diversify the investment.

North Dakota - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) exercise any policy options, and (iii) diversify the investment. Exculpation only applies to policies transferred to the trust or “acquired by the trustee of a trust which before the acquisition of the policy had never owned any such life insurance policy.”

Ohio - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) diversify the investment, (iii) exercise any policy options, (iv) investigate financial strength of insurance company, and (v) inquire about health or financial condition of insured. Attorney who drafted trust is not liable for the absence of the duties (absent fraud).

Pennsylvania - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) investigate financial strength of insurance company, (iii) exercise nonforfeiture provisions, and (iv) diversify the contract.
South Carolina - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) exercise any policy options, and (iii) diversify the contract.

South Dakota - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) investigate financial strength of insurance company, (iii) determine whether to exercise any policy options, (iv) diversify the contract, and (v) inquire about health or financial condition of insured. Notice must be provided to settlor and settlor must not object.

Tennessee - Exculpation for failure to (i) determine whether policy is or remains a proper investment (as to type, quality, or otherwise), (ii) diversify the investment, and (iii) exercise any policy options.

Virginia - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) diversify the contract, and (iii) exercise any policy options, and (iii) diversify the contract. Exculpation applies to “policy of life insurance acquired by gift or pursuant to express permission or direction in the governing instrument.”

West Virginia - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) exercise any policy options, and (iii) diversify the contract.

Wyoming - Exculpation for failure to (i) determine whether policy is a proper investment, (ii) investigate financial strength of insurance company, (iii) determine whether to exercise any policy options, (iv) diversify the contract, and (v) inquire about health or financial condition of insured.
700.1513     Duties of a trustee with respect to the acquisition, retention, or ownership of a life insurance policy

Sec. 1513     (1)    Notwithstanding any other provision of the Michigan prudent investor rule and, except as otherwise provided in the terms of the trust, the duties of a trustee with respect to the acquisition, retention, or ownership of a life insurance policy as a trust asset do not include any of the following duties:

   (a)    Determine whether the trustee or trust beneficiaries have an insurable interest in the insured in accordance with the provisions of MCL 700.7114.
   (b)    Determine whether any life insurance policy is or remains a proper trust investment.
   (c)    Investigate the financial strength or changes in the financial strength of the life insurance company issuing or maintaining the policy.
   (d)    Inquire about changes in the health or financial condition of the insured under the policy.
   (e)    Diversify the investment in the policy relative to any other life insurance policies or any other trust assets.
   (f)    Pay or not pay policy premiums unless there is sufficient cash or other readily marketable assets held by the trust that were designated for this purpose by the settlor or a third party.
   (g)    Exercise or not exercise any option available under the policy regardless of whether the exercise or nonexercise results in the lapse or termination of the policy.

(2)     A trustee is not liable to the beneficiaries of the trust or any other person for any loss sustained with respect to a life insurance policy to which this section applies.

(3)     Unless otherwise provided in the terms of the trust, this section does not apply to a trustee (or an affiliate of a trustee) who received any commission or other payment from the issuer of a life insurance policy issued to the trust.

(4)     A trustee of the trust, the attorney or attorneys who drafted the terms of the trust, and any person who was consulted with regard to the creation of the trust, in the absence of fraud, is not liable to the beneficiaries of the trust or to any other person for any loss arising from or attributable to the absence of the duties specified in this section.

(5)     Except as otherwise provided in the terms of the trust, this section applies to a trust established before, on, or after [the effective date of this section] and to a life insurance policy acquired, retained, or owned by a trustee before, on, or after such date.
I. Call to Order

II. Excused Absences

III. Introduction of Guests

IV. Minutes of September 6, 2014, Meeting of the Council
   See Attachment 1

V. Treasurer's Report – Marguerite Munson Lentz
   See Attachment 2

VI. Chairperson's Report – Amy N. Morrissey
    See Attachment 3 – 2 year biennial plan of work

VII. Report of the Committee on Special Projects – Christopher A. Ballard

VIII. Standing Committee Reports

A. Internal Governance
   1. Budget – Marlaine C. Teahan
   2. Bylaws – Nancy H. Welber
   3. Awards – Douglas A. Mielock
   4. Planning – Shaheen I. Imami
   5. Nominating – George W. Gregory
   6. Annual Meeting – Shaheen I. Imami

B. Education and Advocacy Services for Section Members
   1. Amicus Curiae – David L. Skidmore
2. Probate Institute – James B. Steward  
   See Attachment 4 – ICLE Draft of Louis S. Harrison, Harrison & Held, LLP, Wednesday afternoon seminar and ICLE Draft of 55th Annual Probate & Estate Planning Institute Schedule

3. State Bar and Section Journals – Richard C. Mills

4. Citizens Outreach – Constance L. Brigman

5. Electronic Communications – William J. Ard

6. Membership – Raj A. Malviya
   See Attachment 5

C. Legislation and Lobbying
   1. Legislation – William J. Ard
      See Attachment 6
   
   2. Updating Michigan Law – Geoffrey R. Vernon
   
   3. Insurance Ad Hoc Committee – Geoffrey R. Vernon
   
   4. Artificial Reproductive Technology Ad Hoc Committee – Nancy H. Welber

D. Ethics and Professional Standards
   1. Ethics – David P. Lucas
   
   2. Unauthorized Practice of Law & Multidisciplinary Practice – Patricia M. Ouellette
   
   3. Specialization and Certification Ad Hoc Committee – James B. Steward

E. Administration of Justice
   1. Court Rules, Procedures and Forms – Michele C. Marquardt
      See Attachment 7
   
   2. Fiduciary Exception to Attorney Client Privilege Ad Hoc Committee – George F. Bearup

F. Areas of Practice
   1. Real Estate – George F. Bearup
   
   2. Transfer Tax Committee – Lorraine F. New
3. Charitable and Exempt Organization – Lorraine F. New
4. Guardianship, Conservatorship, and End of Life Committee – Rhonda M. Clark-Kreuer

G. Liaisons
1. Alternative Dispute Resolution Section Liaison – vacant
2. Business Law Section Liaison – John R. Dresser
3. Elder Law and Disability Rights Section Liaison – Amy R. Tripp
4. Family Law Section Liaison – Patricia M. Ouellette
5. ICLE Liaison – Jeanne Murphy
6. Law Schools Liaison – William J. Ard
7. Michigan Bankers Association Liaison – Susan M. Allan
9. Probate Registers Liaison – Rebecca A. Schnelz
10. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz
11. Solutions on Self-Help Task Force Liaison – Rebecca A. Schnelz
12. State Bar Liaison – Richard J. Siriani
13. Taxation Section Liaison – George W. Gregory

See Attachment 8

IX. Other Business

X. Hot Topics

XI. Adjournment
ATTACHMENT 1
I. Call to Order

The Chair of the Section, Amy N. Morrissey, called the meeting to order at approximately 10:10 a.m.

II. Attendance

A total of 4 officers and 18 members of the Council were present, representing a quorum.

A. The following four officers of the Council were in attendance:

Shaheen I. Imami, Chair Elect
Amy N. Morrissey, Chair
Marlaine C. Teahan, Secretary
Marguerite Munson Lentz, Treasurer

B. The following 18 members of the Council were in attendance:

Susan M. Allan
W. Josh Ard
Christopher A. Ballard
George F. Bearup
Rhonda M. Clark-Kreuer
Hon. Michael L. Jaconette
Mark E. Kellogg
David P. Lucas
Raj A. Malviya
Michele C. Marquardt
Richard C. Mills
Lorraine F. New
Patricia M. Ouellette
David L.J.M. Skidmore
James P. Spica
Geoffrey R. Vernon

C. The following officers and members were absent with excuse:

James B. Steward, Vice-Chair
Constance L. Brigman
Nancy H. Welber

D. The following officers and members were absent without excuse: None

E. The following ex-officio members of the Council were in attendance:

George W. Gregory
Phillip E. Harter
Nancy L. Little
Thomas F. Sweeney
F. Others in attendance:

- Buzz Leach
- Robert M. O'Reilly
- Dan Kosmowski
- Sueann T. Mitchell
- Neal Nusholtz
- Tim White
- Nick Reister
- J.V. Anderton
- Justine M. Sylvester
- Kathleen M. Goetsch
- Paul Vaidya
- Stephen Elkins
- Michael Lichterman
- Katie Lynwood
- Rebecca Schnelz, Probate Registers Liaison
- Jeanne Murphy, ICLE Liaison
- Hon. David M. Murkowski, MPJA Liaison
- John Lindley, Public Affairs Associates

III. Minutes of June 7, 2014, Meeting of the Council

There being no corrections to the June 7, 2014 Minutes of the Council, they were approved as submitted by a motion made by Michele C. Marquardt and seconded by David L.J.M. Skidmore. The Minutes were approved unanimously.

IV. Treasurer Report -- Marlaine C. Teahan

The Treasurer's report was given in full during the Annual Meeting of the Section and is incorporated here by reference. See Attachment 1.

V. Chairperson’s Report -- Amy N. Morrissey

The Chair thanked Judge Murkowski for his many contributions to the Council and invited him to continue attending as much as possible. The Chair thanked Thomas F. Sweeney for a fine job as the Probate Section's Chair for the past year. Mr. Sweeney shared remarks and reflections on the past year. Ms. Morrissey gave Mr. Sweeney a plaque and gift to expression the entire Section's appreciation for a job well done.


In the absence of Douglas A. Mielock, the Awards Committee Chair, Ms. Morrissey reported that this year, the Michael Irish award will be given to Sebastian V. Grassi, Jr. George Gregory and Nancy Little will present the award to Mr. Grassi at his home; other Council members are welcome to attend.

So far, there is no response from Supreme Court on the Task Force on the Role of the State Bar of Michigan. While Ms. Morrissey is monitoring developments, there is no present indication of where that is going or how it will impact our Section. There is a State Bar Leadership meeting this month. Council members are encouraged to look online at the comments of members of the State Bar regarding the Task Force issues.
The biennial chart of the Section's priorities was discussed. Ms. Morrissey asked for input. It was noted that the annual institute was missing; it will be added to the far right column and submitted with next month's Chairperson's report exhibits. See Attachment 2.

New committee chair assignments were discussed. Committee chairs were encouraged to poll current committee members to be sure of continued interest and participation. A new committee was formed called the Membership Committee. The basic mission will be to reach out to our Section's members. Raj A. Malviya has been appointed as committee chair and will assemble his committee by next month's meeting. Mr. Malviya is a member of an ABA committee with a similar mission. An updated version of the committee assignments will be included in next month's materials.

To encourage Section Members to join committees, Ms. Morrissey has asked the State Bar to add a link to our Section's webpages that allow State Bar members to easily express interest on serving on a committee. Ms. Morrissey invited those in attendance to join a committee.

VI. Report of the Committee on Special Projects (CSP) Marguerite C. Lentz

A. CSP reviewed changes made to fiduciary access of digital asset legislation that were made to conform our draft to final changes done by the Uniform Law Commission (ULC). These changes were discussed with input from the Committee on Special Projects. Updates will be made by next month's meeting and a report will be made to Council.

B. The divided trustee legislation was also reviewed by CSP. This project has been put on hold for now since the ULC has created a drafting committee. Mr. Spica was named to the ULC drafting committee.

VII. Standing Committee Reports
A. Internal Governance

1. Budget James B. Steward - No report.

2. Bylaws Nancy H. Welber

At the Annual Meeting of the Section, the Bylaws were amended by a majority vote of those Section members present. The amended Bylaws will be submitted by the Secretary to the Board of Commissioners for approval. See Attachment 3.

3. Awards Douglas A. Mielock – No report other than the Chairperson's report.


5. Nominating Douglas G. Chalgian

Report submitted at the June 2014 meeting. Nominations were closed at the June meeting. At the Annual Meeting of the Section held today before the Council meeting, the nominated slate of officers and council members was approved as follows:
Officers:
Amy N. Morrissey, Chair
Shaheen I. Imami, Chair Elect
James B. Steward, Vice-Chair
Marlaine C. Teahan, Secretary
Marguerite Munson Lentz, Treasurer

Council Member for a 3-year term:
Hon. Michael L. Jaconette
Mark E. Kellogg
Raj A. Malviya

Council Member for a partial 1-year term:
Richard C. Mills


B. Education and Advocacy Services for Section Members

2. Probate Institute James B. Steward – Mr. Steward and Jeff Kirkey of ICLE have discussed content for the next annual institute. A draft schedule has been prepared. More information to come.

3. State Bar and Section Journals Amy N. Morrissey

Ms. Little reports that the Section Journal is on schedule and all is going smoothly. At the Annual Meeting of the Section today, it was voted that the Section Journal will no longer offer a print version and will only be distributed electronically. Ms. Little noted her appreciation of the editors and authors.


5. Electronic Communications William J. Ard

The committee is working on a policy regarding emails and the listserv. The current key question is how to solve issues of people offering to sell products and the forwarding of emails.

C. Legislation and Lobbying
1. Legislation Christopher A. Ballard

Mr. Ballard discussed the following bills:

- HB 5665 - relating to the confidentiality of a property transfer affidavit. If passed, only taxing authorities would receive that affidavit.

