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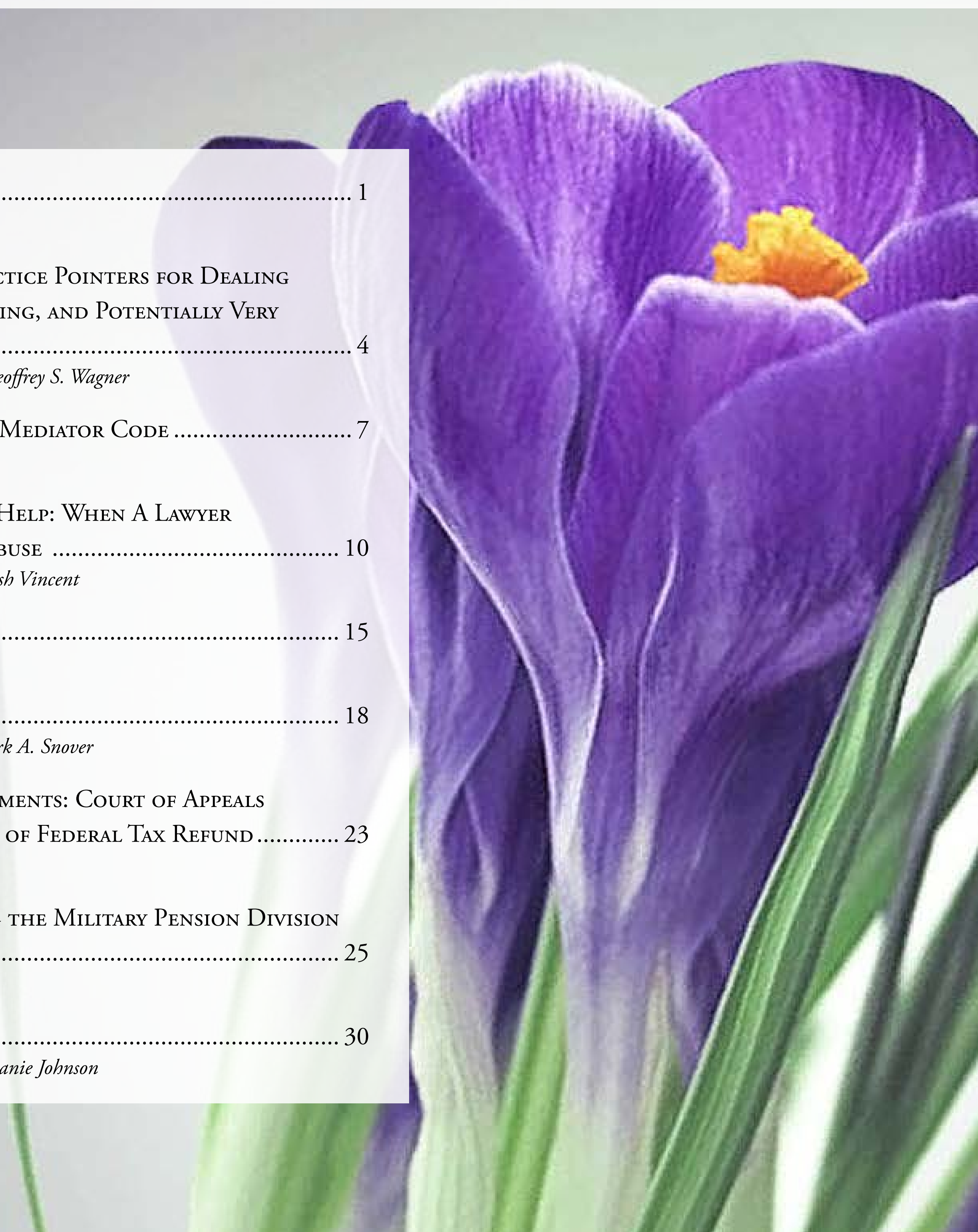

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State Bar of Michigan
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The Family Law Section of the State Bar of Michigan provides education, information, and analysis about issues of concern through meetings, seminars, its website, public service programs, and publication of a newsletter. Membership in the Section is open to all members of the State Bar of Michigan.

