Agendas & Attachments for

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

Saturday, December 13, 2014
9:00 a.m.
University Club
Lansing, 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

December 13, 2014
9:00 a.m.
University Club
3435 Forest Road
Lansing, Michigan 48910

The above stated meetings of the Section will be held at the MSU University Club, 3435 Forest Road, Lansing, Michigan, Saturday, December 13, 2014. 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. If time allows, and at the discretion of the Chair, we will work further on CSP materials after the conclusion of the meeting of the Council.

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:

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>
</tr>
</thead>
<tbody>
<tr>
<td>Chairperson</td>
<td>Amy N. Morrissey</td>
</tr>
<tr>
<td>Chairperson Elect</td>
<td>Shaheen I. Imami</td>
</tr>
<tr>
<td>Vice Chairperson</td>
<td>James B. Steward</td>
</tr>
<tr>
<td>Secretary</td>
<td>Marlaine C. Teahan</td>
</tr>
<tr>
<td>Treasurer</td>
<td>Lentz, Marguerite Munson</td>
</tr>
</tbody>
</table>

### 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>
</tr>
</thead>
<tbody>
<tr>
<td>Ard, W. Josh.</td>
<td>2012 (2nd term)</td>
<td>2015</td>
<td>No</td>
</tr>
<tr>
<td>Ouellette, Patricia M.</td>
<td>2012 (2nd term)</td>
<td>2015</td>
<td>No</td>
</tr>
<tr>
<td>Spica, James P.</td>
<td>2012 (2nd term)</td>
<td>2015</td>
<td>No</td>
</tr>
<tr>
<td>Clark-Kreuer, Rhonda M.</td>
<td>2012 (1st term)</td>
<td>2015</td>
<td>Yes (1 term)</td>
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<tr>
<td>Lucas, David P.</td>
<td>2012 (1st term)</td>
<td>2015</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Skidmore, David L.J.M.</td>
<td>2012 (1st term)</td>
<td>2015</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Brigman, Constance L.</td>
<td>2010 (2nd term)</td>
<td>2016</td>
<td>No</td>
</tr>
<tr>
<td>Allan, Susan M.</td>
<td>2010 (2nd term)</td>
<td>2016</td>
<td>No</td>
</tr>
<tr>
<td>Mills, Richard C.</td>
<td>2014 (1st partial term)</td>
<td>2016</td>
<td>Yes (2 terms)</td>
</tr>
<tr>
<td>Marquart, Michele C.</td>
<td>2013 (1st term)</td>
<td>2016</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>New, Lorraine F.</td>
<td>2013 (1st term)</td>
<td>2016</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Vernon, Geoffrey R.</td>
<td>2013 (1st term)</td>
<td>2016</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Ballard, Christopher A.</td>
<td>2014 (2nd term)</td>
<td>2017</td>
<td>No</td>
</tr>
<tr>
<td>Bearup, George F.</td>
<td>2014 (2nd term)</td>
<td>2017</td>
<td>No</td>
</tr>
<tr>
<td>Welber, Nancy H.</td>
<td>2014 (2nd term)</td>
<td>2017</td>
<td>No</td>
</tr>
<tr>
<td>Jaconette, Hon Michael L.</td>
<td>2014 (1st term)</td>
<td>2017</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Kellogg, Mark E.</td>
<td>2014 (1st term)</td>
<td>2017</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Malviya, Raj A.</td>
<td>2014 (1st term)</td>
<td>2017</td>
<td>Yes (1 term)</td>
</tr>
</tbody>
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## Ex Officio Members

<table>
<thead>
<tr>
<th>Name</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>John E. Bos</td>
<td>Richard C. Lowe</td>
</tr>
<tr>
<td>Robert D. Brower, Jr.</td>
<td>John D. Mabley</td>
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<tr>
<td>Douglas G. Chalgian</td>
<td>John H. Martin</td>
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<tr>
<td>George W. Gregory</td>
<td>Michael J. McClory</td>
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<tr>
<td>Henry M. Grix</td>
<td>Douglas A. Mielock</td>
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<tr>
<td>Mark K. Harder</td>
<td>Russell M. Paquette</td>
</tr>
<tr>
<td>Hon. Philip E. Harter</td>
<td>Patricia Gormely Prince</td>
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<tr>
<td>Dirk C. Hoffius</td>
<td>Douglas J. Rasmussen</td>
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<tr>
<td>Brian V. Howe</td>
<td>Harold G. Schuitmaker</td>
</tr>
<tr>
<td>Raymond T. Huetteman, Jr.</td>
<td>John A. Scott</td>
</tr>
<tr>
<td>Stephen W. Jones</td>
<td>Fredric A. Sytsma</td>
</tr>
<tr>
<td>Robert B. Joslyn</td>
<td>Thomas F. Sweeney</td>
</tr>
<tr>
<td>James A. Kendall</td>
<td>Lauren M. Underwood</td>
</tr>
<tr>
<td>Kenneth E. Konop</td>
<td>W. Michael Van Haren</td>
</tr>
<tr>
<td>Nancy L. Little</td>
<td>Susan S. Westerman</td>
</tr>
<tr>
<td>James H. LoPrete</td>
<td>Everett R. Zack</td>
</tr>
</tbody>
</table>
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
Probate & Estate Planning Section Committees 2014-2015

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
Georgette E. David
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

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
Kathleen M. Goetsch
Michael J. McClory
Neal Nusholtz
Michael L. Rutkowski
Rebecca A. Schnelz, (Liaison to Solutions on Self-help Task Force)
Nancy H. Welber
Melisa M. W. Mysliwiec

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

James B. Steward
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

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
Raymond A. Harris
J. David Kerr
Robert M. Taylor
Amy Rombyer Tripp

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

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
Michael D. Holmes
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  
Georgette E. David  
Shawn P. Eyestone  
Mark K. Harder  
Raymond A. Harris  
Shaheen I. Imami  
Robert B. Labe  
Henry P. Lee  
Marguerite Munson Lentz  
Michael G. Lichterman  
Raj A. Malviya  
Nathan R. Piwowarski  
James P. Spica

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

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

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  
Melisa 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  
Robert B. Labe  
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
<table>
<thead>
<tr>
<th>Section Liaison</th>
<th>Mission: The liaison to the [Section Name] Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the [Section Name] Section on matters of mutual interest and concern</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business Law Section Liaison</strong></td>
<td>John R. Dresser</td>
</tr>
<tr>
<td><strong>Law Schools Liaison</strong></td>
<td>William J. Ard</td>
</tr>
<tr>
<td><strong>Elder Law and Disability Rights Section Liaison</strong></td>
<td>Amy Rombyer Tripp</td>
</tr>
<tr>
<td><strong>Master Lawyers Section Liaison</strong></td>
<td>J. David Kerr</td>
</tr>
<tr>
<td><strong>Family Law Section Liaison</strong></td>
<td>Patricia M. Ouellette</td>
</tr>
<tr>
<td><strong>Michigan Bankers Association Liaison</strong></td>
<td>Susan M. Allan</td>
</tr>
<tr>
<td><strong>ICLE Liaison</strong></td>
<td>Jeanne Murphy</td>
</tr>
</tbody>
</table>
| **Probate Judges Association Liaisons**                                      | Hon. David M. Murkowski  
Hon. Michael L. Jaconette
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
Michael W. Irish Award

Mission: To honor a practitioner (supported by recommendations from his or her peers) whose contributions to the Probate and Estate Planning Section of the State Bar of Michigan and whose service to his or her community reflect the high standards of professionalism and selflessness exemplified by Michael W. Irish.

Recipients
1995 Joe C. Foster, Jr.
1996 John H. Martin
1997 Harold A. Draper
1998 Douglas J. Rasmussen
1999 James A. Kendall
2000 NO AWARD PRESENTED
2001 John E. Bos
2002 Everett R. Zack
2003 NO AWARD PRESENTED
2004 Brian V. Howe
2005 NO AWARD PRESENTED
2006 Hon. Phillip E. Harter
2007 George Cooney (April 3, 2007)
2008 Susan A. Westerman
2009 Russell M. Paquette (posthumously)
2010 Fredric A. Sytsma
2011 John A. Scott
2012 NO AWARD PRESENTED
2013 Michael J. McClory
2014 Sebastian V. Grassi, Jr.

The Michael W. Irish Award was first presented in 1995 in honor of the late Michael W. Irish. The award reflects the professionalism and community leadership of its namesake.
The George A. Cooney Society

What: This award is presented by the Institute of Continuing Legal Education and the Probate & Estate Planning Section of the State Bar of Michigan to a Michigan estate planning attorney for outstanding contributions to continuing legal education in Michigan.

Who: As of November 2014, there have been four recipients:

- John E. Bos (2007)
- Everett R. Zack (2009)
- John H. Martin (2011)
- John A. Scott (2013)

When: This award is not necessarily given every year. So far we’ve given awards in 2007, 2009, 2011, and 2013.

Where: The award is presented at the Annual Probate & Estate Planning Institute. ICLE will invite the recipient to attend the Institute, and one of the Section officers will present the individual award at the start of the Institute.

Why: With George Cooney’s passing, the State Bar of Michigan lost one of its premier estate planning and elder law attorneys. The Section and ICLE have chosen to jointly create the George A. Cooney Society to recognize a select group of lawyers who epitomize George’s dedication to his fellow attorneys and in recognition of his long-term, significant contributions to continuing legal education in Michigan.

How: ICLE will nominate candidates based upon the specific criteria contained in the Guidelines for Selection and will send a nominating letter to the Section for approval by the Executive Board. The Section’s leadership and at-large members may also recommend candidates to ICLE for consideration.

Guidelines for Selection:

- Significant CLE contributions to probate and estate planning over a substantial period of time.
- Outstanding quality of contributions.
- A wide range of contributions, e.g. multiple contributions for the following: speaker, author, editor, advisory board member, curriculum advisor, creating case study scenarios, preparing Top Tips, How-To Kits or other online resources, etc.
- Generous mentorship and assistance to colleagues with their probate and estate planning career development as well as activities and active involvement with the Probate & Estate Planning Section of the State Bar of Michigan.
Probate and Estate Planning Council
Committee on Special Projects Agenda

December 13, 2014

9:00 a.m.

1. Insurance Committee – Geoffrey Vernon
   Proposed MCL 700.1513
   Exculpation of trustees of life insurance trusts from liabilities related to
   the administration of policies held in the trust
   Memo summarizing the issue (Exhibit A-1)
   Proposed statute (Exhibit A-2)

2. Updating Michigan Law Committee – Geoffrey Vernon
   Proposed tenancy by the entireties statutes
   MCL 700.2801, 700.2806, 700.2114, 700.2519 (Exhibit B-1)
   MCL 554.44, 554.45 (Exhibit B-2)
   MCL 557.151 (Exhibit B-3)
   MCL 577.101, 577.102, 565.48, 565.49 (Exhibit B-4)
   MCL 700.7509 (Exhibit B-5)
   ACTEC Chart (Exhibit B-6)
   Sample Statutes from other States (Exhibit B-7)
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.

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\(^1\) 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.  
(2) The possible effect of inflation or deflation.  
(3) The expected tax consequences of an investment decision or strategy.  
(4) The expected total return from income and the appreciation of capital.  
(5) The need for liquidity, regularity of income, and preservation or appreciation of capital.  

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.  

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.  

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

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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

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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 (ii) 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.
EXHIBIT A-2
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.
700.2114 Parent and child relationship.

Sec. 2114.

(1) Except as provided in subsections (2), (3), and (4), for purposes of intestate succession by, through, or from an individual, an individual is the child of his or her natural parents, regardless of their marital status. The parent and child relationship may be established in any of the following manners:

(a) If a child is born or conceived during a marriage, both spouses are presumed to be the natural parents of the child for purposes of intestate succession. A child conceived by a married woman with the consent of her husband following utilization of assisted reproductive technology is considered as their child for purposes of intestate succession. Consent of the husband is presumed unless the contrary is shown by clear and convincing evidence. If a man and a woman participated in a marriage ceremony in apparent compliance with the law before the birth of a child, even though the attempted marriage may be void, the child is presumed to be their child for purposes of intestate succession.

(b) If a child is born out of wedlock or if a child is born or conceived during a marriage but is not the issue of that marriage, a man is considered to be the child's natural father for purposes of intestate succession if any of the following occur:

(i) The man joins with the child's mother and acknowledges that child as his child by completing an acknowledgment of parentage as prescribed in the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013.

(ii) The man joins the mother in a written request for a correction of certificate of birth pertaining to the child that results in issuance of a substituted certificate recording the child's birth.