- HB 5552. This month, this bill is expected to move out of the Senate Finance Committee and by end of month be on the way to the Governor's desk. While the Committee is not entirely satisfied with this bill, all agree that it is better than what we have. While the
Committee does not agree with it entirely, Mr. Bearup's Committee recommends that our Section not take a formal policy position on this bill as we want to take a position later. It was generally agreed to not take a position at this time.

- SB 465 and 466. These bills relate to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA). Sen. Schuitmaker is working on this and a new draft is expected early next week. It is expected that the new draft will provide language acceptable to most stakeholders. If so, this will then be pushed in the lame duck session and it is likely to pass. Our Guardianship, Conservatorship, and End of Life Committee looked at the uniform act (UAGPPJA) for a couple of years. This lengthy study resulted in the passage of new Michigan law which was passed in 2012. James M. Steward had concerns with the uniform act. Judge Murkowski said the Michigan Probate Judges Association ("MPJA") thought it was not necessary and believes that the MPJA will take a position on these new bills. All agree, however, that the new draft will need to be studied before any conclusions can be drawn. John Lindley of Public Affairs Associates ("PAA") will get committee members the new draft as soon as it is available.


3. Insurance Committee  Geoffrey R. Vernon

Mr. Vernon added to the report given at CSP -- The committee will circulate a draft bill at their next committee meeting. It is hoped that the committee will have a draft ready for review at a CSP meeting in the near future.

4. Artificial Reproductive Technology  Nancy H. Welber

In Ms. Welber's absence, it was reported that the committee is about two-thirds through the planned work. It is expected that the committee will have a draft ready for CSP review this Fall.

D. Ethics and Professional Standards
   1. Ethics J. David Kerr  - No report.

   2. Unauthorized Practice of Law & Multidisciplinary Practice  Robert M. Taylor
   No report.


E. Administration of Justice
   1. Court Rules, Procedures and Forms  Michele C. Marquardt

The Estates and Trusts Workgroup of the Supreme Court Administrative Office is only reviewing a few probate forms this Fall. Changes were discussed to PC 553 and PC 565. The committee submitted comments on PC 558 – to make it conform with the statute. Ms. Marquardt will be going to testify at a hearing before the Supreme Court on various court rule changes, including MCR 5.125(C)(6). A report on these court rule changes will be included in the materials for next month.
2. **Fiduciary Exception to Attorney Client Privilege**  George F. Bearup  
No report.

### F. Areas of Practice

1. **Real Estate**  George F. Bearup  - No report.

2. **Transfer Tax Committee**  Lorraine F. New  
Ms. New discussed her written Tax Nugget. The IRS has a new interactive approach to IRS Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Ms. New advises use of the interactive form in order to obtain a quicker response from the IRS. This advice is given based upon the fact that more than a million of applications have been submitted for entities seeking exempt status under Section 501(c)(3).  

   See Attachment 4

   Mr. Spica reminded members to update their emails and other print material relative to Revised Circular 230 (Rev. 6-2104), Rules Governing Practice Before the Internal Revenue Service. A summary of this information will be added as a Journal newsletter column.

   It was also noted that the IRS Form 2848, Power of Attorney and Declaration of Representative, was changed in July 2014. It is wise to use the new form going forward.

3. **Charitable and Exempt Organization**  Christopher A. Ballard  
Mr. Ballard gave practical advice and tips for the online application process for the new Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. He mentioned that with this process, exempt status is granted much more quickly -- sometimes even as quickly as less than 10 days. This is a great new procedure. The down side is that the new process contains some confusion as to who should sign the online form. Right now the client needs to do the online signature because there is no Power of Attorney on file. Another bit of confusion results from the fact that while an entity has responsibility for providing information to the public if they ask, this information is not online.

   The new application process can be used for both private and public foundation with assets expected to be $50,000 or less for next 3 years. For private foundations that are unfunded in an estate plan, this is a quick/easy way to get this set up; however, there is a limitation on assets of $250,000.

4. **Guardianship, Conservatorship, and End of Life Committee**  Rhonda M. Clark-Kreuer  
Once PAA, our lobbyist, provides the committee with the new draft for the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA), Ms. Clark will review it with her committee closely in order to report to Council.

### G. Liaisons

1. **Alternative Dispute Resolution Section Liaison**  - No report.

3. Elder Law and Disability Rights Section Liaison Amy R. Tripp

In general terms, the Council discussed the current status of the SBO Trust issues that are currently being addressed by the Elder Law and Disability Rights Section.

4. Family Law Section Liaison Patricia M. Ouellette - No report.

5. ICLE Liaison Jeanne Murphy - No report.


9. Probate Registers Liaison Rebecca A. Schnelz - No report.

10. SCAO Michele C. Marquardt, Constance L. Brigman, Rebecca A. Schnelz - No report.


13. Taxation Section Liaison George W. Gregory - No report.

VIII. Other Business

IX. Hot Topics

X. Adjournment – The Chair adjourned the meeting at 11:22 a.m.

Respectfully submitted,

Marlaine C. Teahan
Acting Secretary for
James A. Steward, Secretary
Probate and Estate Planning Council
Treasurer’s Report
October 25, 2014

Income/Expense Reports
An audited report through September 30, 2014 is attached. This month’s spreadsheet covers from July, 2014 to September, 2014. This spreadsheet is the year-end report for 2013-14, prepared by the outgoing Treasurer, Marlaine C. Teahan.

Highlights:

- We expended 80% of our expected disbursements and were under budget for the 2013-14 fiscal year by $25,654.73.
- Our net increase this year in our general fund was $15,868.23.
- Our general fund year-end balance is $222,164.83.
- For budgeting purposes, we are dividing our general fund up into two portions: the Amicus Fund of $25,785 and the General Fund of $196,379.83.

Mileage Reimbursement Rate Effective 1/1/2014
The IRS business mileage reimbursement rate for 2014 is $0.56 per mile. If you are eligible for reimbursement of your mileage for Probate Council business, please use this rate on your SBM expense reimbursement forms. The SBM forms and instructions are attached.

Expense Reimbursement Requests
- Form: http://www.michbar.org/generalinfo/pdfs/sectexp.pdf
- Email forms to mlentz@bodmanlaw.com or provide paper copies in person or by mail.

Hearts and Flowers Fund
Given the healthy balance in this fund, thanks to everyone's participation last year, no additional contributions this year are requested. If this situation changes, a request for donations will be made.

Marguerite Munson Lentz, Treasurer
Probate and Estate Planning Section

Treasurer contact information:
Marguerite Munson Lentz
BODMAN PLC
6th Floor at Ford Field
1901 St. Antoine Street
Detroit, Michigan 48226
office: 313-393-7589
fax: 313-393-7579
email: mlentz@bodmanlaw.com
## Probate and Estate Planning Section - Treasurer's Report through 9-30-14

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</tr>
<tr>
<td><strong>Total Receipts</strong></td>
<td>175.00</td>
<td>70.00</td>
<td>-</td>
<td>116,325.00</td>
<td>116,000.00</td>
<td>325.00</td>
<td>100%</td>
</tr>
</tbody>
</table>

|                |          |          |           |                   |                 |          |                         |
| **Disbursements** |        |          |           |                   |                 |          |                         |
| Journal (1)    | -        | 75.00    | 8,193.29  | 24,167.11         | 25,000.00       | (832.89) | 97%                     |
| Chairperson's Dinner(2) | -    | -        | 288.35    | 5,745.55          | 6,500.00        | (754.45) | 88%                     |
| Travel         | 179.20   | 69.44    | 1,100.91  | 15,476.48         | 18,500.00       | (3,023.52) | 84%                     |
| Lobbying       | 5,000.00 | 2,500.00 | 2,500.00  | 30,000.00         | 30,000.00       | -        | 100%                    |
| Meetings(3)    | 1,620.82 | -        | 1,126.81  | 11,789.09         | 14,000.00       | (2,210.91) | 84%                     |
| Long-range Planning | -    | -        | -         | 1,000.00          | 1,000.00        | 0%       | 0%                      |
| Support for Annual Institute | 45.00 | -       | 11,911.68 | 14,000.00       | (2,088.32)       | 85%      |                         |
| Amicus Briefs  | -        | -        | -         | 10,000.00         | 10,000.00       | 0%       | 0%                      |
| ListServ(4)    | 150.00   | -        | 150.00    | 984.03            | 1,400.00        | (415.97) | 70%                     |
| Postage        | -        | -        | -         | 100.00            | 100.00          | 0%       | 0%                      |
| Telephone      | -        | -        | -         | 250.00            | 250.00          | 0%       | 0%                      |
| Seminars       | -        | -        | -         | 4,000.00          | 4,000.00        | 0%       | 0%                      |
| Other(5)       | -        | -        | -         | 21.33             | 1,000.00        | (978.67) | 2%                      |
| **Total Disbursements** | 6,995.02  | 2,644.44 | 13,359.36 | 100,456.77       | 125,750.00      | (25,654.73) | 80%                     |

| Net Increase (Decrease)                  | (6,820.02) | (2,574.44) | (13,359.36) | 15,868.23       | (9,750.00) | 25,979.73 |
| Ending Fund Balance (6)                  | 238,098.63 | 235,524.19 | 222,164.83  | 222,164.83      |            |            |

### Footnotes

1. Includes e-blast for the Journal
2. Includes plaques for outgoing Chair and Council Members
3. Includes SBM Leadership Conference expenses for incoming Chair and Chair Elect
4. Includes ListServ, telephone, e-blast & other electronic communications
5. Includes copying costs; budget for this line increased to $1,000 & now includes $750 for Young Lawyers' Summit
6. Includes $25,000 allocated to "Amicus Fund" for extra amicus brief expenses in excess of current budget amount
### Expense Reimbursement Form

Staple receipts to back of form as required.
For electronic transmittal, scan and PDF receipts and send with form by e-mail.
Policies and procedures on reverse side.

<table>
<thead>
<tr>
<th>Date</th>
<th>Description &amp; Purpose</th>
<th>Mileage</th>
<th>Lodging/Other Travel</th>
<th>Meals</th>
<th>Miscellaneous</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Note start &amp; end point for mileage.)</td>
<td>0.56</td>
<td>$0.00</td>
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<td>$0.00</td>
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</tbody>
</table>

I certify that the reported expense was actually incurred while performing my duties for the State Bar of Michigan as

**Date**

**Title**

**Signature**  

**Grand Total** $0.00

**Date**

**Title**

**Approved by (signature)**

- **Reset Form**
- **Print Form**
General Policies

1. Requests for reimbursement of individual expenses should be submitted as soon as possible following the event and no later than two weeks following the close of the fiscal year in which the expense is incurred so that the books for that year can be closed and audited.

2. All out of pocket expenses must be itemized.

3. Detailed receipts are recommended for all expenses but required for expenses over $25.

4. Meal receipts for more than one person must indicate names of all those in attendance unless the function is a section council meeting where the minutes of that meeting indicate the names of those present. Seminar meal functions should indicate the number guaranteed and those in attendance, if different.

5. Spouse expenses are generally not reimbursable.

6. Mileage is reimbursed at the current IRS approved rate for business mileage. Reimbursement of mileage or travel expenses is limited to actual distance traveled; not distance from domicile to the meeting site.

7. Receipts for lodging expenses must be supported by a copy of the itemized bill showing the per night charge, meal expenses and all other charges, not simply a credit card receipt, for the total paid.

8. Airline tickets should be purchased as far in advance as possible to take advantage of any cost saving plans available.
   A. Tickets should be at the best rate available for as direct a path as possible.
   B. First class tickets will not be reimbursed in full but will only be reimbursed up to the amount of the best or average coach class ticket available for that trip.
   C. Increased costs incurred due to side trips for the private benefit of the individual will be deducted.
   D. A copy of the ticket receipt showing the itinerary must be attached to the reimbursement request.

9. Reimbursement for car, bus or train will be limited to the maximum reimbursable air fare if airline service to the location is available.

10. Outside speakers should be advised in advance of the need for receipts and the above requirements.

11. Bills for copying done by a firm should include the numbers of copies made, the cost per page and general purpose (committee or section meeting notice, seminar materials, etc.).

12. Bills for reimbursement of phone expenses should be supported by copies of the actual phone bills. If that is not possible, the party called and the purpose of the call should be provided.

13. The State Bar of Michigan is Sales tax exempt. Suppliers of goods and services should be advised that the State Bar of Michigan is the purchaser and that tax should not be charged.

14. Refunds from professional organizations (Example: ABA/NABE) for registration fees and travel must be made payable to the State Bar of Michigan and sent to the attention of the Finance Department. If the State Bar of Michigan is paying your expenses or reimbursing you for a conference and you are aware you will receive a refund, please notify the finance department staff at the time you submit your request for payment.

15. Reimbursement will in all instances be limited to reasonable and necessary expenses.

Specific Policies

1. Sections may not exceed their fund balance in any year without express authorization of the Board of Commissioners.

2. Individuals seeking reimbursement for expenditures of funds must have their request approved by the chairperson or treasurer. Chairpersons must have their expenses approved by the treasurer and vice versa.