List of Council Meetings*

Saturday, June 4, 2016
Weber's Inn, Ann Arbor

Annual Meeting
Thursday, September 22, 2016
DeVos Place, Grand Rapids

***All regular, monthly Council meetings start at 9:30 a.m. on Saturdays** and are preceded by a breakfast buffet starting at 9:00 a.m. The Annual Meeting customarily starts at 9:00 a.m. with breakfast buffet at 8:30 a.m. Family Law Section members who are not Council members are welcome at all Council meetings. However, if you know you are going to attend a meeting, kindly send an e-mail in advance so we are sure to have plenty of space and food. If a presenter or member wishes access to audio-video equipment, please let us know 7 days in advance.

—Carol F. Breitmeyer; breitmeyer@bcfamlaw.com

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The *Michigan Family Law Journal* welcomes letters to the Editor. Typed letters are preferred; all may be edited. Each letter must include name, home address and daytime phone number. Please submit your letters, in Word format, to the Chair of the Family Law Section, Carol F. Breitmeyer, c/o State Bar of Michigan, Michael Franck Building, 306 Townsend Street, Lansing, MI 48933, soudsema@mail.michbar.org

The views, opinions and conclusions expressed in this publication are those of the respective authors and do not necessarily reflect the position or opinion of the Family Law Section of the State Bar of Michigan.

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To All Prospective Family Law Journal Authors:

On behalf of the Family Law Council, I am encouraging our membership and readers to consider submitting an article to the *Family Law Journal*.

Article Contact Person: The primary contact person at the State Bar for *Journal* articles is Sue Oudsema (517) 367-6423 and soudsema@mail.michbar.org. Article submissions should be e-mailed to Sue in Word format. Please carbon copy me (aep@papistalaw.com) and Sahera Housey (houseys@oakgov.com) and write "Article for the Family Law Journal" in the subject line when you submit your article.

Article Deadlines: Please submit your articles to Sue Oudsema at her email address above no later than the last day of the month preceding the publication month. There are ten (10) published *Family Law Journal* issues each year. June/July and August/September are combined issues.

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Peer Reviewed: Authors are expected to have engaged another attorney to carefully review, critique, and edit articles before sending to the Family Law Journal for consideration.

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Very Truly Yours,

Anthea E. Papista
Journal Committee Chair

Chair Message

By Carol F. Breitmeyer - Family Law Section Chair 2015-2016

The intersect between family law, constitutional rights, and the best interests of children viewed through the lens of a child's right to legal access to both parents currently presents significant legal challenges in Michigan.

The nexis of *intentional* parenthood and the law reveals serious fractures in our ability to protect some parent-child relationships. Remember, heterosexual couples do not necessarily have to *intend* to have a family, i.e., to produce children. Heterosexual couples, whether married or unmarried, can *accidentally* produce a child. This possibility does not exist for same gender couples. Parenthood is always *intentional* for same gender couples. While the motivation leading to the decision may be identical, the route to obtaining a child is decidedly different in the vast majority of same gender situations. The post-*Obergefell v Hodges*, 135 S Ct 2584,192 L Ed 2nd 609 (2015), world has not yet clarified the legal landscape for *intentional* parenthood in Michigan.[1]

Mark Hills and Jeffrey Koelzer's April article in the *Family Law Journal*, "Same-Sex Marriage and the Expanded Equitable Parent Doctrine," discussion of the equitable parent doctrine in same-sex marriage has spawned my comments this month.

If a heterosexual couple produce a biological child without a marriage, clearly dad can file an action for custody with or without an Acknowledgment of Parentage. He can seek an Order of Filiation. Assuming he is the father, he will have the ability to have access to his child post-breakup. It is a different situation for same gender couples. Post-breakup, if no marriage or adoption occurred for the non-biological parent, no ability to access parenting rights and responsibilities exists today in Michigan.