(iii) The man and child have established a mutually acknowledged relationship of parent and child that begins before the child becomes age 18 and continues until terminated by the death of either.

(iv) The man is determined to be the child's father and an order of filiation establishing that paternity is entered as provided in the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(v) Regardless of the child's age or whether or not the alleged father has died, the court with jurisdiction over probate proceedings relating to the decedent's estate determines that the man is the child's father, using the standards and procedures established under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(vi) The man is determined to be the father in an action under the revocation of paternity act.

(c) A child who is not conceived or born during a marriage is an individual born in wedlock if the child's parents marry after the conception or birth of the child.
(2) An adopted individual is the child of his or her adoptive parent or parents and not of his or her natural parents, but adoption of a child by the spouse of either natural parent has no effect on either the relationship between the child and that natural parent or the right of the child or a descendant of the child to inherit from or through the other natural parent. An individual is considered to be adopted for purposes of this subsection when a court of competent jurisdiction enters an interlocutory decree of adoption that is not vacated or reversed.

(3) The permanent termination of parental rights of a minor child by an order of a court of competent jurisdiction; by a release for purposes of adoption given by the parent, but not a guardian, to the family independence agency or a licensed child placement agency, or before a probate or juvenile court; or by any other process recognized by the law governing the parent-child status at the time of termination, excepting termination by emancipation or death, ends kinship between the parent whose rights are so terminated and the child for purposes of intestate succession by that parent from or through that child.

(4) Inheritance from or through a child by either natural parent or his or her kindred is precluded unless that natural parent has openly treated the child as his or hers, and has not refused to support the child.

(5) Only the individual presumed to be the natural parent of a child under subsection (1)(a) may disprove a presumption that is relevant to that parent and child relationship, and this exclusive right to disprove the presumption terminates on the death of the presumed parent.

700.2519 Statutory will.

Sec. 2519.

(1) A will executed in the form prescribed by subsection (2) and otherwise in compliance with the terms of the Michigan statutory will form is a valid will. A person printing and distributing the Michigan statutory will shall print and distribute the form verbatim as it appears in subsection (2). The notice provisions shall be printed in 10-point boldfaced type.

(2) The form of the Michigan statutory will is as follows:

MICHIGAN STATUTORY WILL NOTICE

1. An individual age 18 or older who has sufficient mental capacity may make a will.

2. There are several kinds of wills. If you choose to complete this form, you will have a Michigan statutory will. If this will does not meet your wishes in any way, you should talk with a lawyer before choosing a Michigan statutory will.

3. Warning! It is strongly recommended that you do not add or cross out any words on this form except for filling in the blanks because all or part of this will may not be valid if you do so.
4. This will has no effect on jointly held assets, on retirement plan benefits, or on life insurance on your life if you have named a beneficiary who survives you.

5. This will is not designed to reduce estate taxes.

6. This will treats adopted children and children born outside of wedlock who would inherit if their parent died without a will the same way as children born or conceived during marriage.

7. You should keep this will in your safe deposit box or other safe place. By paying a small fee, you may file this will in your county’s probate court for safekeeping. You should tell your family where the will is kept.

8. You may make and sign a new will at any time. If you marry or divorce after you sign this will, you should make and sign a new will.

INSTRUCTIONS:

1. To have a Michigan statutory will, you must complete the blanks on the will form. You may do this yourself, or direct someone to do it for you. You must either sign the will or direct someone else to sign it in your name and in your presence.

2. Read the entire Michigan statutory will carefully before you begin filling in the blanks. If there is anything you do not understand, you should ask a lawyer to explain it to you.

MICHIGAN STATUTORY WILL OF ________________________________
(Print or type your full name)

ARTICLE 1. DECLARATIONS
This is my will and I revoke any prior wills and codicils.
I live in ___________________________ County, Michigan.
My spouse is ___________________________________________.
(Insert spouse's name or write "none")
My children now living are:
______________________ ______________________
______________________ ______________________
______________________ ______________________
(Insert names or write "none")

ARTICLE 2. DISPOSITION OF MY ASSETS
2.1 CASH GIFTS TO PERSONS OR CHARITIES.
(Optional)

I can leave no more than two (2) cash gifts. I make the following cash gifts to the persons or charities in the amount stated here. Any transfer tax due upon my death shall be paid from the balance of my estate and not from these gifts. Full name and address of person or charity to receive cash gift (name only 1 person or charity here):

____________________________________
(Insert name of person or charity)
____________________________________

(Insert address)
AMOUNT OF GIFT (In figures): $ ________________________________
AMOUNT OF GIFT (In words): ____________________________ Dollars
____________________________________

(Your signature)
Full name and address of person or charity to receive cash gift
(Name only 1 person or charity):
____________________________________

(Insert name of person or charity)
____________________________________

(Insert address)
AMOUNT OF GIFT (In figures): $ ________________________________
AMOUNT OF GIFT (In words): ____________________________ Dollars
____________________________________

(Your signature)
2.2 PERSONAL AND HOUSEHOLD ITEMS.

I may leave a separate list or statement, either in my handwriting or signed by me at
the end, regarding gifts of specific books, jewelry, clothing, automobiles, furniture,
and other personal and household items.

I give my spouse all my books, jewelry, clothing, automobiles, furniture, and other
personal and household items not included on such a separate list or statement. If I
am not married at the time I sign this will or if my spouse dies before me, my
personal representative shall distribute those items, as equally as possible, among
my children who survive me. If no children survive me, these items shall be
distributed as set forth in paragraph 2.3.

2.3 ALL OTHER ASSETS.

I give everything else I own to my spouse. If I am not married at the time I sign this
will or if my spouse dies before me, I give these assets to my children and the
descendants of any deceased child. If no spouse, children, or descendants of children
survive me, I choose 1 of the following distribution clauses by signing my name on
the line after that clause. If I sign on both lines, if I fail to sign on either line, or if I
am not now married, these assets will go under distribution clause (b).

Distribution clause, if no spouse, children, or descendants of children survive me.
(Select only 1)

(a) One-half to be distributed to my heirs as if I did not have a will, and one-half to
be distributed to my spouse's heirs as if my spouse had died just after me without a
will.

____________________________________
(Your signature)
(b) All to be distributed to my heirs as if I did not have a will.

_________________________________
(Your signature)

ARTICLE 3. NOMINATIONS OF PERSONAL REPRESENTATIVE, GUARDIAN, AND CONSERVATOR

Personal representatives, guardians, and conservators have a great deal of responsibility. The role of a personal representative is to collect your assets, pay debts and taxes from those assets, and distribute the remaining assets as directed in the will. A guardian is a person who will look after the physical well-being of a child. A conservator is a person who will manage a child’s assets and make payments from those assets for the child’s benefit. Select them carefully. Also, before you select them, ask them whether they are willing and able to serve.

3.1 PERSONAL REPRESENTATIVE.
(Name at least 1)
I nominate ______________________________________________________ to serve as personal representative.

(I Insert name of person or eligible financial institution)
of ________________________ to serve as personal representative.

(I Insert address)
If my first choice does not serve, I nominate __________________

___________________________________________________________
(I Insert name of person or eligible financial institution)
of ________________________ to serve as personal representative.

(I Insert address)

3.2 GUARDIAN AND CONSERVATOR.

Your spouse may die before you. Therefore, if you have a child under age 18, name an individual as guardian of the child, and an individual or eligible financial institution as conservator of the child’s assets. The guardian and the conservator may, but need not be, the same person.

If a guardian or conservator is needed for a child of mine, I nominate _________________________________________

(I Insert name of individual)
of ____________________________________________ as guardian and

(I Insert address)

___________________________________________________________
(I Insert name of individual or eligible financial institution)
of ____________________________________________ to serve as conservator.

(I Insert address)
If my first choice cannot serve, I nominate

___________________________________________________________
(I Insert name of individual)
of ____________________________________________ as guardian and

(I Insert address)
(Insert name of individual or eligible financial institution)
of ____________________________________ to serve as conservator.

(Insert address)

3.3 BOND.

A bond is a form of insurance in case your personal representative or a conservator performs improperly and jeopardizes your assets. A bond is not required. You may choose whether you wish to require your personal representative and any conservator to serve with or without bond. Bond premiums would be paid out of your assets. (Select only 1)

(a) My personal representative and any conservator I have named shall serve with bond.

_________________________________
(Your signature)

(b) My personal representative and any conservator I have named shall serve without bond.

_________________________________
(Your signature)

3.4 DEFINITIONS AND ADDITIONAL CLAUSES.

Definitions and additional clauses found at the end of this form are part of this will.

I sign my name to this Michigan statutory will on ______________ , 20_____.

_________________________________
(Your signature)

NOTICE REGARDING WITNESSES

You must use 2 adults as witnesses. It is preferable to have 3 adult witnesses. All the witnesses must observe you sign the will, have you tell them you signed the will, or have you tell them the will was signed at your direction in your presence.

STATEMENT OF WITNESSES

We sign below as witnesses, declaring that the individual who is making this will appears to have sufficient mental capacity to make this will and appears to be making this will freely, without duress, fraud, or undue influence, and that the individual making this will acknowledges that he or she has read the will, or has had it read to him or her, and understands the contents of this will.

_________________________________
(Print Name)

_________________________________
(Signature of witness)
DEFINITIONS

The following definitions and rules of construction apply to this Michigan statutory will:

(a) "Assets" means all types of property you can own, such as real estate, stocks and bonds, bank accounts, business interests, furniture, and automobiles.

(b) "Descendants" means your children, grandchildren, and their descendants.

(c) "Descendants" or "children" includes individuals born or conceived during marriage, individuals legally adopted, and individuals born out of wedlock who would inherit if their parent died without a will.

(d) "Jointly held assets" means those assets to which ownership is transferred automatically upon the death of 1 of the owners to the remaining owner or owners.

(e) "Spouse" means your husband or wife at the time you sign this will.

(f) Whenever a distribution under a Michigan statutory will is to be made to an individual's descendants, the assets are to be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave living descendants. Each living descendant of the nearest degree shall receive 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the descendant. In this manner, all descendants who are in the same generation will take an equal share.
(g) "Heirs" means those persons who would have received your assets if you had died without a will, domiciled in Michigan, under the laws that are then in effect.

(h) "Person" includes individuals and institutions.

(i) Plural and singular words include each other, where appropriate.

(j) If a Michigan statutory will states that a person shall perform an act, the person is required to perform that act. If a Michigan statutory will states that a person may do an act, the person's decision to do or not to do the act shall be made in good faith exercise of the person's powers.

ADDITIONAL CLAUSES
Powers of personal representative

1. A personal representative has all powers of administration given by Michigan law to personal representatives and, to the extent funds are not needed to meet debts and expenses currently payable and are not immediately distributable, the power to invest and reinvest the estate from time to time in accordance with the Michigan prudent investor rule. In dividing and distributing the estate, the personal representative may distribute partially or totally in kind, may determine the value of distributions in kind without reference to income tax bases, and may make non-pro rata distributions.

2. The personal representative may distribute estate assets otherwise distributable to a minor beneficiary to the minor's conservator or, in amounts not exceeding $5,000.00 per year, either to the minor, if married; to a parent or another adult with whom the minor resides and who has the care, custody, or control of the minor; or to the guardian. The personal representative is free of liability and is discharged from further accountability for distributing assets in compliance with the provisions of this paragraph.

POWERS OF GUARDIAN AND CONSERVATOR

A guardian named in this will has the same authority with respect to the child as a parent having legal custody would have. A conservator named in this will has all of the powers conferred by law.

700.2801 Effect of divorce, annulment, decree of separation, bigamy, and absence.

Sec. 2801.

(1) An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, he or she is married to the decedent at the time of death. A decree of separation that does not terminate the status of marriage of the husband and wife is not a divorce for purposes of this section.
(2) For purposes of parts 1 to 4 of this article and of section 3203, a surviving spouse does not include any of the following:

(a) An individual who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless they subsequently participate in a marriage ceremony purporting to marry each to the other or live together as husband and wife spouses.

(b) An individual who, following an invalid decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third individual.

(c) An individual who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

(d) An individual who, at the time of the decedent's death, is living in a bigamous relationship with another individual.

(e) An individual who did any of the following for 1 year or more before the death of the deceased person:

(i) Was willfully absent from the decedent spouse.

(ii) Deserted the decedent spouse.

(iii) Willfully neglected or refused to provide support for the decedent spouse if required to do so by law.

700.2806 Definitions relating to revocation of probate and nonprobate transfers by divorce; revocation by other changes of circumstances.

Sec. 2806.