3. Requests for reimbursement of expenses which require council approval must be accompanied by a copy of the minutes of the meeting showing approval granted.
ATTACHMENT 3
<table>
<thead>
<tr>
<th>Action Pending</th>
<th>Statutory/Legislative</th>
<th>Court Rules, Procedures and Forms</th>
<th>Council Organization &amp; Internal Procedures</th>
<th>Professional Responsibility</th>
<th>Education &amp; Service to the Public &amp; Members</th>
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<tbody>
<tr>
<td></td>
<td>-Prop tax uncapping exempt. (HB5552)</td>
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<td>&quot;Who Should I Trust?&quot;Program</td>
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<td></td>
<td>-Fiduciary Access to Digital Assets (HB5366-5370)</td>
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<td>55th Annual P&amp;EP Institute</td>
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<td></td>
<td>-PR access to online accts (SB 293)</td>
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<td>-Hearings minors &lt; 18 (SB 144 &amp; 177)</td>
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<td>-Funeral Representative (HB 5162/SB 731)</td>
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<td>Priority Items</td>
<td>-Domestic Asset Protection Trusts</td>
<td>SCAO Meetings*</td>
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<td>-ILIT Trustee Liability Protection</td>
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<td>-Artificial Reproductive Technology</td>
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<td>-Charitable Trust</td>
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<td>-Probate Appeals</td>
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<td>Secondary Priority</td>
<td>-EPIC/MTC Updates</td>
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<td>Inventory Lawyer</td>
<td>Opportunities with ICLE</td>
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<td></td>
<td>-Directed Investment Trusts</td>
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<td>Digital Journal</td>
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<td>-TBE Trusts</td>
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<td>-ADR Revision</td>
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<td>-Property tax on trust property</td>
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<td>-Uniform Real Property TOD Act</td>
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<td>-Dignified Death (Family Consent) Act</td>
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<td>Probate Court Opinion Bank</td>
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<td></td>
<td>-Pooled income trust exclusion</td>
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<td>Mentor program</td>
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<td>-Neglect Legislation</td>
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<td>-Foreign Guardians</td>
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<td>-Inheritance Tax</td>
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<td>-Estate Recovery</td>
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<td>-PRE after death &amp; nursing home</td>
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*ongoing
Experts in Estate Planning:
The Role of the Attorney Throughout the Life Cycle of a Trust

Wednesday, May 6, 2015
Grand Traverse Resort and Spa, Acme

Seminar Schedule

Presenter:
Louis S. Harrison
Harrison & Held, LLP
Chicago

2:00 p.m. – 2:45 p.m.  Specific Trusts Identified and Pinpointing Your Role
- Revocable trust: during life and post-mortem
- Gifting trusts for minors
- QPRTs: during and after the retained term
- GRATs: during and after the retained term
- Irrevocable grantor trusts
- Technology, billing, setting client expectations, and liability

2:45 p.m. – 3:30 p.m.  Income Tax Planning for Trusts
- Setting the trustees’ expectation as to planning
- Docketing and billing
- Tax planning explored
- Communications to beneficiaries and timing
- K1 concerns and timing
- Estimated tax payments

3:30 p.m. – 3:45 p.m.  Break

3:45 p.m. – 4:30 p.m.  Modifying the Unmodifiable Trust Term
- Decanting
- Trust protectors
- Change of situs
- Change of trustee
- Looming tax nuances
- Cases

4:30 p.m. – 5:00 p.m.  General Trust Administration
- Where are we on investments?
- Distributions (income versus principal)
- Communications with beneficiaries
- Grantor intent
- Structuring compensation arrangements
- Setting forth reasonable expectations
- Directed trusts versus fully managed
- Coordinating with corporate trustees

Adjourn
**Thursday – Saturday, May 7-9, 2015**  
**Grand Traverse Resort and Spa, Acme**

**Cosponsored by the Probate & Estate Planning Section of the State Bar of Michigan**

<table>
<thead>
<tr>
<th>Thursday, May 7</th>
<th>Plenary Sessions</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>James B. Steward</td>
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<tr>
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<td>Steward &amp; Sheridan PLC</td>
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<td>Ishpeming</td>
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### 12:00 p.m. – 12:45 pm

**Making the Most of Your ICLE Resources** - Demonstration by ICLE Staff

- Are you making the most of your Partnership resources? Do you really know everything that you have and how to use it? Learn to make the most of your Partnership resources and to use the website effectively on a computer or mobile device. Discover the Partnership’s main resources and primary law research capabilities and get tips for quickly finding what you need. Plus, use the Community to network and get specific practice questions answered.

### 1:00 p.m. – 1:30 p.m.

**Welcoming Remarks and Announcements**

Amy N. Morrissey  
Chair, Probate & Estate Planning Section of the State Bar of Michigan  
Westerman & Morrissey PC  
Ann Arbor

Thomas C. Rombach *(Acme Only)*  
President, State Bar of Michigan  
Law Offices of Thomas C. Rombach  
New Baltimore

### 1:30 p.m. – 2:00 p.m.

**Probate and Trust Law Cases**

Phillip E. Harter  
Chalgian & Tripp Law Offices PLLC  
Battle Creek

### 2:00 p.m. – 3:00 p.m.

**How to Practice Law, Abide by the Rules of Professional Conduct, and Have a Life that Rules**

- Managing technology
- Managing your day to day workplace and your clients’ expectations
- Determining which clients to select and how to select them
- Ensuring vacation success!

Louis S. Harrison  
Harrison & Held, LLP  
Chicago
<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>3:00 p.m. –</td>
<td>Networking Break</td>
</tr>
<tr>
<td>3:15 p.m.</td>
<td><strong>Advanced Planning Track</strong></td>
</tr>
<tr>
<td>Moderator:</td>
<td>Robert P. Tiplady</td>
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<tr>
<td>Dykema</td>
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<tr>
<td>Ann Arbor</td>
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</tr>
<tr>
<td>3:15 p.m. –</td>
<td>Valuing Closely Held Businesses for Tax and Planning Purposes</td>
</tr>
<tr>
<td>3:45 p.m.</td>
<td>• The value that every estate planner can add to appraisals</td>
</tr>
<tr>
<td></td>
<td>• Understanding the 5% that is key to appraisals for estate and gift tax</td>
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<td>• Making appraisals better for value and audit purposes</td>
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<td>• Emphasis on value reduction beyond minority or marketability discounts</td>
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<td></td>
<td>Louis S. Harrison</td>
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<td>Harrison &amp; Held, LLP</td>
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<td>Chicago</td>
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<tr>
<td>3:45 p.m. –</td>
<td>Getting Prepared for Asset Protection Legislation</td>
</tr>
<tr>
<td>4:15 p.m.</td>
<td>• Replacement for prenuptial agreements?</td>
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<td></td>
<td>• Impact on creditors</td>
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<td></td>
<td>Robert P. Tiplady</td>
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<td>Dykema</td>
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<td>Ann Arbor</td>
</tr>
<tr>
<td>4:15 p.m. –</td>
<td>The Definitive Checklist for Serving as Trustee</td>
</tr>
<tr>
<td>4:45 p.m.</td>
<td>• Should you do it?</td>
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<tr>
<td></td>
<td>• Critical steps to take to best serve your clients and protect yourself</td>
</tr>
<tr>
<td></td>
<td>Louis S. Harrison</td>
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<td>Harrison &amp; Held, LLP</td>
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<td>Chicago</td>
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<tr>
<td>4:45 p.m. –</td>
<td>Questions and Answers</td>
</tr>
<tr>
<td>5:00 p.m.</td>
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<tr>
<td>6:30 p.m. –</td>
<td>Reception</td>
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<tr>
<td>8:00 p.m.</td>
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</tbody>
</table>

**Core Concepts Track**

| Moderator:   | Gregory R. Kish                                                        |
| Smith Haughey Rice & Roegge | Traverse City                                                      |
| 3:15 p.m. –  | Basic Planning for the Young Family                                    |
| 3:45 p.m.    | • Assembling the will or trust                                          |
|              | • Testamentary vs. RGT                                                   |
|              | • Separate writing for nomination of guardian?                          |
|              | Gregory R. Kish                                                         |
|              | Smith Haughey Rice & Roegge                                              |
|              | Traverse City                                                           |
| 4:15 p.m.    | Demystifying Deeds                                                      |
|              | • Warranty deeds                                                         |
|              | • Quitclaim deeds                                                        |
|              | • Ladybird deeds                                                         |
|              | • Deed in the drawer                                                     |
|              | • Lion Cub deeds                                                         |
|              | Harley D. Manela                                                        |
|              | Mall Malisow & Cooney PC                                                 |
|              | Farmington Hills                                                        |
| 4:45 p.m.    | Conservatorships 101                                                     |
|              | • Advising your client as to conservatorships and alternatives           |
|              | • Getting appointed                                                      |
|              | • Accounting and court review                                            |
|              | Thomas V. Trainer (Acme only)                                            |
|              | Kemp Klein Law Firm                                                      |
|              | Troy                                                                    |

**END SESSION 1**

**Session 2**
<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>7:30 a.m. – 8:30 a.m.</td>
<td>Continental Breakfast</td>
<td>Ishpeming</td>
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<tr>
<td>8:30 a.m. – 8:45 a.m.</td>
<td>Remarks from the State Bar Executive Director</td>
<td>Lansing</td>
</tr>
<tr>
<td>8:45 a.m. – 9:20 a.m.</td>
<td>The Landscape in Lansing and Recent Legislation for Probate and Estate Planners</td>
<td>Paw Paw</td>
</tr>
<tr>
<td>9:20 a.m. – 10:20 a.m.</td>
<td>Retaining, Obtaining, and Sustaining Basis</td>
<td>Louisville, KY</td>
</tr>
<tr>
<td>10:20 a.m. – 10:35 a.m.</td>
<td>Networking Break</td>
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<tr>
<td>10:35 a.m. – 11:10 a.m.</td>
<td>Things We Think We Know about Estate Planning, But Are We Sure?</td>
<td>Farmington Hills</td>
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<tr>
<td>11:10 a.m. – 11:45 a.m.</td>
<td>Protecting Your Clients’ Digital Assets</td>
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**Current Events Track**
Moderator: Michael G. Lichterman
Bolthouse Baar & Lefere PC
Grandville

**Trust Administration Track**
Moderator: Marlaine C. Teahan
Fraser Trebilcock Davis & Dunlap PC
Lansing

**Beginning Trust Administration**
- Gathering information before the initial conference
- Who to meet with
- Checklist to get necessary information from the client
- Notices to and other communications with beneficiaries
- Advising clients regarding investments
- Using technology to make the process efficient

John D. Mabley
Smith & Mabley PLC
Farmington Hills
<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Speaker(s)</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>11:45 a.m. –</td>
<td>Charitable Planning Ideas in the Current Environment</td>
<td>Turney Berry</td>
<td>Lansing</td>
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<tr>
<td>12:20 p.m.</td>
<td>Wrapping Up Trust Administration</td>
<td>Douglas A. Mielock</td>
<td>Lansing</td>
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<td></td>
<td>Charitable distributions from trusts that lack a charitable beneficiary</td>
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<td>High-end and low-end uses of gift annuities</td>
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<td>Saving the family farm and ancestral home via charity</td>
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<td>Business interests are good business</td>
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<td>Michael G. Lichterman</td>
<td>Grandville</td>
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<td>Fraser Trebilcock Davis &amp; Dunlap PC</td>
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<tr>
<td>12:20 p.m. –</td>
<td>Questions and Answers</td>
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<tr>
<td>12:30 p.m.</td>
<td>Questions and Answers</td>
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<tr>
<td>1:30 p.m. –</td>
<td>Networking Lunch on Premises</td>
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<tr>
<td>3:30 p.m.</td>
<td>SPECIAL ADVANCED SESSION: Protected, Directed, and Dissected Trusteeships</td>
<td>James P. Spica</td>
<td>Detroit</td>
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<td>Protection and direction under the Michigan Trust Code</td>
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<td>Greater facility under the existing Uniform Trust Code</td>
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<td>The Uniform Law Commission’s new initiative—an insider’s view</td>
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<td>Richard C. Mills</td>
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<td>Patricia M. Ouellette</td>
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<td>Bernick Radner &amp; Ouellette PC</td>
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<td>Laura E. Radle</td>
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<td>Varnum LLP</td>
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<td>Richard C. Mills</td>
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**Session 3**

**Saturday, May 9**

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>7:30 a.m. – 8:30 a.m.</td>
<td><strong>Continental Breakfast</strong></td>
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<tr>
<td>7:30 a.m. – 8:15 a.m.</td>
<td><strong>Making the Most of Your ICLE Resources</strong></td>
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<tr>
<td>8:30 a.m. – 9:30 a.m.</td>
<td><strong>DINK Planning: The Rise of Dual Income, No Kids Couples</strong></td>
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<tr>
<td>9:30 a.m. – 10:30 a.m.</td>
<td><strong>Best of Both Worlds: Achieving Income Tax Advantages and the Protection of Your Client’s Desires</strong></td>
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**Plenary Sessions**

Moderator:
James B. Steward
Steward & Sheridan PLC
Ishpeming

- Are you making the most of your Partnership resources? Do you really know everything that you have and how to use it? Learn to make the most of your Partnership resources and to use the website effectively on a computer or mobile device. Discover the Partnership’s main resources and primary law research capabilities and get tips for quickly finding what you need. Plus, use the Community to network and get specific practice questions answered.