The right to legal standing to pursue parental responsibility is something *conventional* two-gender parents don't even consider. This is the case whether there is a marriage, a brief relationship, a long relationship (suspending all the problems which arise relative to paternity in the event of infidelity, etc.) or any combination. This fundamental right is available to either parent, even when one is a total louse of a parent! The parent and the child are automatically granted the full panoply of parental constitutional privileges embodied in the law. The right to request court intervention relative to medical, educational, or custodial issues are the practical bedrock of parenthood. In Michigan, scores of unanswered legal questions remain unresolved in the wake of *Obergefell*.

Is it fair to require marriage for same gender couples to obtain the same basic right of parentage opposite gender parents have without marriage? The requirement that same gender parties marry in order to have a shot at parental rights with their child stands in stark contrast to that which is required for heterosexual couples. While some readers may not care much about this double standard, they will care about how it affects the children in our society. Children should have the right to two parents, it should not be our policy to disenfranchise a parent without good cause.

The equitable parent doctrine has been expanded somewhat recently in the post-*Obergefell* world. The Michigan Supreme Court expanded the use of the equitable parent doctrine in a married same sex couple in *Stankevich v Milliron,*

498 Mich 877 (2015), by remanding to the Court of Appeals which, in turn, found sufficient facts existed to establish the plaintiff's standing to seek the application of the equitable parent doctrine. However, the use of the equitable parent doctrine has been declined for *unmarried* same sex individuals recently in *Kolailat v McKennett,* unpublished opinion per curiam of the Court of Appeals, issued December 17, 2015 (Docket No. 328333).

This divergent treatment between unmarried same-sex couples related to unmarried heterosexual couples—vis-à-vis their legal relationship to the child-ought to be addressed. However, concerns regarding extending standing to "third parties" also has merit. Careful crafting of an equitable parent statute limiting claims to a very narrow class of people could solve the problem without creating new ones. The equitable parent doctrine could be codified in a similar fashion as *D'Onofrio* / MCL 722.31(4), setting forth a multi-factor test. The expansion should include the narrow instances when same gender couples, who chose not to marry or could not marry because of the earlier law, lack access to the child.

Is a public policy which locks out one parent to the detriment of their child in the child's best interests? I suggest no. The gravity of these instances require careful analysis as we consider a change. Michigan has the opportunity to institute a thoughtful, progressive law which will provide direct and swift benefits to this class of parents and their children.

—*Carol F. Breitmeyer*

Endnotes

1 Another example of Michigan's outdated laws relates to Assisted Reproductive Technology (ART). Our 1988 law criminalizes surrogacy. Senate Bill No. 8411 recently introduced would at least bring Michigan into the mainstream. Senate Bill No. 8411 *http://www.legislature.mi.gov/documents/2015-2016/billintroduced/Senate/pdf/2016-SIB-0811.pdf* Currently the Michigan law makes surrogacy contracts void and unenforceable. Any compensation is prohibited and has harsh criminal sanctions. There are two types of surrogacy: one is gestational and the other traditional. Traditional surrogacy is where mother's egg is fertilized with a sperm donor or the intended father. The surrogate carries the baby until birth. Gestational surrogacy is where the surrogate is not biologically related to the embryo or child. The intended parents become the legal parents. Michigan's backward status combined with a lack of uniformity in the nation related to surrogacy has led to very uneven and sometimes tragic results. Uniformity throughout the country would inure to the benefit of children. Surrogacy remains a largely unregulated industry and Michigan is one of only three states only that criminalizes surrogacy for pay.

FAMILY LAW SECTION

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8:00 a.m. **Breakfast for seminar participants.**
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9:00 a.m. **Referee Hearing Rules** – Hon. Douglas Dosson, Roscommon County

10:00 a.m. **Military Divorces** – Peter Kulas, Kulas Law Office

11:00 a.m. **Two Experts, Different Opinions, and How They're Both Right** – Jason Le-Roy, Doeren Mayhew, and Ben Bershad, Stout Risius Ross

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9:00 a.m. **Spying on Your Spouse: A Review of Federal and State Wiretapping Law**s – Jude Pereira, *Varnum, LLP, the materials sponsor for the Mid-Summer seminar*

10:00 a.m. **Taking the Proofs: A More Rational Basis** – Hon. Richard Halloran, Wayne County