As used in this section and sections 2807 to 2809:

(a) "Disposition or appointment of property" includes, but is not limited to, a transfer of an item of property or another benefit to a beneficiary designated in a governing instrument.

(b) “Divorce or annulment” means a divorce or annulment, or a dissolution or declaration of invalidity of a marriage, that would exclude the spouse as a surviving spouse within the meaning of section 2801. A decree of separation that does not terminate the status of husband and wife decedent’s marriage is not a divorce for purposes of this section and sections 2807 to 2809.

(c) “Divorced individual” includes, but is not limited to, an individual whose marriage has been annulled.
(d) “Governing instrument” means a governing instrument executed by a divorced individual before the divorce from, or annulment of his or her marriage to, his or her former spouse.

(e) “Relative of the divorced individual’s former spouse” means an individual who is related to the divorced individual's former spouse by blood, adoption, or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption, or affinity.

(f) “Revocable” means, with respect to a disposition, appointment, provision, or nomination, one under which the divorced individual, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of his or her former spouse or former spouse's relative, whether or not the divorced individual was then empowered to designate himself or herself in place of his or her former spouse or in place of his or her former spouse's relative and whether or not the divorced individual then had the capacity to exercise the power.
554.44 **Land**Real property conveyance to two or more persons; estate created.

Sec. 44.

All grants and devises of land*real property*, made to 2 or more persons, except as provided in the following section, shall be construed to create estates in common, and not in joint tenancy, unless expressly declared to be in joint tenancy.

554.45 **Land**Real property conveyance; exceptions to preceding section.

Sec. 45.

The preceding section shall not apply to mortgages, nor to devises or grants made in trust, or made to executors*personal representative*, or to husband*an individual* and wife*his or her spouse*.
JOINT OWNERSHIP OF PERSONAL PROPERTY IN JOINT AS TENANCY BY THE ENTIRETIES

Act 212 of 1927

AN ACT to provide for the joint ownership by husband and wife in joint tenancy of certain classes of personal property with right of survivorship a person and his or her spouse as tenants by the entireties.

557.151 Evidence of indebtedness payable to husband and wife; ownership in joint tenancy. Tenancy by the entireties in real and personal property.

Sec. 1.

All bonds, certificates of stock, mortgages, promissory notes, debentures, or other evidences of indebtedness hereafter made payable to persons who are husband and wife, or made payable to them as endorsee or assignee, or otherwise, shall be held by such husband and wife in joint tenancy unless otherwise therein expressly provided, in the same manner and subject to the same restrictions, consequences and conditions as are incident to the ownership of real estate held jointly by husband and wife under the laws of this state.

An individual and his or her spouse may own real property or personal property (or any interest in real property or personal property) as tenants by the entireties (also known as “tenants by the entirety”). All real or personal property held by an individual and his or her spouse shall be presumed to be held by the individual and his or her spouse as tenants by the entireties, with full right of ownership by survivorship in case of the death of either, unless the deed or other instrument of conveyance expressly provides for some other form of joint ownership.
EXHIBIT B-4
557.101 Tenancy by entirety; termination.

Sec. 1.

In all cases where a person an individual and his or her spouse own any interest in land real property as tenants by the entirety, such tenancy by the entirety may be terminated by a conveyance conveyance from either one to the other of his or her interest in the land real property so held.

557.102 Act declaratory of common law.

Sec. 2.

This act shall be deemed to be declaratory of the common law as heretofore existing in this state.

565.49 Conveyances; same person or persons among grantors and grantees; joint joint tenancy, tenancy by entireties.

Sec. 49.

Conveyances in which the grantor or 1 or more of the grantors are named among the grantees therein shall have the same force and effect as they would have if the conveyance were made by a grantor or grantors who are not named among the grantees. Conveyances expressing an intent to create a joint joint tenancy or tenancy by the entireties in the grantor or grantors together with the grantee or grantees shall be effective to create the type of ownership indicated by the terms of the conveyance.

565.48 Deed by surviving joint tenant of land real property; recording; certified copy of death.

Sec. 48.

No deed or other instrument in writing, purporting to convey an interest in land real property by the survivor or survivors under a deed to joint tenants or tenants by the entirety shall be recorded by the register of deeds of any county, unless, for each joint tenant or tenant by the entirety who is therein indicated to be deceased, a certified copy of the death certificate or other proof of death which is permitted by the laws of this state to be received for record by said register, is shown to have been recorded in said register's office by liber and page reference or shall accompany such deed for record.
ARTICLE VII: MICHIGAN TRUST CODE
PART 5: CREDITOR’S CLAIMS: SPENDTHRIFT, SUPPORT, AND DISCRETIONARY TRUSTS
700.7509 TENANCY BY THE ENTIRETY PROPERTY

(1) As used in this section:

(a) "Property" means real or personal property and any interest in real or personal property.

(b) "Proceeds" means:

(i) Property acquired by a trustee upon the sale, lease, license, exchange, or other disposition of property originally conveyed by spouses as tenants by the entirety to a trustee.

(ii) Interest, dividends, rents, and other property collected by a trustee on, or distributed on account of, property originally conveyed by spouses as tenants by the entirety to a trustee.

(iii) Rights arising out of property originally conveyed by spouses as tenants by the entirety to a trustee.

(iv) Claims and resulting damage awards and settlement proceeds arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, property originally conveyed by spouses as tenants by the entirety to a trustee.

(v) Insurance proceeds or benefits payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, property originally conveyed by spouses as tenants by the entirety to a trustee.

(vi) Property held by a trustee that is otherwise traceable to property originally conveyed by spouses as tenants by the entirety to a trustee or the property proceeds described in subsections (i) to (v).

(2) While both spouses are still living, any property once held by the spouses as tenants by the entirety and subsequently conveyed as tenants by the entirety to a trustee of one or more trusts, and the proceeds of that property, shall have the same immunity from the claims of each spouse’s separate creditors as would exist if the spouses retained the property or its proceeds as tenants by the entirety, so long as all of the following apply:

(a) The spouses remain married.

(b) The property or its proceeds continue to be held in trust by a trustee.
(c) The trust or trusts are revocable by either spouse or both spouses, acting together.

(d) Each spouse is a distributee or permissible distributee of the trust or trusts.

(e) The trust instrument, deed, or other instrument of conveyance provides that this section shall apply to the property or its proceeds.

(3) Upon the death of the first spouse:

(a) All property held in trust that, under subsection (2), was immune from the claims of the deceased spouse’s creditors immediately prior to his or her death shall continue to have immunity from the claims of the decedent’s separate creditors as if both spouses were still alive.

(b) To the extent that the surviving spouse remains a distributee or permissible distributee of the trust or trusts and has the power, exercisable in his or her individual capacity, to vest individually in the surviving spouse title to the property that, under subsection (2), was immune from the claims of the separate creditors of the decedent, the property shall be subject to the claims of the separate creditors of the surviving spouse.

(c) If the surviving spouse remains a distributee or permissible distributee of the trust or trusts, but does not have the power, exercisable in his or her individual capacity, to vest individually in the surviving spouse title to the property that, under subsection (2), was immune from claims of the spouses’ separate creditors, that property shall continue to have immunity from the claims of the separate creditors of the surviving spouse.

(4) The immunity from the claims of separate creditors under subsections (2) and (3) may be waived by the express provisions of a trust instrument, deed, or other instrument of conveyance, or by the written consent of both spouses, as to any specific creditor or any specifically described trust property, including all separate creditors of a spouse or all former tenancy by the entirety property conveyed to a trustee.

(5) Except as provided in subsection (6), immunity from the claims of separate creditors under subsections (2) and (3) shall be waived if a trustee executes and delivers a financial statement for the trust that fails to disclose the requested identity of property held in trust that is immune from the claims of separate creditors.

(6) Immunity is not waived under subsection (5) if the identity of the property that is immune from the claims of separate creditors and evidence of such immunity is otherwise reasonably disclosed by any of the following:

(a) A publicly recorded deed or other instrument of conveyance by the spouses to the trustee.
(b) A written memorandum by the spouses, or by a trustee, that is recorded among the land records or other public records in the county or other jurisdiction where the records of the trust are regularly maintained.

(c) The terms of the trust instrument, including any schedule or exhibit attached to the trust instrument, if a copy of the trust instrument is provided with the financial statement.

(7) A waiver under subsection (5) shall be effective only as to:

(a) The person to whom the financial statement is delivered by a trustee.

(b) The particular trust property held in trust for which the immunity from the claims of separate creditors is insufficiently disclosed on the financial statement.

(c) The transaction for which the disclosure was sought.

(8) In any dispute relating to the immunity of trust property from the claims of either spouse’s separate creditor, the creditor has the burden of proving, by clear and convincing evidence, that the trust property is not immune from the creditor's claims.

(9) In the event that any transfer of property held in tenancy by the entirety to a trustee of a trust as provided under subsection (2) is held invalid by any court of proper jurisdiction, or if the trust is revoked or dissolved by a court decree or operation of law, while both spouses are living, then immediately upon the occurrence of either event, absent a contrary provision in a court decree, all property held in the trust shall be deemed for all purposes to be held by both spouses as tenants by the entirety.

(10) No transfer by spouses described in subsection (2) shall affect or change either spouse’s marital property rights to the transferred property or interest therein immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless both spouses expressly agree otherwise in writing. Upon entry of a judgment of divorce or annulment between the spouses, the immunity from the claims of separate creditors under subsection (2) shall terminate.

(11) If property is transferred to a trustee of a trust as provided under subsection (2), the trustee may transfer such trust property to the spouses as tenants by the entirety.

(12) This section may not be construed to affect existing state law with respect to tenancies by the entirety. This section applies only to tenancy by the entirety property conveyed to a trustee on or after __________ ____, 2014.
EXHIBIT B-6
<table>
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<th>State</th>
<th>Allow Joint Trusts to Qualify for Trust or Creditor Protection?</th>
<th>Must the QST State Statute be Specifically Cited in the Trust or Instrument of Conveyance?</th>
<th>Does State Statute Permit the Joint Trust to be Split Immediately Prior to Transfer to Joint Trust?</th>
<th>Must the Property He Held as T by E Property Separately Be Split into 2 Separate Shares While Both Spouses Are Living?</th>
<th>Does State Statute Permit the First Deceased Spouse's Trust Shares to be Split into Marital/Non-Marital Shares?</th>
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* Florida practitioners disagree as to whether a joint trust may qualify for tenancy by the entirety creditor protection, but there is no specific enabling statute.

** Illinois allows tenancy by the entirety status for the “homestead” only.

*** The Probate and Trust Committee of the Missouri Bar has proposed a revision to the existing Missouri statute which would eliminate this requirement, which on September 18, 2013, was endorsed by the Missouri Bar Board of Governors as a Bar-sponsored legislative proposal.

**** Tennessee is working on such a statute.
EXHIBIT B-7
§ 3334. Contributions to revocable trusts.

Delaware Statutes

Title 12. Decedents' Estates and Fiduciary Relations

Chapter 33. ADMINISTRATIVE PROVISIONS

Current through 2014 Legislative Session, Act Chapter 437

§ 3334. Contributions to revocable trusts

Where spouses make a contribution of property to 1 or more trusts, each of which is revocable by either or both of them, and, immediately before such contribution, such property or any part thereof or any accumulation thereto was, pursuant to applicable law, owned by them as tenants by the entireties, in any action concerning whether a creditor of either or both spouses may recover the debt from the trust, the sole remedy available to the creditor with respect to such trust property shall be an order directing the trustee to transfer the property to both spouses as tenants by the entireties.

Cite as 12 Del. C. § 3334

History. Amended by Laws 2013, ch. 172, s 2, eff. 8/6/2013.

77 Del. Laws, c. 330, §9; 70 Del. Laws, c. 186, §1; 78 Del. Laws, c. 117, §4;
§ 509-2. Creation of joint tenancy, tenancy by the entirety, and tenancy in common.

Hawaii Statutes

Division 3. PROPERTY; FAMILY

Title 28. PROPERTY

Chapter 509. CONVEYANCES TO TWO OR MORE

Current through Chapter 235 of the 2014 Legislative Session

§ 509-2. Creation of joint tenancy, tenancy by the entirety, and tenancy in common

(a) Land, or any interest therein, or any other type of property or property rights or interests or interest therein, may be conveyed by a person to oneself and another or others as joint tenants, or by a person to oneself and one's spouse or reciprocal beneficiary, or by spouses to themselves, or by reciprocal beneficiaries to themselves, as tenants by the entirety, or by joint tenants to themselves and another or others as joint tenants, or tenants in common to themselves or to themselves and another or others as joint tenants, or by tenants by the entirety to themselves or themselves and another or others as joint tenants or as tenants in common, or by one tenant by the entirety to the tenant's spouse or reciprocal beneficiary of all of the tenant's interest or interests, without the necessity of conveying through a third party, and each such instrument shall be construed as validly creating a joint tenancy, tenancy by the entirety, tenancy in common, or single ownership, as the case may be, if the tenor of the instrument manifestly indicates such intention.