Demonstration by ICLE Staff

- Special considerations about planning
- Ensuring your living trust is truly alive
- Fiduciaries, trust protectors, trust advisors or trust committees
- Long-term care planning
- Sample trust provisions

Amy Rombyer Tripp
Chalgian & Tripp Law Offices PLLC
Jackson

- Balancing competing goals
- Best options to replace the credit shelter
- Explaining options to clients
- Blended families
- Business owners
- Spendthrift spouses
- Generation skipping

Mark K. Harder
Warner Norcross & Judd LLP
Holland

and

Michele C. Marquardt
DeMent and Marquardt PLC
<table>
<thead>
<tr>
<th>Time</th>
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<tbody>
<tr>
<td>10:30 a.m. – 10:45 a.m.</td>
<td><strong>Networking Break</strong></td>
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<tr>
<td>10:45 a.m. – 11:15 a.m.</td>
<td><strong>Law Practice Management Track</strong></td>
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<td><strong>Engagement &amp; Disengagement Letters</strong></td>
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<td>• Why we use them</td>
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<td>• Essential topics to cover</td>
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<td></td>
<td>Amy N. Morrissey</td>
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<td>Chair, Probate &amp; Estate Planning Section of the State Bar of Michigan</td>
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<td>Westerman &amp; Morrissey PC</td>
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<td>Ann Arbor</td>
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<td></td>
<td><strong>Medicaid and Medicare Update 2015</strong></td>
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<td>• Michigan and federal developments</td>
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<td>• Estate recovery</td>
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<td>• Medicaid annuities and Medicaid compliant promissory notes</td>
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<td>• Responding to increased audit/documentation requirements</td>
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<td>• Probate proceedings and Medicaid</td>
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<td>Lauretta K. Murphy</td>
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<td>Miller Johnson</td>
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<td>Grand Rapids</td>
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<td>11:15 a.m. – 11:45 a.m.</td>
<td><strong>Marketing Matters: Helping Prospective Clients Choose You!</strong></td>
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<td>• Seminars and workshops and why they work!</td>
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<td>• How to capitalize on the social media trend</td>
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<td>• Networking, social groups, professional partnerships and when to say when</td>
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<td>Terrence G. Quinn</td>
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<td>The TGQ Law Firm</td>
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<td>Ann Arbor</td>
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<td><strong>Planning Strategies for Medicaid: Married Couples</strong></td>
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<td>• Benefits and pitfalls of familiar planning strategies</td>
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<td>• New planning strategies</td>
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<td>• Effective use of court involvement</td>
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<td>Rosemary Howley Buhl</td>
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<tr>
<td></td>
<td>The Law Office of Rosemary Howley Buhl PC</td>
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<td></td>
<td>East Lansing</td>
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<tr>
<td>11:45 a.m. – 12:15 p.m.</td>
<td><strong>Systematizing Your Legal Practice</strong></td>
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<tr>
<td></td>
<td>• Improve quality control and reduce the opportunities for errors</td>
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<td>• Improve profitability by reducing costs through efficiencies</td>
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<td>• Create an exit strategy by making your practice more attractive to sell or transfer</td>
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<td></td>
<td>Matthew M. Wallace</td>
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<td>Wallace Law Firm PC</td>
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<td>Port Huron</td>
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<td><strong>Planning Strategies for Medicaid: Vacation, Hunting and Farm Land</strong></td>
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<td></td>
<td>• Planning before and during the 5-year look-back period</td>
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<td>• Strategies that work and strategies to avoid</td>
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<td>• Estate recovery implications</td>
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<td>• Coordination of Medicaid planning and succession planning</td>
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<td>Norman E. Richards</td>
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<td>Foster Swift Collins &amp; Smith PC</td>
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<td>Farmington Hills</td>
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<td>12:15 p.m. – 12:30 p.m.</td>
<td><strong>Questions and Answers</strong></td>
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*Adjourn*
# Friday – Saturday, June 19-20, 2015
## The Inn at St. John’s, Plymouth

### Plenary Sessions
- James B. Stewart  
  Steward & Sheridan PLC  
  Ishpeming

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Presenter/Details</th>
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<tbody>
<tr>
<td>7:30 a.m. –</td>
<td>Continental Breakfast</td>
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<tr>
<td>8:30 a.m.</td>
<td><strong>Making the Most of Your ICLE Resources</strong> - Demonstration by ICLE Staff</td>
<td>Are you making the most of your Partnership resources? Do you really know everything that you have and how to use it? Learn to make the most of your Partnership resources and to use the website effectively on a computer or mobile device. Discover the Partnership’s main resources and primary law research capabilities and get tips for quickly finding what you need. Plus, use the Community to network and get specific practice questions answered.</td>
</tr>
</tbody>
</table>
| 8:30 a.m. –   | **Welcoming Remarks and Announcements**                             | Amy N. Morrissey  
  Chair, Probate & Estate Planning Section of the State Bar of Michigan  
  Westerman & Morrissey PC  
  Ann Arbor |
| 8:50 a.m. –   | **Probate and Trust Law Cases**                                     | Phillip E. Harter  
  Chalgian & Tripp Law Offices PLLC  
  Battle Creek |
| 9:20 a.m. –   | **How to Practice Law, Abide by the Rules of Professional Conduct, and Have a Life that Rules** | Louis S. Harrison  
  Harrison & Held, LLP  
  Chicago |
| 10:35 a.m.    | **Networking Break**                                                 |                                                                                  |
| Advanced Planning Track | Moderator: Robert P. Tiplady  
  Dykema  
  Ann Arbor |
| Core Concepts Track | Moderator: Gregory R. Kish  
  Smith Haughey Rice & Roegge  
  Traverse City |
| 10:35 a.m. –  | **Valuing Closely Held Businesses for Tax and Planning Purposes**   | Basic Planning for the Young Family  
  • Assembling the will or trust  
  • Testamentary vs. RGT  
  • Separate writing for nomination of guardian?  
  Gregory R. Kish |
<p>| 11:05 a.m.    |                                                                      |                                                                                  |</p>
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<tr>
<th>Time</th>
<th>Session</th>
<th>Speaker/Details</th>
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<tbody>
<tr>
<td>11:10 a.m. –</td>
<td>Getting Prepared for Asset Protection Legislation</td>
<td>Robert P. Tiplady, Dykema, Ann Arbor</td>
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<tr>
<td>11:40 a.m.</td>
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<tr>
<td>11:45 a.m. –</td>
<td>The Definitive Checklist for Serving as Trustee</td>
<td>Louis S. Harrison, Harrison &amp; Held, LLP, Chicago</td>
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<tr>
<td>12:15 p.m.</td>
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<tr>
<td>12:15 p.m. –</td>
<td>Questions and Answers</td>
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<tr>
<td>12:30 p.m.</td>
<td>Networking Lunch on Premises</td>
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<td>12:30 p.m. –</td>
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<td>1:45 p.m.</td>
<td>The Landscape in Lansing and Recent Legislation for Probate and Estate Planners</td>
<td>Harold Schuitmaker, Schuitmaker Cooper Schuitmaker Cypher &amp; Knotek PC, Paw Paw</td>
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<tr>
<td>2:20 p.m.</td>
<td>Retaining, Obtaining, and Sustaining Basis</td>
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<td>3:20 p.m.</td>
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**END SESSION 1**
<table>
<thead>
<tr>
<th>Time</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>3:20 p.m. – 3:35 p.m.</td>
<td>Networking Break</td>
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<tr>
<td>3:35 p.m. – 4:10 p.m.</td>
<td><strong>Current Events Track</strong></td>
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<td><strong>Moderator:</strong> Howard H. Collens</td>
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<td></td>
<td><strong>Galloway and Collens PLLC</strong></td>
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<td><strong>Huntington Woods</strong></td>
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<td>3:35 p.m. – 4:10 p.m.</td>
<td><strong>Things We Think We Know about Estate Planning, But Are We Sure?</strong></td>
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<tr>
<td></td>
<td>• Powers of appointment have real world (and tax) consequences</td>
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<td>• Who are all these people: committees, advisors, trust protectors?</td>
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<td></td>
<td>• I know reciprocity when I see it - I think.</td>
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<tr>
<td>3:35 p.m. – 4:10 p.m.</td>
<td><strong>Beginning Trust Administration</strong></td>
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<td></td>
<td>• Gathering information before the initial conference</td>
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<td>• Who to meet with</td>
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<td>• Checklist to get necessary information from the client</td>
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<td>• Notices to and other communications with beneficiaries</td>
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<td>• Advising clients regarding investments</td>
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<td>• Using technology to make the process efficient</td>
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<td>4:15 p.m. – 4:50 p.m.</td>
<td><strong>Protecting Your Clients’ Digital Assets</strong></td>
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<td>• Identifying digital assets</td>
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<td>• New legislation?</td>
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<td>• Planning and drafting advice</td>
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<td>• Estate administration for digital assets</td>
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<td>4:15 p.m. – 4:50 p.m.</td>
<td><strong>Ongoing Administration and Special Problems in Marshalling the Assets</strong></td>
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<td></td>
<td>• Selling assets</td>
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<td>• Cleaning out the house</td>
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<td>• Dealing with creditor claims</td>
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<td>• Dealing with people who won’t turn over assets</td>
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<td>• When the trust is silent or uses bad language</td>
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<td>• Petitioning the court for guidance</td>
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<tr>
<td>4:55 p.m. – 5:30 p.m.</td>
<td><strong>Charitable Planning Ideas in the Current Environment</strong></td>
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<td>• Charitable distributions from trusts that lack a charitable beneficiary</td>
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<td>• High-end and low-end uses of gift annuities</td>
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<td>4:55 p.m. – 5:30 p.m.</td>
<td><strong>Wrapping Up Trust Administration</strong></td>
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<td>• Trust accountings</td>
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<td>• Accounting for income and principal separately</td>
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<td>• Making distributions – interim and final</td>
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Turney Berry  
Wyatt Tarrant & Combs LLP  
Louisville, KY  
*Video Presentation-Plymouth*
<table>
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<tbody>
<tr>
<td>5:30 p.m. – 5:45 p.m.</td>
<td>Questions and Answers</td>
</tr>
<tr>
<td>5:45 p.m. – 7:00 p.m.</td>
<td>Reception</td>
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END SESSION 2

Session 3

Saturday, June 20

**Plenary Sessions**
Moderator:
James B. Steward
Steward & Sheridan PLC
Ishpeming

7:30 a.m. – 8:30 a.m. | Continental Breakfast

7:30 a.m. – 8:15 a.m. | Making the Most of Your ICLE Resources
- Are you making the most of your Partnership resources? Do you really know everything that you have and how to use it? Learn to make the most of your Partnership resources and to use the website effectively on a computer or mobile device. Discover the Partnership’s main resources and primary law research capabilities and get tips for quickly finding what you need. Plus, use the Community to network and get specific practice questions answered.

Demonstration by ICLE Staff

8:30 a.m. – 9:30 a.m. | DINK Planning: The Rise of Dual Income, No Kids Couples
- Special considerations about planning
- Ensuring your living trust is truly alive
- Fiduciaries, trust protectors, trust advisors or trust committees
- Long-term care planning
- Sample trust provisions

Amy Rombyer Tripp
Chalgian & Tripp Law Offices PLLC
Jackson

9:30 a.m. – 10:30 a.m. | Best of Both Worlds: Achieving Income Tax Advantages and the Protection of Your Client’s Desires
- Balancing competing goals
- Best options to replace the credit shelter
- Explaining options to clients
- Blended families

Turney Berry
Wyatt Tarrant & Combs LLP
Louisville, KY
*Video Presentation-Plymouth*

Douglas A. Mielock
Foster Swift Collins & Smith PC
Lansing
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<tr>
<td>10:30 a.m. – 10:45 a.m.</td>
<td>Networking Break</td>
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<tr>
<td>10:45 a.m. – 11:15 a.m.</td>
<td><strong>Technology Track</strong>&lt;br&gt;Modifier: Sarah L. Ostahowski&lt;br&gt;Sarah L. Ostahowski PLC&lt;br&gt;Shepherd</td>
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<tr>
<td>11:20 a.m. – 11:50 p.m.</td>
<td><strong>Technology Tools to Systematize Your Law Practice</strong>&lt;br&gt;- Computer networking, scanners, shared files and forms&lt;br&gt;- Shared calendars and contacts with Microsoft Exchange&lt;br&gt;- Electronic whiteboard for client consultations and design of estate and asset protection plans&lt;br&gt;- Document creation system for trust based estate plans and funding</td>
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<tr>
<td>11:55 a.m. – 12:25 p.m.</td>
<td><strong>Microsoft Excel for Estate Planners</strong>&lt;br&gt;- Overview of Excel&lt;br&gt;- Specialized applications including amortization schedules</td>
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<td><strong>Disability Planning Track</strong>&lt;br&gt;Modifier: Lauretta K. Murphy&lt;br&gt;Miller Johnson&lt;br&gt;Grand Rapids</td>
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<td><strong>Medicaid and Medicare Update 2015</strong>&lt;br&gt;- Michigan and federal developments&lt;br&gt;- Estate recovery&lt;br&gt;- Medicaid annuities and Medicaid compliant promissory notes&lt;br&gt;- Responding to increased audit/documentation requirements&lt;br&gt;- Probate proceedings and Medicaid</td>
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<td><strong>Planning Strategies for Medicaid: Married Couples</strong>&lt;br&gt;- Benefits and pitfalls of familiar planning strategies&lt;br&gt;- New planning strategies&lt;br&gt;- Effective use of court involvement</td>
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<td><strong>Planning Strategies for Medicaid: Vacation, Hunting and Farm Land</strong>&lt;br&gt;- Planning before and during the 5-year look-back period</td>
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<td>Practical applications including probate accountings</td>
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<td>George W. Gregory</td>
<td>George W. Gregory PLLC Troy</td>
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<tr>
<td>12:25 p.m. – 12:40 p.m.</td>
<td><strong>Adjourn</strong></td>
<td><strong>Adjourn</strong></td>
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Attachment 5
MEMBERSHIP COMMITTEE