11:00 a.m. **What Happens to My Kids if Something Happens to Me? - A Guide to Third-Party Custody Disputes** - Erika Wikander and Jennifer Johnson, Velzen, Johnson and Wikander, PC

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The I-864 Affidavit:

Practice Pointers for Dealing with a Complex, Confusing, and Potentially Very Costly Legal Document

By Mark S. Papazian and Geoffrey S. Wagner

Introduction

Picture the scene:[1] a distraught potential client – *let's call him Charles* – arrives at your office on a Monday morning with freshly-inked divorce papers in hand. His wife – *we'll call her Kim* – came to the U.S. from China less than a year ago after: (1) a brief online courtship;[2] and (2) a spontaneous weekend wedding in Las Vegas. Over the past few months, Charles has spent close to $35,000 supporting Kim and her eight year-old son.

Having conveniently received her Conditional Green Card from United States Citizenship and Immigration Services (USCIS) a short while ago, Kim has packed her bags, moved out, and filed for divorce. Charles is beside himself. To make matters worse, when Charles sponsored Kim for permanent residency, he signed an Affidavit of Support known as "Form I-864." Under the I-864 Affidavit,[3] Charles agreed to support Kim and her son at 125% of the U.S. federal poverty level,[4] and to reimburse the federal government in the event that either one of them ever makes a claim for public assistance.[5] Notably, Charles' support obligation does *not* terminate upon divorce.[6] In fact, the I-864 support obligation can potentially remain in effect for the duration of the immigrant-spouse's life(!) – even in the case of a short-term marriage.

Fortunately, it is not all doom and gloom for the Charleses of the world. In fact, there are several issues that we as family law practitioners can do to minimize the impact the I-864 Affidavit will have on our clients.

This article will provide a concise summary of a sponsor's obligations under Form I-864, and then offer several practice pointers to consider if and when this issue arises in your practice.

Background

A sponsor's responsibility under an I-864 Affidavit lasts until one of the following five events occurs:

1. The immigrant-spouse becomes a naturalized U.S. citizen;
2. The immigrant-spouse has worked in the U.S. for 40 qualifying quarters (i.e., 10 years);
3. The immigrant-spouse leaves the U.S. and moves to another country;
4. The immigrant-spouse seeks permanent residency under another I-864;
5. The immigrant-spouse dies.[7]

In the absence of one of these events, a sponsor's support obligation will remain ongoing and in full effect.[8] Consequently, by signing an I-864 Affidavit, a sponsor takes on a potentially *indefinite* support obligation. The financial ramifications of this commitment cannot be overstated. Indeed, over the course of a lifetime, our broken-hearted friend Charles' obligation could easily exceed $1,000,000.[9]

The lone Michigan case to have addressed the I-864 in the context of divorce proceedings is *Greenleaf v Greenleaf*.[10] In *Greenleaf*, plaintiff-husband met defendant-wife on a trip to Russia in June of 2007. They married not long after and, in turn, plaintiff-husband signed an I-864 Affidavit on behalf of his new bride.[11] After roughly one year of marriage, defendant-wife moved out of the marital home and filed for divorce. Notably, in her complaint defendant-wife requested support under the I-864, *and* a traditional award of spousal support under MCL 552.23(1).

The Court of Appeals held that: (1) the I-864 Affidavit is a valid contract and, therefore, can be enforced in divorce proceedings[12]; and (2) an immigrant-spouse's contractual rights under the Affidavit do not impact or otherwise diminish her statutory right to request an award of spousal support under Michigan law.[13] In short, *Greenleaf* underscores how wildly expensive litigation involving an I-864 Affidavit can become.

Analysis

Annulment

Presumably, one's first reaction to Charles' plight would be to file a counterclaim for annulment on grounds of fraud. Under well-settled Michigan law, fraud can potentially serve as the basis of an annulment. Specifically, pursuant to MCL 552.2, a marriage will be deemed void where:

> [T]he ***consent*** of 1 of the parties was ***obtained by*** force or ***fraud***, and there [was] no subsequent voluntary cohabitation of the parties. [Emphasis added.]