(b) Conveyance of any real property located in the State and held by spouses or reciprocal beneficiaries as tenants by the entirety:

(1) To a joint trust as tenant in severalty for their benefit and which is revocable and amendable by either or both during their joint lifetime; or

(2) In equal shares as tenants in common to their respective separate trusts, each of which is revocable and amendable by the respective grantor, or any accumulation of such conveyed property,

shall have the same immunity from the claims of their separate creditors as would exist if the spouses or reciprocal beneficiaries had continued to hold the real property or its proceeds as tenants by the entirety.

(c) Subsection (b) shall apply as long as:

(1) The spouses remain married or reciprocal beneficiaries remain in a registered reciprocal beneficiary relationship;
(2) The real property continues to be held in the trust as provided under subsection (b);

(3) Both spouses or reciprocal beneficiaries remain beneficiaries of the trust and no waiver as provided under subsection (g) has occurred;

(4) The first and last name of the spouse or reciprocal beneficiary for their respective trusts, or the first and last names of both spouses or reciprocal beneficiaries for a joint trust, are included in the name of the trust; and

(5) Notice of the intention to continue to hold the real property or its proceeds as tenants by the entirety is provided by a deed of conveyance by the spouses or reciprocal beneficiaries and filed or recorded in land court or the bureau of conveyances, or both, as appropriate; provided that the notice shall specifically refer to this section and state that the real property to be held by the trust shall be immune from the claims of their separate creditors.

(d) After the death of the first of the spouses or reciprocal beneficiaries, all real property held in the trust that was immune from the claims of their separate creditors under subsection (b) immediately prior to the individual's death shall continue to have the same immunity from the claims of the decedent's separate creditors as would have existed if the spouses or reciprocal beneficiaries continued to hold the real property conveyed in trust or its proceeds as tenants by the entirety.

(e) In the event that any transfer of real property held in tenancy by the entirety to a trustee of a trust as provided under subsection (b) is held invalid by any court of proper jurisdiction, or if the trust is revoked or dissolved by a court decree or operation of law, while both spouses or reciprocal beneficiaries are living, then immediately upon the occurrence of either event, all real property held in the trust shall automatically be deemed to be held by both spouses or reciprocal beneficiaries as tenants by the entirety.

(f) Upon entry of a decree granting divorce or annulment between the spouses or the termination of the reciprocal beneficiary relationship, the immunity from the claims of separate creditors under subsection (b) shall immediately terminate and the real property shall be treated as held in tenancy in common.

(g) The immunity from the claims of separate creditors under subsections (b) and (d) may be waived as to any creditor or any specifically described trust property by:

(1) The express provisions of a trust instrument; and

(2) The written consent of both spouses or reciprocal beneficiaries.

(h) Except as provided otherwise herein, in any dispute relating to the immunity of trust property from the claims of a separate creditor of a spouse or reciprocal beneficiary, the spouses or reciprocal beneficiaries shall have the burden of proving the immunity of the
trust property from the creditor’s claims.

(i) After a conveyance of real property to a trust as provided under subsection (b), the real property transferred shall no longer be held by the spouses or reciprocal beneficiaries as tenants by the entirety and the disposition of the real property shall be controlled by the terms of the trust.

(j) For the purposes of this chapter "reciprocal beneficiary" means an adult who is a party to a registered reciprocal beneficiary relationship in accordance with chapter 572C, and has a valid certificate of reciprocal beneficiary relationship that has not been terminated.

Cite as HRS § 509-2

History. Amended by L 2012, c 209, §1, eff. 7/1/2012.

L 1941, c 167, §1; RL 1945, §12781; RL 1955, §345-2; am L 1957, c 237, §1; HRS §509-2; gen ch 1993; am L 1997, c 383, §10

Case Notes:

An estate by the entirety is not subject to claims of creditors of one of the spouses. 57 Haw. 608, 561 P.2d 1291.

Right of survivorship of a joint tenant is subject to levy. 59 Haw. 277, 580 P.2d 843.

Section states no presumption in favor of tenancy in common. 59 Haw. 474, 583 P.2d 966.

Property management agreement neither conveyed property nor altered the tenancy by the entirety; purpose of section and relevant antecedent is to eliminate common law requisite of a "straw man" in creating a joint tenancy. 64 H. 236, 639 P.2d 400.
§ 765 ILCS 1005/1c.  

Illinois Compiled Statutes  

Rights and Remedies  

Chapter 765. Property  

Miscellaneous Property  

Act 1005. Joint Tenancy Act  

Current through P.A. 98-1125 (2013-2014)  

§ 765 ILCS 1005/1c.  

Whenever a devise, conveyance, assignment, or other transfer of property, including a beneficial interest in a land trust, maintained or intended for maintenance as a homestead by both husband and wife together during coverture shall be made and the instrument of devise, conveyance, assignment, or transfer expressly declares that the devise or conveyance is made to tenants by the entirety, or if the beneficial interest in a land trust is to be held as tenants by the entirety, the estate created shall be deemed to be in tenancy by the entirety. Where the homestead is held in the name or names of a trustee or trustees of a revocable inter vivos trust or of revocable inter vivos trusts made by the settlors of such trust or trusts who are husband and wife, and the husband and wife are the primary beneficiaries of one or both of the trusts so created, and the deed or deeds conveying title to the homestead to the trustee or trustees of the trust or trusts specifically state that the interests of the husband and wife to the homestead property are to be held as tenants by the entirety, the estate created shall be deemed to be a tenancy by the entirety. Subject to the provisions of paragraph (d) of Section 2 and unless otherwise assented to in writing by both tenants by the entirety, the estate in tenancy by the entirety so created shall exist only if, and as long as, the tenants are and remain married to each other, and upon the death of either such tenant the survivor shall retain the entire estate; provided that, upon a judgment of dissolution of marriage or of declaration of invalidity of marriage, the estate shall, by operation of law, become a tenancy in common until and unless the court directs otherwise; provided further that the estate shall, by operation of law, become a joint tenancy upon the creation and maintenance by both spouses together of other property as a homestead. A devise, conveyance, assignment, or other transfer to 2 grantees who are not in fact husband and wife that purports to create an estate by the entirety shall be construed as having created an estate in joint tenancy. An estate in tenancy by the entirety may be created notwithstanding the fact that a grantor is or the grantors are also named as a grantee or the grantees in a deed. No deed, contract for deed, mortgage, or lease of homestead property held in tenancy by the entirety shall be effective unless
signed by both tenants. This Section shall not apply to nor operate to change the effect of any devise or conveyance.

This amendatory Act of 1995 is declarative of existing law.

Cite as 765 ILCS 1005/1c

History. Amended by P.A. 096-1145, §10, eff. 1/1/2011.

P.A. 89-88, eff. 6-30-95; 89-438, eff. 12-15-95; 92-136, eff. 1-1-02.
§ 735 ILCS 5/12-112. What liable to enforcement.

Illinois Compiled Statutes

Rights and Remedies

Chapter 735. Civil Procedure

Act 5. Code of Civil Procedure

Article XII. Judgments-Enforcement

Part 1. In General

Current through P.A. 98-1125 (2013-2014)

§ 735 ILCS 5/12-112. What liable to enforcement

All the lands, tenements, real estate, goods and chattels (except such as is by law declared to be exempt) of every person against whom any judgment has been or shall be hereafter entered in any court, for any debt, damages, costs, or other sum of money, shall be liable to be sold upon such judgment. Any real property, any beneficial interest in a land trust, or any interest in real property held in a revocable inter vivos trust or revocable inter vivos trusts created for estate planning purposes, held in tenancy by the entirety shall not be liable to be sold upon judgment entered on or after October 1, 1990 against only one of the tenants, except if the property was transferred into tenancy by the entirety with the sole intent to avoid the payment of debts existing at the time of the transfer beyond the transferor's ability to pay those debts as they become due. However, any income from such property shall be subject to garnishment as provided in Part 7 of this Article XII, whether judgment has been entered against one or both of the tenants.

If the court authorizes the piercing of the ownership veil pursuant to Section 505 of the Illinois Marriage and Dissolution of Marriage Act or Section 15 of the Illinois Parentage Act of 1984, any assets determined to be those of the non-custodial parent, although not held in name of the non-custodial parent, shall be subject to attachment or other provisional remedy in accordance with the procedure prescribed by this Code. The court may not authorize attachment of property or any other provisional remedy under this paragraph unless it has obtained jurisdiction over the entity holding title to the property by proper service on that entity. With respect to assets which are real property, no order entered as described in this paragraph shall affect the rights of bona fide purchasers, mortgagees, judgment creditors, or other lien holders who acquire their interests in the property prior to the time a notice of lis pendens pursuant to this Code or a copy of the order is placed of record in the office of the recorder of deeds for the county in which the real property is located.
This amendatory Act of 1995 (P.A. 89-438) is declarative of existing law.

This amendatory Act of 1997 (P.A. 90-514) is intended as a clarification of existing law and not as a new enactment.

Cite as 735 ILCS 5/12-112

History. Amended by P.A. 096-1145, §5, eff. 1/1/2011.

P.A. 89-88, eff. 6-30-95; 89-438, eff. 12-15-95; 90-476, eff. 1-1-98; 90-514, eff. 8-22-97; 90-655, eff. 7-30-98.
§ 30-4-3-35. Matrimonial trusts; election; effect of the death of a spouse or the dissolution of the marriage; revocation.

Indiana Statutes

Title 30. TRUSTS AND FIDUCIARIES

Article 4. TRUST CODE

Chapter 3. RULES GOVERNING THE RIGHTS, POWERS, DUTIES, LIABILITIES, AND REMEDIES OF THE PARTIES TO A TRUST

Current through P.L. 226-2014

§ 30-4-3-35. Matrimonial trusts; election; effect of the death of a spouse or the dissolution of the marriage; revocation

(a) This section is intended to ensure that if real property is transferred to one (1) or more revocable trusts created by a husband and wife for estate planning purposes, the husband and wife will maintain real estate ownership protections equivalent to those they would have if they owned that real property in an estate by the entireties including an estate by the entireties created under IC 32-17-3-1.

(b) As used in this section, "joint matrimonial trust" means a single inter vivos trust established under this section by settlors who are husband and wife.

(c) As used in this section, "matrimonial property" means real property that:

   (1) is subject to a written election to treat the property as matrimonial property under this section; and

   (2) is owned by a matrimonial trust.

(d) As used in this section, "matrimonial trust" means a trust established under this section to own matrimonial property.

(e) As used in this section, "separate matrimonial trust" means a separate trust that is also a matrimonial trust.

(f) As used in this section, "separate trust" means a trust established by one (1) individual.

(g) A matrimonial trust may be established:

   (1) jointly by a husband and wife; or

   (2) in two (2) or more separate trusts.
(h) A husband and wife may elect to treat real property as matrimonial property with a written statement of the election:
   (1) in an instrument or instruments conveying the real property to a matrimonial trust or trusts; or
   (2) in a separate writing that must be recorded in the county where the real property is situated and indexed in the records of the county recorder's office to the instrument or instruments that convey the real property to a matrimonial trust or trusts.

(i) A guardian of a husband or wife may make an election under this section:
   (1) without the approval of the court if the guardian has unlimited powers under IC 29-3-8-4; and
   (2) with the approval of the court in all other cases.

(j) An attorney in fact of a husband and wife may join in the making of an election under this section under the powers conferred upon the attorney in fact by IC 30-5-5-2 if the power of attorney is recorded in the county where the real property is situated and indexed in the records of the county recorder's office to the instrument or instruments that convey the real property to a matrimonial trust or trusts.

(k) The terms of a separate matrimonial trust or a joint matrimonial trust may (but are not required to) restrict the sale or transfer of the matrimonial property for:
   (1) the lifetime of the settlor who dies first;
   (2) the lifetime of the surviving settlor; or
   (3) another defined time period.

(l) An interest in matrimonial property is not severable during the marriage of the husband and wife unless:
   (1) both the husband and wife join in the severance in writing; or
   (2) a third party owns and forecloses a mortgage or other lien against the interests of both the husband and wife in the matrimonial property.

(m) Notwithstanding any other provision of this section, the legal rights of a lienholder that exist at the time of an election to treat the real property subject to the lien as matrimonial property may not be subject to a severance described in subsection (l) without the lienholder's written consent.