The mission of the Membership Committee is as follows:

*Mission: To strengthen relations with Section members, encourage new membership, and promote awareness of and participation in Section activities*

As chair of the Membership Committee, I have secured the following attorneys to serve on this new committee:

- Raj A. Malviya, Chair, Miller Johnson, Grand Rapids
- Christopher J. Caldwell, Varnum, Grand Rapids
- Nicholas R. Dekker, Cunningham Dalman, Holland
- Daniel A. Kosmowski, Law Office of Daniel A. Kosmowski, Detroit
- Katie Lynwood, Bernick, Radner & Ouellette, Lansing
- Julie A. Paquette, Law Office of Julie Paquette, Southfield
- Nicholas A. Reister, Smith Haughey, Grand Rapids and Traverse City
- Marlaine C. Teahan, Fraser Trebilcock, Lansing
- Joseph J. Viviano, Foster Swift, Lansing

I will be sending an email to the new committee members, welcoming them to the group, and letting them know about the upcoming meeting schedule for the year. More to follow.

Raj A. Malviya
Attorney at Law

250 Monroe Avenue NW, Suite 800 616.831.1799
P.O. Box 306 616.988.1799 Fax
Grand Rapids, MI 49501-0306 malviyar@millerjohnson.com
Below are bills that PAA has identified for Council of Probate Section of State Bar of MI

**S 1102**  Title: **Legally Incapacitated Individual**
Author: Jones Ri
Introduction: 10/2/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Prohibits appointment of guardian serving in another state who has abused, exploited, or neglected a legally incapacitated individual.
Status: 10/02/2014 INTRODUCED.
10/02/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 4264**  Title: **Vulnerable Adults**
Author: Leonard
Introduction: 2/14/2013
Enacted: 5/21/2013
Location: Chaptered
Summary: Allows consecutive sentencing for financial exploitation of vulnerable adults.
Status: 02/14/2013 INTRODUCED.
02/14/2013 To HOUSE Committee on JUDICIARY.
03/14/2013 From HOUSE Committee on JUDICIARY: Reported with recommendation.
03/14/2013 In HOUSE. To second reading.
03/20/2013 In HOUSE. Read second time. To third reading.
03/21/2013 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
04/09/2013 To SENATE Committee on JUDICIARY.
04/17/2013 From SENATE Committee on JUDICIARY: Recommended passage.
04/17/2013 In SENATE. To second reading.
05/02/2013 In SENATE. Read second time. To third reading.
05/07/2013 In SENATE. Read third time. Passed SENATE.
05/07/2013 Ordered Enrolled.
05/09/2013 *****To GOVERNOR.
05/21/2013 Signed by GOVERNOR.
05/21/2013 Public Act No. 34

**H 4301**  Title: **Individual Income Tax**
H 4382 Title: **Do Not Resuscitate Orders**
Author: Cotter
Introduction: 3/6/2013
Enacted: 11/5/2013
Last Amend: 4/17/2013
Location: Chaptered
Summary: Requires a declarant's patient advocate to date and sign a do-not-resuscitate order; provides that a guardian may execute a do-not-resuscitate order on behalf of a ward.
Status: 03/06/2013 INTRODUCED.
03/06/2013 To HOUSE Committee on JUDICIARY.
04/11/2013 From HOUSE Committee on JUDICIARY: Reported with recommendation.
04/11/2013 In HOUSE. Read second time and amended. To third reading.
04/18/2013 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
04/23/2013 To SENATE Committee on JUDICIARY.
05/22/2013 From SENATE Committee on JUDICIARY: Recommended passage.
05/22/2013 In SENATE. To second reading.
10/22/2013 In SENATE. Read second time. To third reading.
10/23/2013 In SENATE. Read third time. Passed SENATE.
10/23/2013 Ordered Enrolled.
10/25/2013 *****To GOVERNOR.
11/05/2013 Signed by GOVERNOR.
11/05/2013 Public Act No. 155

H 4383 Title: **Do Not Resuscitate Orders**
Author: LaFontaine
Introduction: 3/6/2013
Enacted: 11/5/2013
Last Amend: 4/17/2013
Location: Chaptered
Summary: Amends the Adult Foster Care facility Licensing Act; revises citation to do-not-resuscitate orders.
Status: 03/06/2013 INTRODUCED.
03/06/2013 To HOUSE Committee on JUDICIARY.
04/11/2013 From HOUSE Committee on JUDICIARY: Reported with recommendation.
04/11/2013 In HOUSE. To second reading.
04/17/2013 In HOUSE. Read second time and amended. To third reading.
04/18/2013 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
04/23/2013 To SENATE Committee on JUDICIARY.
05/22/2013 From SENATE Committee on JUDICIARY: Recommended passage.
05/22/2013 In SENATE. To second reading.
10/22/2013 In SENATE. Read second time. To third reading.
10/23/2013 In SENATE. Read third time. Passed SENATE.
10/23/2013 Ordered Enrolled.
10/25/2013 *****To GOVERNOR.
11/05/2013 Signed by GOVERNOR.
11/05/2013 Public Act No. 156

**H 4384** Title: Do Not Resuscitate Order
Author: Kurtz
Introduction: 3/6/2013
Enacted: 11/5/2013
Last Amend: 10/29/2013
Location: Chaptered
Summary: Clarifies guardian’s authority to consent to a do-not-resuscitate order and provides procedure.
Status: 03/06/2013 INTRODUCED.
03/06/2013 To HOUSE Committee on JUDICIARY.
04/11/2013 From HOUSE Committee on JUDICIARY: Reported with recommendation.
04/11/2013 In HOUSE. To second reading.
04/17/2013 In HOUSE. Read second time and amended. To third reading.
04/18/2013 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
04/23/2013 To SENATE Committee on JUDICIARY.
05/22/2013 From SENATE Committee on JUDICIARY: Recommended as substituted. (S-1)
05/22/2013 In SENATE. To second reading.
10/22/2013 In SENATE. Read second time and committee substitute adopted. (S-1) To third reading.
10/23/2013 In SENATE. Read third time. Passed SENATE. *****To HOUSE for concurrence.
10/29/2013 In HOUSE. Amended on HOUSE floor.
10/29/2013 HOUSE concurred in SENATE amendments with additional amendments. *****To SENATE for concurrence.
10/30/2013 SENATE concurred in HOUSE amendments.
10/30/2013 Ordered Enrolled.
11/05/2013 *****To GOVERNOR.
11/05/2013 Signed by GOVERNOR.
11/05/2013 Public Act No. 157

**H 4412** Title: Digital Court Records
Author: Price
Introduction: 3/12/2013
Location: House Judiciary Committee
Summary: Allows digital court records and electronically filed court papers in every state court and provides for electronic signatures.
**H 4413**  
**Title:** Digital Court Records  
**Author:** Rutledge  
**Introduction:** 3/12/2013  
**Location:** House Judiciary Committee  
**Summary:** Gives same force and effect to reproduction of digital court records and electronically filed court papers as original for purposes of admissibility into evidence if authenticated.  
**Status:** 03/12/2013 INTRODUCED.  
03/12/2013 To HOUSE Committee on JUDICIARY.

**H 4414**  
**Title:** Court Records  
**Author:** Lane  
**Introduction:** 3/12/2013  
**Location:** House Judiciary Committee  
**Summary:** Allows courts to provide electronic access to court records, pleadings and practice.  
**Status:** 03/12/2013 INTRODUCED.  
03/12/2013 To HOUSE Committee on JUDICIARY.

**H 4415**  
**Title:** Court Records  
**Author:** Jacobsen  
**Introduction:** 3/12/2013  
**Location:** House Judiciary Committee  
**Summary:** Allows digital court records and electronic filing of testimony given in probate court.  
**Status:** 03/12/2013 INTRODUCED.  
03/12/2013 To HOUSE Committee on JUDICIARY.

**H 4416**  
**Title:** Court Records  
**Author:** LaFontaine  
**Introduction:** 3/12/2013  
**Location:** House Judiciary Committee  
**Summary:** Allows digital court records and electronically filing of probate court records.  
**Status:** 03/12/2013 INTRODUCED.  
03/12/2013 To HOUSE Committee on JUDICIARY.

**H 4417**  
**Title:** Certified Reproduction  
**Author:** Schor  
**Introduction:** 3/12/2013  
**Location:** House Judiciary Committee  
**Summary:** Relates to judgments in a civil action; allows a registry or certified reproduction to serve as a complete replacement of validity and enforceability of certain judgments.  
**Status:** 03/12/2013 INTRODUCED.  
03/12/2013 To HOUSE Committee on JUDICIARY.

**H 4501**  
**Title:** Fraud or Deception
H 4522
Title: Sentencing Guidelines
Author: Schmidt W
Introduction: 4/9/2013
Location: House Criminal Justice Committee
Summary: Enacts sentencing guidelines for obtaining service or property by fraud or deception.
Status: 04/09/2013 INTRODUCED.
04/09/2013 To HOUSE Committee on CRIMINAL JUSTICE.

H 4532
Title: Court Record Maintenance
Author: Price
Introduction: 4/10/2013
Enacted: 12/18/2013
Last Amend: 11/14/2013
Location: Chaptered
Summary: Requires the Clerk of the Probate Court to maintain every record created by or filed with the Court; requires the maintenance of any court record in that manner and on any medium authorized by Supreme Court rules; provides that if a signature is required on any document filed with or created by a court, that requirement is satisfied by an electronic signature as prescribed by Supreme Court rules.
Status: 04/10/2013 INTRODUCED.
04/10/2013 To HOUSE Committee on JUDICIARY.
04/18/2013 From HOUSE Committee on JUDICIARY: Reported with recommendation with substitute. (H-2)
04/23/2013 In HOUSE. Read second time and substituted. (H-3)
04/25/2013 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
04/30/2013 To SENATE Committee on JUDICIARY.
11/07/2013 From SENATE Committee on JUDICIARY: Recommended as substituted.(S-1)
11/14/2013 In SENATE. Read second time and committee substitute adopted. (S-1) To third reading.
11/24/2013 In SENATE. Read third time. Passed SENATE. *****To HOUSE for concurrence.
12/10/2013 HOUSE concurred in SENATE amendments.
12/10/2013 Ordered Enrolled.
12/12/2013 *****To GOVERNOR.
12/18/2013 Signed by GOVERNOR.
12/18/2013 Public Act No. 201
**H 4583**

Title: **Parental Rights**

Author: Johnson J

Introduction: 4/18/2013

Location: House Criminal Justice Committee

Summary: Allows immediate termination of parental rights and visitation rights for a parent or legal guardian upon sentencing for criminal sexual conduct or other sex crimes.

Status: 04/18/2013 INTRODUCED.

04/18/2013 To HOUSE Committee on CRIMINAL JUSTICE.

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**H 4584**

Title: **Parenting Time**

Author: Johnson J

Introduction: 4/18/2013

Location: House Criminal Justice Committee

Summary: Allows immediate termination of a grand parenting time order upon sentencing for certain criminal sexual conduct.

Status: 04/18/2013 INTRODUCED.

04/18/2013 To HOUSE Committee on CRIMINAL JUSTICE.

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**H 4638**

Title: **Recording Act**

Author: Pettalia

Introduction: 4/30/2013

Last Amend: 9/30/2014

Location: To Governor

Summary: Amends provisions of existing law that prescribes certain conditions relative to the execution of instruments entitled to be recorded in the Office of the Register of Deeds; provides revised procedures regarding the recording of a mortgage and any related affidavit.

Status: 04/30/2013 INTRODUCED.

04/30/2013 To HOUSE Committee on LOCAL GOVERNMENT.

02/13/2014 From HOUSE Committee on LOCAL GOVERNMENT: Reported with recommendation with substitute. (H-3)

02/13/2014 In HOUSE. To second reading.

02/20/2014 In HOUSE. Read second time and committee substitute adopted. (H-3) To third reading.