However, in order for fraud to rise to the level necessary to support an order of annulment, the fraud must be "of a nature wholly subversive to the true essence of the marriage relationship."[14] Clearly, this is a difficult standard to meet.

The problem Charles will encounter in trying to prove fraud stems from the fact that, as part of the immigration process, he was required to provide ample evidence of his marital relationship with Kim (e.g., pictures/love letters/etc.) to USCIS. As one commentator has noted,[15] this can make it exceedingly difficult to prove fraud in I-864 cases:

> While many broken-hearted U.S. citizens or permanent residents ask their attorneys to obtain annulments because they claim their foreign spouses only married them for their green cards, ***it is the rare case that can be proven in court that a true fraud occurred*** to deceive the American spouse about entering into a valid marriage. This can be ***even more difficult where the American spouse has filed immigration papers and provided testimony to USCIS to prove the validity of the marriage***. [Emphasis added.]

In short, proving the essential elements of annulment in these types of cases will always be a tall order.

Waiver/Release

In our view, the most effective way to deal with future liability under an I-864 is to obtain a contractual waiver/release from the immigrant-spouse. For ease of reference, the release we used in a case last year is set forth below in its entirety:

1. IN CONSIDERATION of the payments made to her in this Judgment of Divorce, the receipt of which is hereby acknowledged, WIFE, being of lawful age, does hereby release and forever discharge HUSBAND from any and all claims, actions, causes of action, demands, damages, costs, and compensation on account of, or in any way arising out of, the I-864 Affidavit previously executed by Husband on behalf of Wife.
2. IT IS expressly understood and agreed that this waiver of rights under the I-864 is permitted under federal and state law, *viz.*
   - ***71 Fed. Reg. 35732, 35740*** (June 21, 2006) (noting statement by the Department of Homeland Security (DHS) during the I-864 rulemaking process that a beneficiary may elect to waive his/her right to enforcement of the Affidavit of Support);
   - ***Blain v Herrell***, 2010 WL 2900432; Civ. No. 10-00072 (D. Haw. 2010) (holding that immigrant-wife waived her right to enforce the I-864 by stipulating to the waiver in the parties' prenuptial agreement);
   - ***Port Huron Ed. Ass'n v Harding Glass Co.***, 452 Mich 309, 319; 550 NW2d 228 (1996) (noting the "fundamental policy of freedom of contract," pursuant to which "parties are generally free to agree to whatever specific rules they like").
3. IT IS FURTHER UNDERSTOOD AND AGREED that WIFE agrees to indemnify and hold HUSBAND harmless from any and all past, present, and future claims of any kind, whatsoever, made against HUSBAND by the United States Government related to the parties' I-864.
4. THIS release contains the ENTIRE AGREEMENT between the parties with respect to WIFE'S past, present, and future rights arising under the I-864, and the terms of this release are contractual and not a mere recital. WIFE has CAREFULLY READ this release, fully understands it, and signs this release freely and voluntarily.

Of course, as with any other negotiation, you may have to give something up – i.e., in our case, the concession was minimal short-term spousal support for one year – in order to obtain a similar waiver; however, the peace of mind your client will obtain as a result of the finality a release provides will almost certainly be well worth the trade.

Challenges to the Waiver/Release

It should be noted that several courts have held that waivers like the one set forth in the preceding section of this Article are invalid.[16] However, the rationale of those decisions is specious at best. First and foremost, the "anti-waiver" decisions completely ignore the pertinent Federal Regulation,[17] which states unequivocally that a beneficiary can, in fact, elect to waive her right to enforcement of the Affidavit. Second, the decisions also overlook the bedrock principle of freedom of contract,[18] pursuant to which the parties are "generally free to agree to whatever specific rules they like." Thus, to the extent that your opponent—or, alternatively, your *judge*—might question the legality of your request for a waiver, you can use the authorities set forth in this Article to respond forcefully on behalf of your client.