(n) To the extent that a matrimonial trust continues to be a matrimonial trust after the death of a settlor (as provided by subsections (p) and (r));
   (1) real property held or owned in a separate trust and for which an earlier election
was made under this section continues to be matrimonial property; and

(2) an unsecured creditor or judgment lien creditor who has a claim only against the
deceased settlor but not against the surviving settlor cannot enforce that claim
against the deceased settlor's interest or the surviving settlor's interest in the
matrimonial property.

(o) After the death of a settlor of a matrimonial trust (whether separate or joint), the issue of
whether the surviving settlor's interest in the matrimonial property will be exposed to the
claims of the surviving settlor's existing creditors or new creditors must be determined
according to:

(1) the nature and extent of the surviving settlor's interest in the matrimonial property
under the terms of the deceased settlor's separate trust or the joint trust;

(2) all other relevant facts and circumstances; and

(3) pertinent principles of nontrust law outside this article.

(p) Matrimonial property held in a separate matrimonial trust or in a joint matrimonial trust
continues to be matrimonial property after the death of one (1) settlor:

(1) if the settlors reserved a life estate in the matrimonial property for each settlor
when they conveyed the matrimonial property to the matrimonial trust or trusts; or

(2) if the deceased settlor's separate trust provides to the surviving settlor:
   (A) a life estate;
   (B) an interest that qualifies for a deduction from the gross estate of the
decedent under Section 2056 of the Internal Revenue Code regardless of
whether an election is made to qualify the interest for the deduction; or
   (C) in some respect the current right to occupy or receive rent, royalties, or
other kinds of income with respect to the matrimonial property.

(q) A separate matrimonial trust established by a deceased settlor ceases to be a matrimonial
trust upon the termination of payments to the surviving settlor as a result of the surviving
settlor's death or as a result of the surviving settlor's valid disclaimer of all interests in the
matrimonial property held in the deceased settlor's trust.

(r) A separate matrimonial trust established by a settlor who remains alive continues to be a
matrimonial trust during that settlor's remaining lifetime, so long as the settlor retains the
right to use or occupy matrimonial property held in the settlor's separate trust.

(s) A matrimonial trust ceases to be a matrimonial trust upon the dissolution of the marriage
of the settlors.
(t) A husband and wife may revoke a matrimonial trust by together executing a writing expressing the revocation.

Cite as IC 30-4-3-35

History. Amended by P.L. 99-2013, SEC. 10, eff. 7/1/2013.

Amended by P.L. 36-2011, SEC. 9, eff. 4/20/2011.

As added by P.L. 6-2010, SEC. 18.
§ 14.5-511. [Effective 1/1/2015].

Maryland Statutes

ESTATES AND TRUSTS

Title 14.5. MARYLAND TRUST ACT

Subtitle 5. Creditor’s Claims; Spendthrift and Discretionary Trusts

Current through 2014 Legislative Session

§ 14.5-511. [Effective 1/1/2015]

(a) In this section, "proceeds" means:

(1) Property acquired by the trustee on the sale, lease, license, exchange, or other disposition of property originally conveyed by a husband and wife to a trustee or trustees;

(2) Property collected by the trustee on, or distributed on account of, property originally conveyed by a husband and wife to a trustee or trustees;

(3) Rights arising out of property originally conveyed by a husband and wife to a trustee;

(4) Claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to property originally conveyed by a husband and wife to a trustee;

(5) Insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to property originally conveyed by a husband and wife to a trustee; or

(6) Property held by the trustee that is otherwise traceable to property originally conveyed by a husband and wife to a trustee or the property proceeds described in items (1) through (5) of this subsection.

(b) Property of a husband and wife that was held by them as tenants by the entirety and subsequently conveyed to the trustee or trustees of one or more trusts, and the proceeds of that property, shall have the same immunity from the claims of the separate creditors of the husband and wife as would exist if the husband and wife had continued to hold the property or the proceeds from the property as tenants by the entirety, as long as:

(1) The husband and wife remain married;

(2) The property or the proceeds from the property continue to be held in trust by the
trustee or trustees or the successors in trust of the trustee or trustees;

(3) Both the husband and wife are beneficiaries of the trust or trusts; and

(4) The trust instrument, deed, or other instrument of conveyance provides that this section shall apply to the property or the proceeds from the property.

(c) After the death of the first of the husband or wife to die, all property held in trust that was immune from the claims of their separate creditors under subsection (b) of this section immediately prior to the death of the individual shall continue to have the same immunity from the claims of the separate creditors of the decedent as would have existed if the husband and wife had continued to hold the property conveyed in trust, or the proceeds from the property, as tenants by the entirety.

(d) The immunity from the claims of separate creditors under subsections (b) and (c) of this section may be waived, as to each specific creditor or all separate creditors of a husband and wife or specifically described trust property, or all former tenancy by the entirety property conveyed to the trustee or trustees, by:

(1) The express provisions of a trust instrument; or

(2) The written consent of both the husband and the wife.

(e) (1) Except as provided in paragraph (2) of this subsection, immunity from the claims of separate creditors under subsections (b) and (c) of this section shall be waived if a trustee executes and delivers a financial statement for the trust that fails to disclose the requested identity of property held in trust that is immune from the claims of separate creditors.

(2) Immunity is not waived under this subsection if the identity of the property that is immune from the claims of separate creditors is otherwise reasonably disclosed by:

(i) A publicly recorded deed or other instrument of conveyance by the husband and wife to the trustee;

(ii) A written memorandum by the husband and wife, or by a trustee, that is recorded among the land records or other public records in the county or other jurisdiction where the records of the trust are regularly maintained; or

(iii) The terms of the trust instrument, including a schedule or exhibit attached to the trust instrument, if a copy of the trust instrument is provided with the financial statement.

(3) A waiver under this subsection shall be effective only as to:

(i) The person to whom the financial statement is delivered by the trustee;
(ii) The particular trust property held in trust for which the immunity from the claims of separate creditors is insufficiently disclosed on the financial statement; and

(iii) The transaction for which the disclosure was sought.

(f) In a dispute relating to the immunity of trust property from the claims of a separate creditor of a husband or wife, the trustee has the burden of proving the immunity of the trust property from the claims of the creditor.

(g) After a conveyance to a trustee described in subsection (b) of this section, the property transferred shall no longer be held by the husband and wife as tenants by the entirety.

(h) This section may not be construed to affect existing State law with respect to a tenancy by the entirety.

(i) This section applies only to tenancy by the entirety property conveyed to a trustee or trustees on or after October 1, 2010.

Subtitle 6.

History. Added by 2014 Md. Laws, Ch. 585, Sec. 1, eff. 1/1/2015.
§ 456.950. Definition—property and interests in property, how held—death of settlor, effect of—marital property rights, effect on.

Missouri Revised Statutes

Title XXXI. TRUSTS AND ESTATES OF DECEDENTS AND PERSONS UNDER DISABILITY

Chapter 456. Trusts and Trustees-The Uniform Trust Code

Current through 2014 Special Session

§ 456.950. Definition—property and interests in property, how held—death of settlor, effect of—marital property rights, effect on

1. As used in this section, "qualified spousal trust" means a trust:
   (1) The settlors of which are husband and wife at the time of the creation of the trust; and
   (2) The terms of which provide that during the joint lives of the settlors all property or interests in property transferred to, or held by, the trustee are:
      (a) Held and administered in one trust for the benefit of both settlors, revocable by either or both settlors acting together while either or both are alive, and each settlor having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from the entire trust for the joint lives of the settlors and for the survivor's life; or
      (b) Held and administered in two separate shares of one trust for the benefit of each of the settlors, with the trust revocable by each settlor with respect to that settlor's separate share of that trust without the participation or consent of the other settlor, and each settlor having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from that settlor's separate share for that settlor's life; or
      (c) Held and administered under the terms and conditions contained in paragraphs (a) and (b) of this subdivision.

2. A qualified spousal trust may contain any other trust terms that are not inconsistent with the provisions of this section.

3. Any property or interests in property that are at any time transferred to the trustee of a qualified spousal trust of which the husband and wife are the settlors, shall thereafter be administered as provided by the trust terms in accordance with paragraph (a), (b), or (c) of subdivision (2) of subsection 1 of this section. All trust property and interests in property
deemed for purposes of this section to be held as tenants by the entirety, including the proceeds thereof, the income thereon, and any property into which such property, proceeds, or income may be converted, shall have the same immunity from the claims of the separate creditors of the settlors as would have existed if the settlors had continued to hold that property as husband and wife as tenants by the entirety. Property or interests in property held by a husband and wife as tenants by the entirety or as joint tenants or other form of joint ownership with right of survivorship shall be conclusively deemed for purposes of this section to be held as tenants by the entirety upon its transfer to the qualified spousal trust. All such transfers shall retain said immunity, so long as:

(1) Both settlors are alive and remain married; and

(2) The property, proceeds, or income continue to be held in trust by the trustee of the qualified spousal trust.

4. Property or interests in property held by a husband and wife or held in the sole name of a husband or wife that are not held as tenants by the entirety or deemed held as tenants by the entirety for purposes of this section and are transferred to a qualified spousal trust shall be held as directed in the qualified spousal trust's governing instrument or in the instrument of transfer and the rights of any claimant to any interest in that property shall not be affected by this section.

5. Upon the death of each settlor, all property and interests in property held by the trustee of the qualified spousal trust shall be distributed as directed by the then current terms of the governing instrument of such trust. Upon the death of the first settlor to die, if immediately prior to death the predeceased settlor's interest in the qualified spousal trust was then held in such settlor's separate share, the property or interests in property in such settlor's separate share may pass into an irrevocable trust for the benefit of the surviving settlor upon such terms as the governing instrument shall direct, including without limitation a spendthrift provision as provided in section 456.5-502.

6. No transfer by a husband and wife as settlors to a qualified spousal trust shall affect or change either settlor's marital property rights to the transferred property or interest therein immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless both spouses otherwise expressly agree in writing.

7. This section shall apply to all trusts which fulfill the criteria set forth in this section for a qualified spousal trust regardless of whether such trust was created before or after August 28, 2011.

Cite as § 456.950, RSMo

History. Amended by 2014 Mo. Laws, HB 1231, s A, eff. 8/28/2014.
Amended by 2014 Mo. Laws, SB 500, s A, eff. 8/28/2014.

L. 2011 S.B. 59 § 1, A.L. 2012 S.B. 628 merged with S.B. 636

Note: This section is set out twice. See also RSMo s 456.9501, effective until 8/28/2014.
§ 35-15-NEW. Newly enacted section not yet numbered.

Tennessee Statutes

Title 35. Fiduciaries And Trust Estates

Chapter 15. Tennessee Uniform Trust Code

Part 5. Creditor's Claims - Mandatory, Support and Discretionary Intrests - Effect of Spendthrift Provision

Current through Acts 2014, ch. 1015

§ 35-15-NEW. Newly enacted section not yet numbered

(a) As used in this section, "proceeds" means:

(1) Property acquired by the trustee upon the sale, lease, license, exchange, or other disposition of property originally conveyed by a husband and wife as tenants by the entirety to a trustee or trustees;

(2) Property collected by the trustee on, or distributed on account of, property originally conveyed by a husband and wife as tenants by the entirety to a trustee or trustees;

(3) Rights arising out of property originally conveyed by a husband and wife as tenants by the entirety to a trustee;

(4) Claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, property originally conveyed by a husband and wife as tenants by the entirety to a trustee;

(5) Insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, property originally conveyed by a husband and wife as tenants by the entirety to a trustee; or

(6) Property held by the trustee that is otherwise traceable to property originally conveyed by a husband and wife as tenants by the entirety to a trustee or the property proceeds described in subdivisions (a)(1)-(5).

(b) Any property of a husband and wife that was held by them as tenants by the entirety and subsequently conveyed as tenants by the entirety to the trustee or trustees of one (1) or more trusts, and the proceeds of that property, shall have the same immunity from the claims of their separate creditors as would exist if the husband and wife had continued to hold the property or its proceeds as tenants by the entirety, so long as;
(1) The husband and wife remain married;

(2) The property or its proceeds continues to be held in trust by the trustee or trustees or their successors in trust;

(3) The trust or trusts are, while both settlors are living, revocable by either settlor or both settlors, acting together;

(4) Both the husband and the wife are permissible current beneficiaries of the trust or trusts while living; and

(5) The trust instrument, deed, or other instrument of conveyance provides that this section shall apply to the property or its proceeds.