02/26/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

02/27/2014 To SENATE Committee on BANKING AND FINANCIAL INSTITUTIONS.

05/20/2014 From SENATE Committee on BANKING AND FINANCIAL INSTITUTIONS: Recommended as substituted. (S-1)

05/20/2014 In SENATE. To second reading.

09/30/2014 In SENATE. Read second time and substituted. (S-3) To third reading.

10/01/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE for concurrence.

10/02/2014 HOUSE concurred in SENATE amendments.

10/02/2014 Ordered Enrolled.

10/07/2014 *****To GOVERNOR.

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**H 4639**

Title: **Recording Affidavit**
H 4640 Title: Original Real Property Conveyance

Author: Pettalia
Introduction: 4/30/2013
Last Amend: 9/30/2014
Location: To Governor
Summary: Amends existing law that provides for the recording and use in evidence of affidavits affecting unrecorded real property mortgages and provides a penalty for making false affidavits.

Status: 04/30/2013 INTRODUCED.
04/30/2013 To HOUSE Committee on LOCAL GOVERNMENT.
02/13/2014 From HOUSE Committee on LOCAL GOVERNMENT: Reported with recommendation.
02/13/2014 In HOUSE. To second reading.
02/20/2014 In HOUSE. Read second time. To third reading.
02/26/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
02/27/2014 To SENATE Committee on BANKING AND FINANCIAL INSTITUTIONS.
05/20/2014 From SENATE Committee on BANKING AND FINANCIAL INSTITUTIONS: Recommended passage.
05/20/2014 In SENATE. To second reading.
09/30/2014 In SENATE. Read second time. To third reading.
10/01/2014 In SENATE. Read third time. Passed SENATE.
10/01/2014 Ordered Enrolled.
10/07/2014 *****To GOVERNOR.
10/07/2014 *****To GOVERNOR.

H 5030  Title: Credit Union Joint Accounts  
Author: Brinks  
Introduction: 10/1/2013  
Location: House Financial Services Committee  
Summary: Regulates credit union multiple-party accounts; requires written disclosure of the rights of account holders for joint accounts; requires credit union disclosure and acknowledgment; includes minor joint account holders.  
Status: 10/01/2013 INTRODUCED.  
10/01/2013 To HOUSE Committee on FINANCIAL SERVICES.

H 5031  Title: Joint Accounts  
Author: Cochran  
Introduction: 10/1/2013  
Location: House Financial Services Committee  
Summary: Requires written disclosure of rights of account holders for joint accounts.  
Status: 10/01/2013 INTRODUCED.  
10/01/2013 To HOUSE Committee on FINANCIAL SERVICES.

H 5032  Title: Joint Accounts  
Author: Cochran  
Introduction: 10/1/2013  
Location: House Financial Services Committee  
Summary: Requires written disclosure of rights of account holders for joint accounts.  
Status: 10/01/2013 INTRODUCED.  
10/01/2013 To HOUSE Committee on FINANCIAL SERVICES.

H 5139  Title: Family Law  
Author: Geiss  
Introduction: 11/6/2013  
Location: House Judiciary Committee  
Summary: Provides for right to first refusal of child care for children during other parent's normal parenting time.  
Status: 11/06/2013 INTRODUCED.  
11/06/2013 To HOUSE Committee on JUDICIARY.

H 5162  Title: Probate  
Author: Segal  
Introduction: 11/14/2013  
Location: House Families, Children and Seniors Committee  
Summary: Modifies individuals authorized to make disposition arrangements for decedent.  
Status: 11/14/2013 INTRODUCED.  
11/14/2013 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.

H 5343  Title: Parental Rights  
Author: Jenkins  
Introduction: 2/20/2014  
Location: House Judiciary Committee
Summary: Provides for clarification of termination of parental rights and obligation to pay child support.

Status: 02/20/2014 INTRODUCED.
        02/20/2014 To HOUSE Committee on JUDICIARY.

**H 5366**
Title: Assets
Author: LaFontaine
Introduction: 2/26/2014
Location: House Second Reading
Summary: Enacts Fiduciary Access to Digital Assets Act.
Status: 02/26/2014 INTRODUCED.
        02/26/2014 To HOUSE Committee on JUDICIARY.
        10/02/2014 From HOUSE Committee on JUDICIARY: Reported with recommendation with substitute. (H-1)
        10/02/2014 In HOUSE. To second reading.

**H 5367**
Title: Assets
Author: Lauwers
Introduction: 2/26/2014
Enacted: 12/27/2012
Last Amend: 12/13/2012
Location: House Second Reading
Summary: Enacts powers of personal representatives Fiduciary Access to Digital Assets Act.
Status: 02/26/2014 INTRODUCED.
        02/26/2014 To HOUSE Committee on JUDICIARY.
        10/02/2014 From HOUSE Committee on JUDICIARY: Reported with recommendation with substitute. (H-1)
        10/02/2014 In HOUSE. To second reading.

**H 5368**
Title: Assets
Author: Cotter
Introduction: 2/26/2014
Location: House Second Reading
Summary: Enacts definitions relating to the Fiduciary Access to Digital Assets Act.
Status: 02/26/2014 INTRODUCED.
        02/26/2014 To HOUSE Committee on JUDICIARY.
        10/02/2014 From HOUSE Committee on JUDICIARY: Reported with recommendation with substitute. (H-1)
        10/02/2014 In HOUSE. To second reading.

**H 5369**
Title: Assets
Author: Leonard
Introduction: 2/26/2014
Location: House Second Reading
Summary: Enacts authority or agent Fiduciary Access to Digital Assets Act.
Status: 02/26/2014 INTRODUCED.
        02/26/2014 To HOUSE Committee on JUDICIARY.
        10/02/2014 From HOUSE Committee on JUDICIARY: Reported with recommendation with substitute. (H-1)
H 5370  Title:  Assets
Author:  Jenkins
Introduction:  2/26/2014
Location:  House Second Reading
Summary:  Enacts Fiduciary Access to Digital Assets Act.
Status:  02/26/2014 INTRODUCED.
02/26/2014 To HOUSE Committee on JUDICIARY.
10/02/2014 From HOUSE Committee on JUDICIARY: Reported with recommendation with substitute. (H-1)
10/02/2014 In HOUSE. To second reading.

H 5463  Title:  Family Law
Author:  Denby
Introduction:  4/23/2014
Location:  Senate Families, Seniors and Human Services Committee
Summary:  Relates to orders of the court requiring a mother, child, and alleged father to submit to blood or tissue typing determinations; makes changes concerning repayment of a father if a court declares paternity, movements for summary disposition, and related matters.
Status:  04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/09/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
09/17/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/18/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

H 5464  Title:  Family Law
Author:  Hooker
Introduction:  4/23/2014
Location:  Senate Families, Seniors and Human Services Committee
Summary:  Creates the Genetic Parentage Act; provides for genetic testing in certain paternity cases.
Status:  04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/09/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
09/17/2014 In HOUSE. Read third time. Passed HOUSE. *****To
SENATE.
09/18/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 5465** Title: Family Law
Author: Kurtz
Introduction: 4/23/2014
Last Amend: 9/10/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Establishes the Summary Report and Paternity Act; provides for the determination of a child's paternity in certain cases.
Status: 04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/10/2014 In HOUSE. Read second time and substituted. (H-3) To third reading.
09/17/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/18/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 5466** Title: Consolidation of Child Support Functions
Author: Kosowski
Introduction: 4/23/2014
Enacted: 12/22/2012
Last Amend: 9/10/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Amends the Paternity Act; provides for the consolidation of child support functions within the county Department of Human Services.
Status: 04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/10/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
09/18/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/23/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 5467** Title: Child Support Function Consolidation
Author: Kurtz
Introduction: 4/23/2014
Last Amend: 9/10/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Provides for consolidation of child support functions into each county
H 5468
Title: Consolidation of Child Support Functions
Author: Victory
Introduction: 4/23/2014
Last Amend: 9/10/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Provides for the consolidation of child support functions into the county Department of Human Services in the Family Support Act.

H 5469
Title: Consolidated Child Support Functions
Author: Kurtz
Introduction: 4/23/2014
Last Amend: 9/10/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Provides for the consolidation of child support functions into the county Department of Human Services in the Uniform Interstate Family Support Act.

Department of Human Services in the revocation of Paternity Act.

Status: 04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/10/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
09/18/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/23/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

09/23/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.
SENATE.
09/23/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 5470**
Title: Consolidated Child Support Collection
Author: Kesto
Introduction: 4/23/2014
Last Amend: 9/10/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Provides for consolidation of child support functions into the county Department of Human Services in the Uniform Reciprocal Enforcement Support Act.
Status: 04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/10/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
09/18/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/23/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 5471**
Title: Consolidation of Child Support Functions
Author: Outman
Introduction: 4/23/2014
Last Amend: 9/10/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Provides for consolidation of child support functions into the county Department of Human Services in the Status of Minors and Child Support Act.
Status: 04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/10/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
09/18/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/23/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 5472**
Title: Child Support
Author: Rendon
Introduction: 4/23/2014
Last Amend: 9/9/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Creates alternative contempt track docket for child support payers who are determined by the court to have difficulty making support payments due to a medical condition, a psychological disorder, a substance use disorder, illiteracy, homelessness, unemployment, or certain conditions.

Status: 04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/14/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/14/2014 In HOUSE. To second reading.
09/09/2014 In HOUSE. Read second time and substituted. (H-3) To third reading.
09/17/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/18/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 5473**
Title: **Family Law**
Author: Lori
Introduction: 4/23/2014
Last Amend: 9/9/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Allows court refusal to enter an order setting aside a paternity determination revoking an acknowledgement of parentage under certain circumstances.

Status: 04/23/2014 INTRODUCED.
04/23/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/09/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
09/17/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/18/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**H 5510**
Title: **Family Law**
Author: Kurtz
Introduction: 5/1/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Modifies acknowledgement of parentage process; revises the provision that governs who a witness to such process must be.

Status: 05/01/2014 INTRODUCED.
05/01/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation.
05/21/2014 In HOUSE. To second reading.
09/10/2014 In HOUSE. Read second time. To third reading.
09/18/2014 In HOUSE. Read third time. Passed HOUSE. *****To
SENATE.
09/23/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

H 5511  Title: Civil Procedure
Author: McCready
Introduction: 5/1/2014
Last Amend: 9/9/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Allows collection of court-ordered financial obligations from judgments against the state.
Status: 05/01/2014 INTRODUCED.
05/01/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/21/2014 In HOUSE. To second reading.
09/09/2014 In HOUSE. Read second time and substituted. (H-2) To third reading.
09/17/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/18/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

H 5512  Title: Human Services
Author: Kurtz
Introduction: 5/1/2014
Last Amend: 9/10/2014
Location: Senate Families, Seniors and Human Services Committee
Summary: Denies eligibility for family independence program assistance benefits for certain noncompliance with child support provisions; makes changes concerning the establishment of paternity or assignment or obtainment of child support and circumstances where such assignment or obtainment would harm a child.
Status: 05/01/2014 INTRODUCED.
05/01/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.
05/14/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute.(H-1)
05/14/2014 In HOUSE. To second reading.
09/10/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
09/17/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
09/18/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

H 5552  Title: Property Tax Exemption
Author: Pettalia
Introduction: 5/8/2014
Enacted: 10/9/2014
Excludes certain transfers to a trust from definition of transfer of ownership of residential real property.

**H 5583**

**Title:** Paternity Revocation Process  
**Author:** Hovey-Wright  
**Introduction:** 5/15/2014  
**Last Amend:** 9/10/2014  
**Location:** Senate Families, Seniors and Human Services Committee  
**Summary:** Includes paternity revocation process for genetic father in the Revocation of Paternity Act.

**Status:**  
05/15/2014 INTRODUCED.  
05/15/2014 To HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS.  
05/21/2014 From HOUSE Committee on FAMILIES, CHILDREN, AND SENIORS: Reported with recommendation with substitute. (H-1)  
05/21/2014 In HOUSE. To second reading.  
09/10/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.  
09/18/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.  
09/23/2014 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.

**S 31**

**Title:** Life Insurance and Trustees  
**Author:** Schuitmaker  
**Introduction:** 1/16/2013  
**Enacted:** 2/11/2014
Title: Life Insurance

Author: Schuitmaker

Introduction: 1/16/2013

Enacted: 2/11/2014

Summary: Relates to life insurance; provides the factors that provides a trustee of a trust has an insurable interest in the life of an individual insured under a life insurance policy that is owned by the trustee of the trust acting in a fiduciary capacity or that designates the trust itself as the owner if, certain conditions are met.

Status: 01/16/2013 INTRODUCED.
01/16/2013 To SENATE Committee on JUDICIARY.
03/13/2013 From SENATE Committee on JUDICIARY: Recommended passage.
03/13/2013 In SENATE. To second reading.
03/19/2013 In SENATE. Read second time. To third reading.
03/20/2013 In SENATE. Read third time. Passed SENATE. *****To HOUSE.
03/20/2013 To HOUSE Committee on INSURANCE.
01/23/2014 From HOUSE Committee on INSURANCE: Reported with recommendation.
01/23/2014 In HOUSE. To second reading.
01/23/2014 In HOUSE. Read second time. To third reading.
01/28/2014 In HOUSE. Read third time. Passed HOUSE.
01/29/2014 Ordered Enrolled.
02/04/2014 *****To GOVERNOR.
02/11/2014 Signed by GOVERNOR.
02/11/2014 Public Act No. 8
S 43  Title:  **District Court Judgeships**  
Author:  Jones Ri  
Introduction:  1/16/2013  
Enacted:  5/20/2013  
Last Amend:  4/18/2013  
Location:  Chaptered  
Summary:  Increases number of district court judgeships and reduces number of circuit court judgeships in specified districts.  
Status:  01/16/2013 INTRODUCED.  
          01/16/2013 To SENATE Committee on JUDICIARY.  
          01/24/2013 From SENATE Committee on JUDICIARY: Recommended passage.  
          01/24/2013 In SENATE. To second reading.  
          02/12/2013 In SENATE. Read second time. To third reading.  
          02/13/2013 In SENATE. Read third time. Passed SENATE. *****To HOUSE.  
          02/13/2013 To HOUSE Committee on JUDICIARY.  
          04/11/2013 From HOUSE Committee on JUDICIARY: Reported with recommendation.  
          04/11/2013 In HOUSE. To second reading.  
          04/18/2013 In HOUSE. Read second time and substituted. (H-1) To third reading.  
          04/25/2013 In HOUSE. Read third time. Passed HOUSE. *****To SENATE for concurrence.  
          05/01/2013 SENATE concurred in HOUSE amendments.  
          05/01/2013 Ordered Enrolled.  
          05/07/2013 *****To GOVERNOR.  
          05/20/2013 Signed by GOVERNOR.  
          05/20/2013 Public Act No. 33

S 144  Title:  **Court Guardianship**  
Author:  Anderson  
Introduction:  2/5/2013  
Location:  Senate Families, Seniors and Human Services Committee  
Summary:  Allows the court to schedule certain hearings on guardianship petitions for developmentally disabled minors before the minor turns 18 years of age.  
Status:  02/05/2013 INTRODUCED.  
          02/05/2013 To SENATE Committee on FAMILIES, CHILDREN, AND SENIORS.

S 176  Title:  **Mental Health Guardianship**  
Author:  Hildenbrand  
Introduction:  2/12/2013  
Location:  Senate Second Reading - Committee Reports  
Summary:  Allows the court to schedule a guardianship petition for developmentally disabled individual hearing before the individual turns 18 years of age.  
Status:  02/12/2013 INTRODUCED.  
          02/12/2013 To SENATE Committee on FAMILIES, CHILDREN, AND SENIORS.  
          05/23/2013 From SENATE Committee on FAMILIES, SENIORS AND
S 177  Title: **Probate Guardianship**  
Author: Hildenbrand  
Introduction: 2/12/2013  
Location: Senate Families, Seniors and Human Services Committee  
Summary: Allows probate judges to schedule certain guardianship petition hearings prior to minor turning 18 years of age.  
Status: 02/12/2013 INTRODUCED.  
02/12/2013 To SENATE Committee on FAMILIES, CHILDREN, AND SENIORS.

S 293  Title: **Wills And Estates**  
Author: Bieda  
Introduction: 4/10/2013  
Location: Senate Judiciary Committee  
Summary: Provides power of personal representative of a decedent's estate access to certain online accounts.  
Status: 04/10/2013 INTRODUCED.  
04/10/2013 To SENATE Committee on JUDICIARY.

S 465  Title: **Jurisdictional Provisions**  
Author: Schuitmaker  
Introduction: 9/10/2013  
Location: Senate Judiciary Committee  
Summary: Revises jurisdictional provisions in the estates and protected individuals code to reflect adoption of the uniform adult guardianship and protective proceedings jurisdiction act.  
Status: 09/10/2013 INTRODUCED.  
09/10/2013 To SENATE Committee on JUDICIARY.

S 466  Title: **Uniform Adult Guardianship**  
Author: Schuitmaker  
Introduction: 9/10/2013  
Location: Senate Judiciary Committee  
Summary: Enacts uniform adult guardianship and protective proceedings jurisdiction act.  
Status: 09/10/2013 INTRODUCED.  
09/10/2013 To SENATE Committee on JUDICIARY.

S 524  Title: **Retirement Accounts**  
Author: Nofs  
Introduction: 9/19/2013  
Location: Senate Second Reading - Committee Reports  
Summary: Subjects retirement accounts that are levied upon for child support to garnishment.  
Status: 09/19/2013 INTRODUCED.  
09/19/2013 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.  
11/12/2013 From SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.
HUMAN SERVICES: Recommended as substituted. (S-1)
11/12/2013 In SENATE. To second reading.

S 525 Title: Retirement Accounts
Author: Nofs
Introduction: 9/19/2013
Location: Senate Second Reading - Committee Reports
Summary: Relates to the Office of Child Support; includes qualified individual retirement accounts.
Status: 09/19/2013 INTRODUCED.
09/19/2013 To SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES.
11/12/2013 From SENATE Committee on FAMILIES, SENIORS AND HUMAN SERVICES: Recommended as substituted. (S-1)
11/12/2013 In SENATE. To second reading.

S 565 Title: Account Holder Rights
Author: Young
Introduction: 10/1/2013
Location: Senate Banking and Financial Institutions Committee
Summary: Requires written disclosure of rights of account holders at credit unions for joint accounts.
Status: 10/01/2013 INTRODUCED.
10/01/2013 To SENATE Committee on BANKING AND FINANCIAL INSTITUTIONS.

S 566 Title: Account Holder Rights
Author: Young
Introduction: 10/1/2013
Location: Senate Banking and Financial Institutions Committee
Summary: Requires written disclosure of rights of account holders for joint accounts at savings banks.
Status: 10/01/2013 INTRODUCED.
10/01/2013 To SENATE Committee on BANKING AND FINANCIAL INSTITUTIONS.

S 567 Title: Account Holder Rights
Author: Young
Introduction: 10/1/2013
Location: Senate Banking and Financial Institutions Committee
Summary: Requires written disclosure of rights of account holder for joint accounts at banks.
Status: 10/01/2013 INTRODUCED.
10/01/2013 To SENATE Committee on BANKING AND FINANCIAL INSTITUTIONS.

S 623 Title: Corporate Regulation
Author: Bieda
Introduction: 10/16/2013
Last Amend: 5/21/2014
Location: House Commerce Committee
Summary: Relates to domestic and foreign non-profit and charitable organizations; provides that the corporate name of a domestic or foreign corporation shall not contain any word or phrase that indicated or implies that the corporation is formed for a purpose other than the purposes permitted by its articles of incorporation; relates to dissolution, mergers, and conversions of charitable corporations.

Status: 10/16/2013 INTRODUCED.
10/16/2013 To SENATE Committee on ECONOMIC DEVELOPMENT.
05/15/2014 From SENATE Committee on ECONOMIC DEVELOPMENT: Recommended as substitute(S-1)
05/15/2014 In SENATE. To second reading.
05/21/2014 In SENATE. Read second time and committee substitute adopted. (S-1) To third reading.
05/27/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE.
05/27/2014 To HOUSE Committee on COMMERCE.

S 624 Title: Charitable Organizations
Author: Jones Ri
Introduction: 10/16/2013
Last Amend: 5/21/2014
Location: House Commerce Committee
Summary: Provides for general revisions in act relating to dissolution of domestic charitable purpose corporations; requires the filing of notice of intention to withdraw with the attorney general by foreign charitable purpose corporations attempting to withdraw from this state; includes required notice of mergers or conversions; provides for religious purposes.

Status: 10/16/2013 INTRODUCED.
10/16/2013 To SENATE Committee on ECONOMIC DEVELOPMENT.
05/15/2014 From SENATE Committee on ECONOMIC DEVELOPMENT: Recommended as substitute(S-1)
05/15/2014 In SENATE. To second reading.
05/21/2014 In SENATE. Read second time and committee substitute adopted. (S-1) To third reading.
05/27/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE.
05/27/2014 To HOUSE Committee on COMMERCE.

Title: Nonprofit Corporations
Author: Bieda
Introduction: 10/16/2013
Location: Senate Economic Development Committee 10/23/2013 1:30 pm
Summary: Includes nonprofit corporations in the definition of a corporation in the Michigan limited liability company act.

Status: 10/16/2013 INTRODUCED.
10/16/2013 To SENATE Committee on ECONOMIC DEVELOPMENT.

Title: Uniform Collaborative Law Act
Author: Schuitmaker
Introduction: 12/5/2013
Enacted: 6/11/2014
Summary: Allows parties to agree to a collaborate alternative dispute resolution process as an alternative to litigation for matters regarding marriage, divorce, dissolution, annulment, property distribution, child custody, visitation, parenting time, alimony maintenance, child support, adoption, parentage, and other premarital, marital, and post-marital matters.

Status: 12/05/2013 INTRODUCED.
12/05/2013 To SENATE Committee on JUDICIARY.
03/20/2014 From SENATE Committee on JUDICIARY: Recommended as substituted. (S-1)
03/20/2014 In SENATE. To second reading.
03/25/2014 In SENATE. Read second time and committee substitute adopted. (S-1) To third reading.
03/26/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE.
03/26/2014 To HOUSE Committee on JUDICIARY.
05/08/2014 From HOUSE Committee on JUDICIARY: Reported with recommendation.
05/08/2014 In HOUSE. To second reading.
05/20/2014 In HOUSE. Read second time and amended. To third reading.
05/22/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE for concurrence.
05/27/2014 SENATE concurred in HOUSE amendments.
05/27/2014 Ordered Enrolled.
06/04/2014 *****To GOVERNOR.
06/11/2014 Signed by GOVERNOR.
06/11/2014 Public Act No. 159

**S 731**  
Title: **Wills And Estates**  
Author: Warren  
Introduction: 12/12/2013  
Location: Senate Judiciary Committee  
Summary: Relates to wills and estates; allows individual to designate a person to make decisions and require that the individual's instructions to be followed on decisions regarding funeral, burial or cremation.

Status: 12/12/2013 INTRODUCED.
12/12/2013 To SENATE Committee on JUDICIARY.

**S 743**  
Title: **State Bar Membership**  
Author: Meekhof  
Introduction: 1/23/2014  
Location: Senate Government Operations Committee  
Summary: Establishes voluntary state bar membership.

Status: 01/23/2014 INTRODUCED.
01/23/2014 To SENATE Committee on GOVERNMENT OPERATIONS.

**S 831**  
Title: **General Property Tax Act**  
Author: Nofs  
Introduction: 2/26/2014  
Last Amend: 6/5/2014
Location: House Second Reading
Summary: Amends the general property tax act; provides an owner that is related to a decedent by blood or affinity to the first degree may retain an exemption for not more than 3 tax years on property that the decedent conveyed to that owner by will or intestate succession if the property was previously exempt as that decedent's principal residence and if the property is currently unoccupied, is for sale, is not leased, and is not used for any business or commercial purpose.
Status: 02/26/2014 INTRODUCED.
02/26/2014 To SENATE Committee on FINANCE.
05/07/2014 From SENATE Committee on FINANCE: Recommended as substituted. (S-2)
05/07/2014 In SENATE. To second reading.
06/05/2014 In SENATE. Read second time and committee substitute adopted. (S-2) To third reading.
06/05/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE.
06/05/2014 To HOUSE Committee on TAX POLICY.
10/01/2014 From HOUSE Committee on TAX POLICY: Reported with recommendation with substitute. (H-2)
10/01/2014 In HOUSE. To second reading.

S 854 Title: **Local Government**
Author: Marleau
Introduction: 3/6/2014
Location: Senate Local Government and Elections Committee
Summary: Amends 1943 PA 20, entitled an act relative to the investment of funds of public corporations of the state.
Status: 03/06/2014 INTRODUCED.
03/06/2014 To SENATE Committee on LOCAL GOVERNMENT AND ELECTIONS.

S 866 Title: **Crimes Against Older Adults**
Author: Smith V
Introduction: 3/12/2014
Location: Senate Second Reading - Committee Reports
Summary: Increases penalties for certain crimes against a person over 65 years of age.
Status: 03/12/2014 INTRODUCED.
03/12/2014 To SENATE Committee on JUDICIARY.
07/16/2014 From SENATE Committee on JUDICIARY: Recommended as substituted. (S-3)
07/16/2014 In SENATE. To second reading.

S 867 Title: **Elder Abuse**
Author: Smith V
Introduction: 3/12/2014
Location: Senate Second Reading - Committee Reports
Summary: Provides sentencing guidelines for elder adult abuse.
Status: 03/12/2014 INTRODUCED.
03/12/2014 To SENATE Committee on JUDICIARY.
07/16/2014 From SENATE Committee on JUDICIARY: Recommended as
S 888  Title:  Adult Foster Care  
Author:  Hildenbrand  
Introduction:  3/20/2014  
Last Amend:  9/18/2014  
Location:  House Regulatory Reform Committee  
Summary:  Exempts continuing care communities from rules preventing patient movement across licensure categories.  
Status:  03/20/2014 INTRODUCED.  
03/20/2014 To SENATE Committee on APPROPRIATIONS.  
09/16/2014 From SENATE Committee on APPROPRIATIONS: Recommended as substituted. (S-3)  
09/16/2014 In SENATE. To second reading.  
09/18/2014 In SENATE. Read second time and committee substitute adopted. (S-3) To third reading.  
09/24/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE.  
09/24/2014 To HOUSE Committee on REGULATORY REFORM.