(c) After the death of the first of the husband and wife to die, all property held in trust that was immune from the claims of their separate creditors under subsection (b) immediately prior to the individual's death shall continue to have the same immunity from the claims of the decedent's separate creditors as would have existed if the husband and wife had continued while both were alive to hold the property conveyed in trust, or its proceeds, as tenants by the entirety. To the extent that the surviving spouse remains a beneficiary of the trust and has the power, exercisable in the individual capacity of the surviving spouse, to vest in the surviving spouse individually title to the property that was immune from the claims of the separate creditors of the decedent under subsection (b), the property shall be subject to the claims of the separate creditors of the surviving spouse.

(d) The immunity from the claims of separate creditors under subsections (b) and (c) may be waived as to any specific creditor or any specifically described trust property, including all separate creditors of a husband and wife or all former tenancy by the entirety property conveyed to the trustee or trustees, by the express provisions of a trust instrument, deed, or other instrument of conveyance, or by the written consent of both the husband and the wife.

(e) (1) Except as provided in subdivision (e)(2), immunity from the claims of separate creditors under subsections (b) and (c) shall be waived if a trustee executes and delivers a financial statement for the trust that fails to disclose the requested identity of property held in trust that is immune from the claims of separate creditors.

(2) Immunity is not waived under this subsection (e) if the identity of the property that is immune from the claims of separate creditors and the fact of such immunity is otherwise reasonably disclosed by:

(A) A publicly recorded deed or other instrument of conveyance by the husband and wife to the trustee;
(B) A written memorandum by the husband and wife, or by a trustee, that is recorded among the land records or other public records in the county or other jurisdiction where the records of the trust are regularly maintained; or

(C) The terms of the trust instrument, including any schedule or exhibit attached to the trust instrument, if a copy of the trust instrument is provided with the financial statement.

(3) A waiver under this subsection (e) shall be effective only as to:

(A) The person to whom the financial statement is delivered by the trustee;

(B) The particular trust property held in trust for which the immunity from the claims of separate creditors is insufficiently disclosed on the financial statement; and

(C) The transaction for which the disclosure was sought.

(f) In any dispute relating to the immunity of trust property from the claims of a separate creditor of a husband or wife, the trustee has the burden of proving the immunity of the trust property from the creditor's claims.

(g) In the event that any transfer of real property held in tenancy by the entirety to a trustee of a trust as provided under subsection (b) is held invalid by any court of proper jurisdiction, or if the trust is revoked or dissolved by a court decree or operation of law, while both spouses are living, then immediately upon the occurrence of either event, absent a contrary provision in a court decree, all real property held in the trust automatically shall be deemed for all purposes to be held by both spouses as tenants by the entirety.

(h) No transfer by a husband and wife described in subsection (b) shall affect or change either settlor's marital property rights to the transferred property or interest therein immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless both spouses otherwise expressly agree otherwise in writing. Upon entry of a decree granting divorce or annulment between the spouses, the immunity from the claims of separate creditors under subsection (b) shall terminate immediately.

(i) After a conveyance to a trustee described in subsection (b), the property transferred shall no longer be held by the husband and wife as tenants by the entirety.

(j) This section may not be construed to affect existing state law with respect to tenancies by the entirety. This section applies only to tenancy by the entirety property conveyed to a trustee or trustees on or after July 1, 2014.
§ 55-20.2. Tenants by the entireties in real and personal property; certain trusts.

Virginia Statutes

Title 55. PROPERTY AND CONVEYANCES

Chapter 1. Creation and Limitation of Estates; Their Qualities

Current through 2014, Ch. 825

§ 55-20.2. Tenants by the entireties in real and personal property; certain trusts

A. Any husband and wife may own real or personal property as tenants by the entireties. Personal property may be owned as tenants by the entireties whether or not the personal property represents the proceeds of the sale of real property. An intent that the part of the one dying should belong to the other shall be manifest from a designation of a husband and wife as "tenants by the entireties" or "tenants by the entirety."

B. Any property of a husband and wife that is held by them as tenants by the entireties and conveyed to their joint revocable or irrevocable trusts, or to their separate revocable or irrevocable trusts, shall have the same immunity from the claims of their separate creditors as it would if it had remained a tenancy by the entirety, so long as (i) they remain husband and wife, (ii) it continues to be held in the trust or trusts, and (iii) it continues to be their property.

Cite as Va. Code § 55-20.2

§ 4-10-402. Title of trust property.

Wyoming Statutes

Title 4. TRUSTS

Chapter 10. UNIFORM TRUST CODE

Article 4. CREATION, VALIDITY, MODIFICATION AND TERMINATION OF TRUST

Current through 2014 Legislative Session

§ 4-10-402. Title of trust property

(a) Property transferred to a trust shall be titled:
   (i) If it is real property, in accordance with W.S. 34-2-122 ; and
   (ii) If it is personal property, in:
         (A) The name of the current trustee as the trustee of such trust;
         (B) The name of "the trustee" as the trustee of such trust;
         (C) The name of the nominee of the trustee; or
         (D) The name of the trust.

(b) Any reference to the trustee shall be deemed to include any successor or substitute
    trustee serving from time to time.

(c) Any property of a husband and wife that is held by them as tenants by the entirety
    pursuant to W.S. 34-1-140 and conveyed to their joint revocable or irrevocable trusts, or to
    their separate revocable or irrevocable trusts, shall have the same immunity from the
    claims of their separate creditors as it would if it had remained held by the entireties, so
    long as:
    (i) They are both living and remain as husband and wife;
    (ii) The property continues to be held in the trust or trusts for their benefit; and
    (iii) The trust instrument, deed or other instrument of conveyance transferring the
         property to the trust or trusts provides that this subsection shall apply to the
         property and any proceeds resulting from the sale or disposition thereof.

(d) After the death of the first of the husband and wife to die, all property held in trust that
    was immune from the claims of the decedent's separate creditors under subsection (c) of this
    section immediately prior to the decedent's death shall continue to have the same
immunity from the claims of the decedent's separate creditors as would have existed if the husband and wife had continued to hold the property conveyed in trust, or its proceeds, as tenants by the entirety.

(e) Nothing in this section shall be construed to limit or otherwise alter the authority granted to the department of health to assert a claim against an estate under W.S. 42-4-206 or to file a lien under W.S. 42-4-207 as could be asserted against a tenancy by the entirety established in accordance with W.S. 34-1-140.

Cite as W.S. 4-10-402

History. Amended by Laws 2013, ch. 178, §2, eff. 7/1/2013.

Amended by Laws 2013, ch. 178, §2, eff. 7/1/2013.
§ 600.2807. Property owned as tenants by the entirety; priority; exceptions; sale or refinance of property subject to judgment lien; limitation on proceeds

(1) A judgment lien does not attach to an interest in real or personal property owned as tenants by the entirety (including tenants by the entirety property held by a trustee pursuant to MCL 700.7509) unless the underlying judgment is entered against both spouses.

(2) With the following exceptions, a judgment lien has priority over a lien recorded with the register of deeds after the notice of judgment lien is recorded:
   (a) A purchase money mortgage.
   (b) A mortgage to the extent that proceeds of the mortgage are used to pay 1 or more of the following:
      (i) Purchase money mortgage debt.
      (ii) A subsequent refinancing of purchase money mortgage debt.
      (iii) A nonpurchase money mortgage recorded before attachment of the judgment lien.
   (c) A lien that secures an advance made under a previously recorded future-advance mortgage.
   (d) A lien that has or acquires priority by operation of law.
   (e) A claim of lien recorded with the register of deeds under section 111 of the construction lien act, 1980 PA 497, MCL 570.1111.
   (f) A lien for unpaid assessments or charges due to a condominium association, homeowners’ association, or property owners’ association that arises from or pursuant to recorded restrictions that run with the land.
   (g) A state or federal tax lien.

(3) If property subject to a judgment lien recorded under this chapter is sold or refinanced, proceeds of the sale or refinancing due to a judgment creditor are limited to the judgment debtor’s equity in the property at the time of the sale or refinancing after all liens senior to the judgment lien, property taxes, and costs and fees necessary to close the sale or refinancing are paid or extinguished.
Chapter 600. REVISED JUDICATURE ACT OF 1961
CHAPTER 60. ENFORCEMENT OF JUDGMENTS

§ 600.6023a. Property held jointly by an individual and his or her spouse; exemption under judgment entered against 1 spouse

An interest in real or personal property described in section 1 of 1927 PA 212, MCL 557.151 held jointly by an individual and his or her spouse as a tenancy by the entirety (including tenancy by the entirety property held by a trustee pursuant to MCL 700.7509), is exempt from execution under a judgment entered against only 1 spouse.
End of CSP Materials
MEETING OF THE COUNCIL OF THE
PROBATE AND ESTATE PLANNING SECTION
OF
THE STATE BAR OF MICHIGAN

December 13, 2014
Lansing, Michigan

Agenda

I. Call to Order

II. Excused Absences

III. Introduction of Guests

IV. Consent Agenda – The Chair will ask those present if anyone wants to remove an item from the consent agenda. To remove an item from the consent agenda, when the group is asked, inform the Chair which item you want removed from the consent agenda. If an item is removed, it will be taken up separately after the remaining items on the consent agenda are voted on as a whole.

   A. Minutes of November 15, 2014, Meeting of the Council

       See Attachment 1

   B. Treasurer's Report – Marguerite Munson Lentz

       See Attachment 2

V. Chairperson's Report – Amy N. Morrissey

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

VII. 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
   3. State Bar and Section Journals – Richard C. Mills
   4. Citizens Outreach – Constance L. Brigman

   See Handout to be provided at Council meeting.

   5. Electronic Communications – William J. Ard
   6. Membership – Raj A. Malviya

   See Attachment 3

C. Legislation and Lobbying
   1. Legislation – William J. Ard

   See Attachment 4

   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

   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

VIII. Other Business

IX. Hot Topics

X. Adjournment
MEETING OF THE COUNCIL OF THE
PROBATE AND ESTATE PLANNING SECTION
OF
THE STATE BAR OF MICHIGAN

November 15, 2014
Lansing, Michigan

Minutes

I. Call to Order – The meeting was called to order by the Chair at 10:18 a.m.

II. Attendance. Guests were introduced.

A total of 4 officers and 13 members of the Council were present, representing a quorum.

A. The following 4 officers of the Council were in attendance:

Amy N. Morrissey, Chair
James B. Steward, Vice-Chair
Marlaine C. Teahan, Secretary
Marguerite Munson Lentz, Treasurer

B. The following 13 members of the Council were in attendance:

Susan M. Allan
W. Josh Ard
Christopher A. Ballard
George F. Bearup
Constance L. Brigman
Hon. Michael L. Jaconette
Mark E. Kellogg

David P. Lucas
Raj A. Malviya
Richard C. Mills
Lorraine F. New
Patricia M. Ouellette
Geoffrey R. Vernon

C. The following 6 officers and members were absent with excuse:

Rhonda M. Clark-Kreuer
Shaheen I. Imami, Chair Elect
Michele C. Marquardt

David L.J.M. Skidmore
James P. Spica
Nancy H. Welber

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

Robert D. Brower, Jr.
George W. Gregory
Phillip E. Harter

Michael J. McClory
Susan S. Westerman

E. The following guests were in attendance:
III. Minutes of October 25, 2014, Meeting of the Council. There being no corrections, the minutes of the October 25, 2014 Council meeting were approved as submitted.

IV. Treasurer's Report – Marguerite Munson Lentz. Ms. Lentz provided comments regarding her written report which included a reimbursement form and new instructions from the State Bar of Michigan. By next month, Ms. Lentz hopes to receive the first reports of this new fiscal year from the State Bar of Michigan to provide monthly reports for October and November. The Treasurer's report is included each month, along with reimbursement form and instructions, as part of the Agenda.

V. Chairperson's Report – Amy N. Morrissey. Ms. Morrissey reported on the following:
- The committee chairs are personally calling the potential committee members. The committee roster is continually being updated as the list of committee members changes. The committee roster is attached each month as part of our Agenda.
- A memo was distributed to each of the committee chairs regarding the options for telephone conference calls for committee meetings. The two options are either using the SBM's conference call line or a free website for conference calls.
- Lunch is served following our Council meetings and all in attendance are invited to stay.

VI. Report of the Committee on Special Projects – Christopher A. Ballard. Mr. Ballard reported on the CSP meeting which discussed work of the Insurance Committee, Updating Michigan Law Committee (relative to proposed tenancy by the entireties statutes), and the Citizens Outreach Committee.