S 1013  Title:  Individual Income Tax  
Author:  Ananich  
Introduction:  7/16/2014  
Location:  Senate Finance Committee  
Summary:  Provides for individual income tax credit for certain irrevocable trusts; provides for documentation; provides that a credit that exceed the tax liability shall not be refunded; relates to qualified irrevocable trusts for a child diagnosed with an autism spectrum disorder.  
Status:  07/16/2014 INTRODUCED.  
07/16/2014 To SENATE Committee on FINANCE.

SJR F  Title:  Constitutional Amendment Resolution  
Author:  Bieda  
Introduction:  1/24/2013  
Location:  Senate Second Reading - Committee Reports  
Summary:  Provides for a Constitutional Amendment; removes prohibition on election or appointment to a judicial office of person who has reached 70 years of age.  
Status:  01/24/2013 INTRODUCED.  
01/24/2013 To SENATE Committee on JUDICIARY.  
01/30/2013 From SENATE Committee on JUDICIARY: Recommended passage.  
01/30/2013 In SENATE. To second reading.
Attachment 7
Michigan Court Rules, Procedures and Forms Committee

MINUTES OF MEETING

Meeting location: Conference Call on Wednesday, September 17, 2014 at 4:00 p.m.

Meeting Participants: Michele C. Marquardt (Chairperson), JV Anderton, Judge Harter, Rebecca Schnelz

Agenda:
- ADM 2013-29

Only one issue was on our agenda: Michele was contacted by Supreme Court Administrative Counsel Anne Boomer regarding changes to ADM 2013-29. Ms. Boomer shared the comments of the Civil Procedure Committee to proposed changes to MCR 5.125(C)(19)(e), (22)(h) and (24)(f). The Committee, through email comments and the discussion by conference call, was adamant that the word “applicant” remain in sections 22(h) and 22(f), because, as probate court administrator Rebecca Schnelz and former Judge Phil Harter stated, such a process must be begun by application, not by petition. Furthermore, a foreign guardian/conservator isn’t the only person who might apply for guardian/conservator in this state. Hypothetically, if an aunt applies to be guardian/conservator of a minor child, knowing full well that another relative was appointed in another state as guardian/conservator, these rules attempt to cover those situations so that if the applicant knows of someone else who is serving, the applicant will have to serve that person. At the committee’s direction, an objection to those changes was filed with the Supreme Court’s administrators office on September 17, 2014.

Our comments to the proposed changes in ADM File No. 2013-29 had been provided to the Supreme Court administrator’s office on May 17, 2014. The date for comments before the Supreme Court was September 24, 2014. The comments of the Council are attached. In addition, Ms. Marquardt appeared to review the Council’s position and to explain the objections to the comments of the Civil Procedure committee. The changes were adopted by the Court as presented (order attached.)

Respectfully submitted,

Michele Marquardt

Michele Marquardt, Chair
May 17, 2014

Clerk of The Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

Re: PROBATE COUNCIL COMMENTS TO PROPOSED CHANGES TO MCR 5.125, ADM 2013-29

Dear Sir or Madam:

As chair of the Probate Court Rules, Procedures and Forms Committee (the “Committee”) of the Probate Council for the State Bar of Michigan, I submit the following comment to the proposed amendment to MCR 5.125 for consideration and adoption by the Michigan Supreme Court.

Specifically, the Committee focused on MCR 5.125(C) (6). This section of the court rule entails a list of interested persons in a proceeding for examination or approval of an account of fiduciary. With regard to claimants, the proposed language reads as follows:

“(6) The persons interested in a proceeding for examination or approval of an account of a fiduciary are:....

..........(h) in all matters described in this subsection (6), claimants, and
(i) in all matters described in this subsection (6), any person whose interests would be adversely affected by the relief requested, including an insurer or surety who might be subject to financial obligations as the result of the approval of the account, or a claimant.”

Upon discussion, the Committee was unable to determine a compelling reason for including a reference to claimants under both subsections (h) and (i). Notice seems critical to any claimant whose interest might be adversely affected, but for claimants who have
been satisfied or who will not be adversely affected, notice does not seem critical.

Therefore, in accordance with direction by the Probate Council, the Committee recommends deletion of proposed section 5.125 (6)(h) completely, and a new (6)(i) re-written as follows:

"in all matters described in this subsection (6), any person whose interests would be adversely affected by the relief requested, including a claimant or an insurer or surety who might be subject to financial obligations as the result of the approval of the account."

On behalf of the Committee and Probate Council, I request the opportunity to speak in favor of our proposed changes at the public hearing. Thank you for your consideration.

Very truly yours,

DEMENT AND MARQUARDT, P.L.C.

Michele C. Marquardt

MCM/mcm
Order

October 1, 2014

ADM File No. 2013-29

Amendments of Rules 5.108, 5.125, 5.208, and 5.403 of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of MCR 5.108, 5.125, 5.208, and 5.403 are adopted, effective January 1, 2015.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

Rule 5.108 Time of Service

(A) [Unchanged.]

(B) Mail.

(1) Petition or Motion. Service by mail of a petition or motion must be made at least 14 days before the date set for hearing, or an adjourned date.

(2) Application by a Guardian or Conservator Appointed in Another State.

(a) A court may appoint a temporary guardian or conservator without a hearing pursuant to MCL 700.5202a, MCL 700.5301a, or MCL 700.5433.

(b) If a court appoints a temporary guardian or conservator pursuant to MCL 700.5202a, MCL 700.5301a or MCL 700.5433, the temporary guardian or conservator must, not later than 14 days after the appointment, serve notice of the appointment by mail to all interested persons.

(C)-(E) [Unchanged.]

Rule 5.125 Interested Persons Defined
(A) [Unchanged.]

(B) Special Conditions for Interested Persons.

(1) [Unchanged.]

(2) Devisee. Only a devisee whose devise remains unsatisfied, or a trust beneficiary whose beneficial interest remains unsatisfied, need be notified of specific proceedings under subrule (C).

(3)-(5) [Unchanged.]

(C) Specific Proceedings. Subject to subrules (A) and (B) and MCR 5.105(E), the following provisions apply. When a single petition requests multiple forms of relief, the petitioner must give notice to all persons interested in each type of relief:

(1)-(5) [Unchanged.]

(6) The persons interested in a proceeding for examination or approval of an account of a fiduciary are the:

(a) for a testate estate, the devisees under the will (and if one of the devisees is a trustee or a trust, the persons referred to in MCR 5.125(B)(3)),

(b) for an intestate estate, the heirs,

(c) for a conservatorship, the protected individual (if he or she is 14 years of age or older), the presumptive heirs of the protected individual, and the guardian ad litem, if any,

(d) for a final conservatorship or guardianship account following the death of the protected person, the personal representative, if one has been appointed,

(e) for a guardianship, the ward (if he or she is 14 years of age or older), the presumptive heirs of the ward, and the guardian ad litem, if any,

(f) for a revocable trust, the settlor (and if the petitioner has a reasonable basis to believe the settlor is an incapacitated individual, those persons who are entitled to be reasonably informed, as referred to in MCL 700.7603[2]), the current trustee, and any other person named in the terms of the trust to receive either an account or a notice of such a proceeding, including a trust protector.
(g) for an irrevocable trust, the current trustee, the qualified trust beneficiaries, as defined in MCL 700.7103(g), and any other person named in the terms of the trust to receive either an account or a notice of such a proceeding, including a trust protector.

(h) in all matters described in this subsection (6), any person whose interests would be adversely affected by the relief requested, including a claimant or an insurer or surety who might be subject to financial obligations as the result of the approval of the account.

(a) devisees of a testate estate, and if one of the devisees is a trustee or a trust, the persons referred to in MCR 5.125(B)(3);

(b) heirs of an intestate estate;

(c) protected person and presumptive heirs of the protected person in a conservatorship;

(d) ward and presumptive heirs of the ward in a guardianship;

(e) claimants;

(f) settler of a revocable trust;

(g) if the petitioner has a reasonable basis to believe the settlor is an incapacitated individual, those persons who are entitled to be reasonably informed, as referred to in MCL 700.7603(2);

(h) current trustee;

(i) qualified trust beneficiaries described in MCL 700.7103(g)(i), for a trust accounting, and

(j) other persons whose interests would be adversely affected by the relief requested, including insurers and sureties who might be subject to financial obligations as the result of the approval of the account.

(7)-(18)[Unchanged.]

(19) The persons interested in an application for appointment of a guardian of a minor by a guardian appointed in another state and in a petition for appointment of a guardian for a minor are

(a) the minor, if 14 years of age or older;
(b) if known by the petitioner or applicant, each person who had the principal care and custody of the minor during the 63 days preceding the filing of the petition or application;

(c) the parents of the minor or, if neither of them is living, any grandparents and the adult presumptive heirs of the minor, and;

(d) the nominated guardian, and

(e) if known by the petitioner or applicant, a guardian or conservator appointed by a court in another state to make decisions regarding the person of a minor.

(20)-(21)[Unchanged.]

(22) The persons interested in an application for appointment of a guardian of an incapacitated individual by a guardian appointed in another state or in a petition for appointment of a guardian of an alleged incapacitated individual are

(a) the alleged incapacitated individual or the incapacitated individual,

(b) if known, a person named as attorney in fact under a durable power of attorney,

(c) the alleged incapacitated individual’s spouse or the incapacitated individual’s spouse,

(d) the alleged incapacitated individual’s adult children and the individual's parents or the incapacitated individual’s adult children and parents,

(e) if no spouse, child, or parent is living, the presumptive heirs of the individual,

(f) the person who has the care and custody of the alleged incapacitated individual or of the incapacitated individual, and

(g) the nominated guardian, and

(h) if known by the petitioner or applicant, a guardian or conservator appointed by a court in another state to have care and control of the incapacitated individual.

(23) [Unchanged.]
(24) The persons interested in an application for appointment of a conservator for a protected individual by a conservator appointed in another state or for the petition for the appointment of a conservator or for a protective order are:

(a) the individual to be protected if 14 years of age or older,

(b) the presumptive heirs of the individual to be protected,

(c) if known, a person named as attorney in fact under a durable power of attorney,

(d) the nominated conservator, and

(e) a governmental agency paying benefits to the individual to be protected or before which an application for benefits is pending, and

(f) if known by the petitioner or applicant, a guardian or conservator appointed by a court in another state to manage the protected individual’s finances.

(25)-(26)[Unchanged.]

(27) The persons interested in receiving a copy of an inventory or account of a conservator or of a guardian are:

(a) the protected individual or ward, if he or she is 14 years of age or older and can be located,

(b) the presumptive heirs of the protected individual or ward,

(c) the claimants, and

(d) the guardian ad litem, and

(e) the personal representative, if any.

(28)-(33)[Unchanged.]

(D)-(E)[Unchanged.]

Rule 5.208 Notice to Creditors, Presentment of Claims

(A)-(B) [Unchanged.]
(C) Publication of Notice to Creditors and Known Creditors by Trustee. A notice that must be published under MCL 700.7608 must include:

1. The name, and, if known, last known address, date of death, and date of birth of the trust’s deceased settlor;

2)-(5)(Unchanged.)

(D)-(F)(Unchanged.)

Rule 5.403 Proceedings on Temporary Guardianship

(A) Limitation. The court may appoint a temporary guardian only in the course of a proceeding for permanent guardianship, or pursuant to an application to appoint a guardian serving in another state to serve as guardian in this state

(B)-(D)(Unchanged.)

Staff Comment: These Chapter 5 rule amendments, submitted to the Court by the Probate and Estate Planning Section of the State Bar of Michigan, comport to recent legislation regarding guardianships and conservatorships.

The staff comment is not an authoritative construction by the Court.

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 1, 2014

Clerk
Report of the Taxation Section Liaison

George W. Gregory

You are invited.............

Estates and Trusts Committee of the Tax Section of the State Bar of Michigan

Meeting Notice

Guest Speaker:  Jeff Risius of SRR
Date:     October 30, 2014
Meeting Time:  4 p.m.
Meeting Location:  Warner Norcross & Judd LLP, 2000 Town Center, Suite 2700, Southfield

Video Conference from Grand Rapids at Warner Norcross & Judd LLP, 900 Fifth Third Center, 111 Lyon Street, N.W., Grand Rapids, MI 49503-2487

Mixer Following Meeting:  Skyline Club, 2000 Town Center, Suite 2800, Southfield

RSVP by October 23rd to my assistant Laurie Gerals
dlgeralds@wnj.com).

Agenda:

- Brief Discussion of committee plans for 2015
- Brief Discussion of the Tax Section’s Annual Conference (May 21, 2015)
- Discussion of the Adell case and other related cases
- Refreshments

Sean H. Cook
Warner Norcross & Judd LLP
Southfield MI
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