- Insurance Committee – Geoffrey Vernon led the discussion at CSP regarding proposed MCL 700.1513. More discussions will be held next month. Becky Bechler discussed getting a draft in to the Legislature this year of this proposed section. Later, if changes are needed, a Star Run would allow us to change the draft language. Also discussed was the exculpation of trustees of life insurance trusts from liabilities related to the administration of policies held in the trust. This discussion will also continue in the coming months. Materials on these issues were contained in the Agenda for this month.
- Citizens Outreach Committee – Connie Brigman led the discussion on the Section's brochures that are now online as part of our Section's website. Copies of the brochures that were drafted in 2011 were contained in the meeting's agenda. CSP recommended that Council remove the existing brochures on our Section's website, with the understanding that
the draft brochures in the agenda will be updated to current law by 12-31-14, with more complete revisions being completed in the coming year; and that an invitation be extended to the Elder Law and Disability Rights Section to take control of the content and posting of the Medicaid brochure. Council approved these recommendations by general consent.

VII. Committee Reports

A. Internal Governance

1. Budget – Marlaine C. Teahan reported for the Budget Committee that is made up of the past two Treasurers and the current Treasurer. The additional committee members are Ms. Lentz and Mr. Steward. Ms. Teahan discussed the proposed Budget for fiscal year 2014-2015. As part of the Agenda, the final Treasurer's report was provided as an aid in reviewing the Budget. After discussion of the bulleted items below, on motion by Ms. Teahan with support by Richard C. Mills, the Budget for 2014-2015 was unanimously approved.

The following items are helpful considerations relative to the Budget for Fiscal Year 2014-2015:

- While the Section's member count is not final with the State Bar yet, we maintained the same income level as budgeted for last year.
- The Probate Journal expense dropped by more than 50% to take account of the reduced costs by not printing the Journal. The amount of $12,225 includes 3 e-blasts out to section members alerting them of the new Journal.
- The Chairperson's dinner expense this year was higher than last year due to increased attendance. We were grateful to have 9 of the living 18 ex-Officios in attendance this year at the dinner. The wealth of knowledge passed along from prior Chairpersons is invaluable to our Section and the continued participation by our ex-Officios is a testament to their service to our Section.
- Travel increased slightly over the actual expenses of last year; however, last year our Upper Peninsula council member was unable to attend 2 meetings which artificially kept the expenses for last year down. To accommodate full attendance of our UP council member and possible increased travel for the Chairperson's dinner, we kept the budget the same even though last year's actual was lower. Note that with gas prices going down, it would not be a surprise for the IRS to drop the mileage rate for reimbursements.
- Meeting expenses were increased to accommodate increased attendance at our lunches in anticipation that our Membership Committee will be working overtime and to accommodate the lodging for the incoming Chair and Chair Elect at the SBM Leadership Conference.
- Long-range planning was held steady even though there were no expenses last year to allow for possible use by the Membership Committee and the Electronic Communications Committee.
- Support for the Annual Institute is held steady at $14,000; however, this line item will be handled differently in the coming year. ICLE will be handling all aspects of the Annual
Institute which will free up the officers from handling many administrative details surrounding the Institute.

- The Amicus Fund for fiscal year 2014-15 is as stated at the end of the Budget at $35,423.50 with a $10,000 carryover from last year.

- The Seminars line item is our Section's contribution to ICLE for the Experts in Estate Planning Series. This $4,000 helped pay part of the expenses for bringing Natalie Choate to Michigan to speak on Estate and Distribution Planning for Retirement Benefits on November 18, 2014. This seminar will be webcast and available on demand for 3 weeks.

- The Electronic Communications line item was increased from last year and includes teleconference charges which are expected to be higher this year as more Committee Chairs utilize the service, listserv expenses, e-blasts (other than the Journal), and other electronic communications with members.

- The "Other" line item was increased as it now includes postage charges as well as copying costs. From a prior vote of Council, this line item also includes $750 for the Young Lawyers' Summit.


3. Awards – Douglas A. Mielock – Ms. Morrissey reported that the George A. Cooney Society and the Michael W. Irish awards are now online at our Section's website. George Gregory reported on the giving of the award of the Michael W. Irish award to Sebastian Grassi. More details on this can be found in the October minutes.


B. Education and Advocacy Services for Section Members


2. Probate Institute – James B. Steward – a final schedule has been posted online at ICLE's website; registration has begun for the Annual Probate Institute.

3. State Bar and Section Journals – Mr. Mills reported that the next edition of the Section Journal will be coming out in December. New materials for the next journal are due in January. The State Bar Journal's Elder Law theme issue, published in November 2014, contained an article on Elder Law and Disability Rights that quoted J. David Kerr.
4. Citizens Outreach – Constance L. Brigman reported on her committee's membership: Katie Lynwood will be serving as vice chair and two new members, Jessica Joint and Nicholas Vontroba, have joined.

5. Electronic Communications – William J. Ard

   It was reported by Mr. Gregory that in the State Bar's membership directory, at www.michbar.org, each attorney can add a photo to his or her bio page. It was also noted that the State Bar is in the process of adding new Section webpages.

6. Membership – Raj A. Malviya reported that the Membership committee will be meeting on a monthly basis. At this last month's meeting, the committee set initiatives for the coming year. A written report was provided in the agenda for this month's materials. Three ideas for increasing membership will be implemented this year including meeting with 3rd year law students to teach them about our Section and practice area; the committee will have a presence in the exhibition area at the Annual Institute in Traverse City and Plymouth; and the committee will attempt to provide Section information in the Annual Institute's opening remarks and at the meeting for young lawyers. Attorney Dan Kosmowski addressed the council to share that he is now attending council meetings because of a personal invitation. He shared that many of those who attend council meetings have a similar story. The committee will focus on personal connections to reach out to section members to both invite participation and to determine what Section members want most out of their Section membership and how the Section can help members in their estate planning practices. James B. Steward also pointed out the many benefits of section membership.

   Further discussion was had on ICLE's registration form for the Annual Institute. A suggestion was made that the form should be clearer relative to pricing and possible discounts. It was suggested that the committee look into the scholarship programs offered at the Solo and Small Firm Institute so that we can investigate similar scholarships options for young lawyers to get a discount to our Annual Institute. Mr. Mills will pass along scholarship information that he is aware of to Mr. Malviya.

   Discussion continued relative to membership in the Section for new bar members. Currently, we believe that membership in the Section is free to a new bar member but that the member would have to opt in and choose to be a Section member. It was not clear if this free membership lasts for one or two years.

C. Legislation and Lobbying

1. Legislation – William J. Ard. Becky Bechler of Public Affairs Associates gave a legislative report on the election. Our various legislative initiatives were discussed including digital assets, probate appeals, SB 1102 (which might move quickly), and domestic asset protection. There are several large pieces of legislation that have the focus of the Legislature. These issues may push out of focus the small legislation until next year. Anything not to the Governor by December 31 will have to be reintroduced next year. Ms. Bechler discussed that getting our proposed legislation to her by mid-December is important to get "in line" for next year's introduced legislation.
2. Updating Michigan Law – Geoffrey R. Vernon reported that the domestic asset protection legislation needs a sponsor. His committee has new members and participation is very good. The weekly meeting are interesting with new ideas being regularly discussed.

3. Insurance Ad Hoc Committee – Geoffrey R. Vernon. No further report other than what was already discussed at the Committee on Special Projects.


D. Ethics and Professional Standards

1. Ethics – David P. Lucas had no report; however, Mr. Ard, a committee member, reported that a new SBM ethics opinion may soon be released involving a personal injury matter and a contingency/hourly basis fee agreement. The issues involve the death of the client and how the attorney can be paid after the client dies. The attorney may stand in line with other unsecured creditors. CAUTION: Since this opinion is not yet issued, this summary may not reflect the actual ethics opinion.

2. Unauthorized Practice of Law & Multidisciplinary Practice – Patricia M. Ouellette – Committee will be meeting soon.


E. Administration of Justice

1. Court Rules, Procedures and Forms – Michele C. Marquardt – no report.

2. Fiduciary Exception to Attorney Client Privilege Ad Hoc Committee – George F. Bearup – no report.

F. Areas of Practice


2. Transfer Tax Committee – Lorraine F. New discussed the Tax Nugget which was provided as part of the Agenda. Revenue Procedure 2014-61 provided updated gift and estate tax numbers for 2015. Portability returns can be filed until 12-31-14 for those dying after 12/31/10 and up to and including 12/31/13.


G. Liaisons

1. Alternative Dispute Resolution Section Liaison – vacant/no report.
3. Elder Law and Disability Rights Section Liaison – Amy R. Tripp – no report.
5. ICLE Liaison – Jeanne Murphy – no report.
11. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz – no report.
14. Taxation Section Liaison – George W. Gregory reported on the November 2014 meeting of the Taxation Section’s Trust and Estate Committee. 12-11-14 is the next meeting of the committee. The annual Tax Conference will be held on May 21 and 22, 2015.

VIII. **Other Business**  The Secretary will send out a call for materials on November 26, 2014 reminding Council members to provide materials for the December meeting by 5 p.m. on December 4th. Committee on Special Project materials should be sent to Chris Ballard and Council meeting materials to Marlaine Teahan. The next meeting is on December 13, 2014.

IX. **Hot Topics** – none.

X. **Adjournment**  The Chair adjourned the meeting at 11:32 a.m.
ATTACHMENT 2
PROBATE AND ESTATE PLANNING COUNCIL
Treasurer's Report
December 13, 2014

Income/Expense Reports

I do not yet have the trial balance from the State Bar to prepare the October 2014 or the November 2014 income expense reports. The October trial balance was delayed because of the closing of the State Bar's fiscal year. I should receive the trial balance soon and will present the income/expense report for October (and hopefully November) at next month's meeting.

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/secexp.pdf
- Email forms to martz@boedmanlaw.com or provide paper copies in person or by mail.

Marguerite Munson Lentz, Treasurer
Probate and Estate Planning Section

Treasurer Contact Information:

Marguerite Munson Lentz
BOEDMAN PLC
6th Floor at Ford Field
1901 St. Antoine Street
Detroit, Michigan 48226
office: 313-393-7589
fax: 313-393-7579
email: martz@boedmanlaw.com
Instructions for Section Expense Reimbursement Form

The Expense Reimbursement Form can be prepared on your computer, digitally signed, digitally approved, and e-mailed for processing. All receipts and other required documentation can be scanned and e-mailed along with the form. You should keep a copy for your electronic file, and you will save paper and filing cabinet space as a result. You do not need to print the form and manually fill it out.

1. Type your name & address information. (You may tab after each field).
2. Select a section name from the drop down list.
3. Enter the appropriate expense account number.
4. Enter the amount(s).
5. In the date box, enter the date or pick from the calendar.
6. Type in the description and business purpose of the expense.
7. The form will automatically calculate the mileage, if applicable.
8. Type in the amount of the expense(s) for lodging, meals, miscellaneous.
9. The total expense will be displayed at the right hand side of the form for each line entered.
10. Please make sure the bottom right hand total amount and the upper right hand side total amounts are the same.
11. Date the form.
12. You may now digitally sign your form (placing your cursor over the signature line—it will prompt you through the process). Once you complete your first digital signature, it will be saved for future use.
13. You may save the form on your personal drive or shared drive for future reference.
14. You may print a copy if applicable.
15. Forward the form (by e-mail) along with scanned copies of receipts, list of names, and other required documentation to the treasurer of the section.
16. Once the form is approved, the treasurer will then forward the form/attachments to Alpa Patel in the Finance Department at SBM for processing.

Note: This form replaces any old or existing forms and should be used going forward.

If you have any questions about this form, please contact Alpa Patel at (517) 316-6362 or apatel@bar.org.
## Expense Reimbursement Form

**State Bar of Michigan**

**Name:**

**Street:**

**City:**

**State:**

**Zip:**

**Phone:**

**Section:**

**Phila. Pride Score:**

**Amount:**

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**Paid:**

**Date:**

**Signature:**

**Reimbursement Amount:** **$0.00**

**Print Form**

**Reset Form**
STATE BAR OF MICHIGAN

Section Expense Reimbursement Policies and Procedures

General Policies

1. Eligible for reimbursement are travel, meal, lodging, and other expenses incurred in connection with official and non-official committee and section meetings. These expenses may be reimbursed up to the amount of the State's average cost of living index available for the previous year.

2. Meals and lodging expenses must be reasonable and

3. Lodging expenses are reimbursed at the actual cost provided the room is reasonably priced and closely comparable to the cost of a similarly priced lodging unit.

4. Meals and lodging expenses must be supported by copies of the actual bills or receipts.

5.aula expense must be supported by copies of the actual bills or receipts.

6. Meals and lodging expenses must be supported by copies of the actual bills or receipts.

7. Meals and lodging expenses must be supported by copies of the actual bills or receipts.

8. Meals and lodging expenses must be supported by copies of the actual bills or receipts.

Specific Policies

1. Meals and lodging expenses are reimbursed only upon presentation of original receipts.

2. Expenses incurred for meals and lodging are reimbursed only upon presentation of original receipts.

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34. Expenses incurred for meals and lodging are reimbursed only upon presentation of original receipts.
ATTACHMENT 3
Projects for Upcoming fiscal year 2014-2015:

1. **Personal Invitations.** Membership Committee (the “Committee”) members will be actively sending personal invitations for Council meetings to fellow members of the bar. Attending lunch will be encouraged.

2. **Introductory Letter.** The Committee will prepare a letter for new members of the bar to explain the Probate & EP Section, provide a list of resources and introduce the Committee. The Committee will coordinate with Amy Morrissey on logistics before the letter is finalized.

3. **Law School Outreach.** Committee members will divide up law schools (some based on alma mater) and coordinate and visit with 3L students in the Spring of 2015 to discuss Probate & EP Section benefits. There will also be possible mentoring opportunities. Each Committee member will have a packet of information already assembled and schedule the visit on his/her own time. The Committee will coordinate with the Law School Liaison, Josh Ard, before anything is formalized.

4. **Create Awareness at Probate Institute.** The Committee will work with Jeff Kirkey of ICLE to get plugged into the annual Probate & Estate Planning Institute in Acme and Plymouth. Jeff has approved a table in vendor hallways for committee members to have information and meet with attendees. The Committee is also working on securing a plug in the introductory remarks and breakout session with young lawyers.

NOTE: Most Committee members initially assumed that a majority of who attend the Probate & Estate Planning Institute are already Probate/EP Section members. That is not true based on stats provided by Jeff Kirkey below (for 2014 Probate Institute in Acme). The Committee will be focused on educating prospective members about the benefits and resources of the section to increase membership.

**Member Probate section (registered) 487 (Only estimated 68%)**

**Age group: (No. of registrants)**
- 20-29 27
- 30-39 121
- 40-49 125
- 50-59 157
- 60-69 165
- 70+ 54

**Years in practice (No. of registrants)**
- 50+ 10
- 40-49 61
- 30-39 138
- 20-29 126
- 10-19 141
- 4-9 95
- 0-3 65
- N/A 101
**Areas of practice (a person can be in more than one):**

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<th>Area of Practice</th>
<th>Count</th>
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<td>Appellate Practice</td>
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<td>Civil Litigation</td>
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<td>Debtor/Creditor</td>
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<td>Elder Law</td>
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<td>Employment/Labor</td>
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<td>Health Care Law</td>
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<td>Juvenile Law</td>
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<td>Worker's Compensation</td>
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Attachment 4
List of bills that are identified for the Council of the Probate and Estate Planning Section of the State Bar of Michigan:

**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*
Author: Townsend
Introduction: 2/21/2013
Location: House Second Reading
Summary: Clarifies limitations and restrictions on retirement income deductions for a surviving spouse.
Status: 02/21/2013 INTRODUCED.
02/21/2013 To HOUSE Committee on TAX POLICY.
12/03/2014 From HOUSE Committee on TAX POLICY: Reported with recommendation with substitute. (H-2)
12/03/2014 In HOUSE. To second reading.
**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. 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. 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.
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.

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.

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.

Court Records

Author: LaFontaine

Introduction: 3/12/2013

Location: House Judiciary Committee

Summary: Allows digital court records and electronically filing of probate court records.

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.
03/12/2013 To HOUSE Committee on JUDICIARY.

**H 4501** Title: Fraud or Deception
Author: Schmidt W
Introduction: 4/9/2013
Location: House Criminal Justice Committee
Summary: Prohibits obtaining service or property by fraud or deception; provides penalties.
Status: 04/09/2013 INTRODUCED.
04/09/2013 To HOUSE Committee on CRIMINAL JUSTICE.

**H 4502** 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)
04/18/2013 In HOUSE. To second reading.
04/23/2013 In HOUSE. Read second time and substituted. (H-3)
04/23/2013 In HOUSE. Read second time. To third reading.
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)
11/07/2013 In SENATE. To second reading.
11/14/2013 In SENATE. Read second time and committee substitute adopted. (S-1) To third reading.
12/05/2013 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.

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.

H 4638 Title: Recording Act
Author: Pettalia
Introduction: 4/30/2013
Enacted: 10/15/2014
Last Amend: 9/30/2014
Location: Chaptered
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.
10/15/2014 Signed by GOVERNOR.
10/17/2014 Public Act No. 347

**H 4639** Title: **Recording Affidavit**
Author: Lane
Introduction: 4/30/2013
Enacted: 10/15/2014
Location: Chaptered
Summary: Relates to recording affidavit and copy of original conveyance; allows for indexing under names of parties to a conveyance by the register of deeds.
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.
02/20/2014 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.
10/15/2014 Signed by GOVERNOR.
10/17/2014 Public Act No. 349

**H 4640** Title: **Original Real Property Conveyance**
Author: Pettalia
Introduction: 4/30/2013
Enacted: 10/15/2014
Last Amend: 9/30/2014
Location: Chaptered
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.
**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.
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: Digital Assets
Author: LaFontaine
Introduction: 2/26/2014
Location: House Second Reading
Summary: Enacts Fiduciary Access to Digital Assets Act; relates to estates, terms of service agreements, control over digital property of a protected person, protective orders, rights of such protected person, change in a governing instrument affecting digital property, court orders, rights of conservators, lawful consent of the protected person, court hearings and an exemption from liability for a digital custodian under certain circumstances.
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: **Digital 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; provides that except as provided for in a decedent's will, and subject to terms of service agreements, a personal representative has the right to exercise control over digital property; provides that a written request for access is conclusive evidence in any action to gain access or exercise control over digital property.  
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: **Estate Assets and Digital Accounts**  
Author: Cotter  
Introduction: 2/26/2014  
Location: House Second Reading  
Summary: Enacts definitions relating to the Fiduciary Access to Digital Assets Act; relates to estates, protected persons, power of attorney for a child, terms of service agreements, websites, mobile applications and social media.  
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: **Digital Assets**  
Author: Leonard  
Introduction: 2/26/2014  
Location: House Second Reading  
Summary: Relates to Fiduciary Access to Digital Assets Act; relates to estates, durable power of attorney, terms of service agreements, change in instruments, control over the principal's digital property and exception from liability for a digital custodian.  
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 5370** Title: **Digital Assets**  
Author: Jenkins
Summary: Enacts Fiduciary Access to Digital Assets Act; relates to estates, trustees, terms of service agreements, exceptions from civil liability for digital custodians under certain circumstances and requests for access to digital property.

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
Last Amend: 9/9/2014
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
Last Amend: 9/9/2014
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)
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 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.

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.

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.

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.

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 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,
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.
09/23/2014 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
Last Amend: 10/2/2014
Location: Chaptered
Summary: Excludes certain transfers to a trust from definition of transfer of ownership of residential real property.
Status: 05/08/2014 INTRODUCED.
05/08/2014 To HOUSE Committee on TAX POLICY.
06/04/2014 From HOUSE Committee on TAX POLICY: Reported with recommendation with substitute. (H-1)
06/04/2014 In HOUSE. To second reading.
06/05/2014 In HOUSE. Read second time and committee substitute adopted. (H-1) To third reading.
06/05/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.
06/10/2014 To SENATE Committee on FINANCE.
10/02/2014 From SENATE Committee on FINANCE: Recommended as substituted. (S-1)
10/02/2014 In SENATE. To second reading.
10/02/2014 In SENATE. Read second time and committee substitute adopted. (S-1)
10/02/2014 In SENATE. Read second time and amended. To third reading.
10/02/2014 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.
10/09/2014 Signed by GOVERNOR.
10/10/2014 Public Act No. 310

**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
Location: Chaptered
Summary: Relates to life insurance; provides that the trustee of a trust has an insurable interest in the life of an individual under the Estates and Protected Individuals Code.
Status: 01/16/2013 INTRODUCED.
01/16/2013 To SENATE Committee on INSURANCE.
03/06/2013 Rereferred 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.
S 32  Title:  Life Insurance  
Author:  Schuitmaker  
Introduction:  1/16/2013  
Enacted:  2/11/2014  
Location:  Chaptered  
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. 7  

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.
S 113  Title:  Property Tax Exemptions
Author:  Green M
Introduction:  1/30/2013
Last Amend:  11/13/2014
Location:  Senate Consideration of House Amendments
Summary:  Exempts certain conservation easements from property tax.
Status:  01/30/2013 INTRODUCED.
01/30/2013 To SENATE Committee on FINANCE.
04/11/2013 From SENATE Committee on FINANCE: Recommended passage.
04/11/2013 In SENATE. To second reading.
04/11/2013 In SENATE. Read second time and substituted. (S-1) To third reading.
04/17/2013 In SENATE. Read third time. Passed SENATE. *****To HOUSE.
04/17/2013 To HOUSE Committee on TAX POLICY.
09/17/2014 From HOUSE Committee on TAX POLICY: Reported with recommendation with substitute. (H-1)
09/17/2014 In HOUSE. To second reading.
11/13/2014 In HOUSE. Read second time and substituted. (H-2) To third reading.
12/04/2014 In HOUSE. Read third time. Passed HOUSE. *****To SENATE for concurrence.

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.
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 HUMAN SERVICES: Recommended passage.  
05/23/2013 In SENATE. To second reading.  

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 485  Title: Unclaimed Body Program
Author: Caswell
Introduction: 9/11/2013
Last Amend: 10/1/2014
Location: House Health Policy Committee
Summary: Creates the Anatomy Board to develop criteria, standards, and procedures for consideration of unclaimed bodies that are suitable for scientific use; requires a member of the Board may allocate dead human bodies it receives to teaching institutions, hospitals, and other persons that require them for educational use; requires the Board to keep related permanent records; requires attempts to be made to identify the remains; provides the procedures governing the suitability for scientific use.
Status: 09/11/2013 INTRODUCED. 09/11/2013 To SENATE Committee on HEALTH POLICY. 09/30/2014 From SENATE Committee on HEALTH POLICY: Recommended as substituted. (S-2) 09/30/2014 In SENATE. To second reading. 10/01/2014 In SENATE. Read second time and committee substitute adopted. (S-2) To third reading. 10/01/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE. 10/01/2014 To HOUSE Committee on HEALTH POLICY.

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: 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.

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.

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.

S 623 Title: Corporate Regulation
Author: Bieda
Introduction: 10/16/2013
Last Amend: 5/21/2014
Location: House Second Reading
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.
11/13/2014 From HOUSE Committee on COMMERCE: Reported with recommendation with substitute. (H-1)
11/13/2014 In HOUSE. To second reading.

**S 624** Title: Charitable Organizations
Author: Jones Ri
Introduction: 10/16/2013
Last Amend: 5/21/2014
Location: House Second Reading
Summary: Requires court proceedings for 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; relates to religious nonprofit organizations.

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.
11/13/2014 From HOUSE Committee on COMMERCE: Reported with recommendation.
11/13/2014 In HOUSE. To second reading.

**S 625** 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.
S 714  Title: Uniform Collaborative Law Act
Author: Schuitmaker
Introduction: 12/5/2013
Enacted: 6/11/2014
Last Amend: 5/20/2014
Location: Chaptered
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
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.

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.

Title: Crimes Against Older Adults
Author: Smith V
Introduction: 3/12/2014
Last Amend: 11/13/2014
Location: House Criminal Justice Committee
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.
11/13/2014 In SENATE. Read second time and committee substitute adopted. (S-3) To third reading.
11/13/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE.
12/02/2014 To HOUSE Committee on CRIMINAL JUSTICE.

S 867 Title: Elder Abuse
Author: Smith V
Introduction: 3/12/2014
Last Amend: 11/13/2014
Location: House Criminal Justice Committee
Summary: Provides sentencing guidelines for elder adult abuse and embezzlement.
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-2)
07/16/2014 In SENATE. To second reading.
11/13/2014 In SENATE. Read second time and committee substitute adopted. (S-2) To third reading.
11/13/2014 In SENATE. Read third time. Passed SENATE. *****To HOUSE.
12/02/2014 To HOUSE Committee on CRIMINAL JUSTICE.

S 888 Title: Adult Foster Care
Author: Hildenbrand
Introduction: 3/20/2014
Last Amend: 9/18/2014
Location: House Second Reading
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.
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.

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.

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.