Conclusion

The I-864 Affidavit is a complex legal document that, to date, has received only scant attention in the pertinent case law. Given the potentially indefinite nature of the applicable support obligation, it is important to gain a basic understanding of the I-864 so it can be dealt with effectively. We hope the practice pointers discussed in this Article will prove to be helpful if and when this issue arises in your practice.

About the Authors

Mark S. Papazian *is a partner at Giarmarco, Mullins & Horton, P.C., a full-service law firm located in Troy, MI. His practice is litigation-based with an emphasis on Family Law, Business Litigation and Entertainment Law. He was admitted to practice in 1974 and has tried cases throughout the State of Michigan. Mark has represented many clients who are either the chairmen of Fortune 500 companies, or highly placed executives, in the Oakland and Wayne County Circuit Courts. He has been recognized by dBusiness as a top lawyer since 2010, and as a Super Lawyer since 2011. Mark has an "AV" peer rating from Martindale-Hubbell, and was recently named a Leading Lawyer, a prestigious honor reserved for the top 1% of the legal profession.*

Geoffrey S. Wagner *is a partner at Giarmarco, Mullins & Horton, P.C. He has a decade of experience in the areas of business litigation, family law and personal injury, at both the trial and appellate levels. Geoff has an "AV" rating from Martindale-Hubbell, and was recognized as a "Rising Star" by Super Lawyers in 2013, 2014, 2015 and 2016. He is a graduate of Boston University,* magna cum laude*, and Wayne State University Law School,* cum laude; Order of the Coif.

Endnotes

1 The hypothetical presented in the Introduction to this Article is based on an actual case Messrs. Papazian and Wagner litigated in 2015; however, the parties' names have been changed to protect their rightful privacy.

2 According to a 2016 study conducted by the Pew Research Center, at least 5% of all Americans who are currently in a marriage or committed relationship met their significant other online. *See http://www.pewresearch.org/fact-tank/2016/02/29/5-facts-about-online-dating/* .

3 See Form I-864, Affidavit of Support, available online at: *https://www.uscis.gov/sites/default/files/files/form/i-864.pdf*.

4 See *https://www.healthcare.gov/glossary/federal-poverty-level-FPL/* (last visited on 3/23/16). As of the writing of this Article, Charles' yearly support obligation under the Affidavit would be roughly $16,000.

5 A number of courts have stated that the basic purpose of the Affidavit is "to ensure that immigrants do not become a public charge." *See e.g., Ainsworth v Ainsworth*, 2004 WL 5219036, * 4; No. 02-1137-A-M2 (MD La Apr 29 2004).

6 See *Hrachova v Cook*, 2009 WL 3674851, * 3; No. 5:09-cv-95-Oc-gRJ (M.D. Fla Nov. 3, 2009) ("the view that divorce does not terminate the obligation of a sponsor has been recognized by every federal court that has addressed the issue"); *See also Greenleaf, infra* at Note 9 ("divorce does not terminate [the sponsor's] obligations under [the] Form I-864").

7 See 8 U.S.C. § 1183a(a)(2), (3).

8 Incidentally, the courts have found that an immigrant-spouse has no duty to mitigate her damages by seeking employment. See *Liu v Mund*, 686 F.3d 418 (7th Cir 2012).

9 See Note 4, *supra* (assuming a yearly cost of roughly $16,000.00).

10 2011 WL 4503303; Dkt No. 299131 (Mich Ct App, Sept. 29, 2011).

11 *Id.* at * 1.

12 *Id.* at * 3 (citing *Younis v Farooqi*, 597 F Supp 2d 552, 554 (D MD, 2009); *Shumye v Felleke*, 555 F Supp 2d 1020, 1023-24 (ND CA, 2008); *Naik v Naik*, 399 NJ Super 390, 395-98; 944 A.2d 713 (2008); *Moody v Sorokina*, 40 AD.3d 14, 18-19; 830 NYS 2d 399 (2007).

13 *Id.* (explaining that "plaintiff's equitable obligation to pay spousal support under appropriate circumstances is ***separate and distinct*** from his contractual obligation imposed by the Affidavit of Support . . . ."). Put another way, this is a situation where a sponsor faces the very real risk of being ordered to pay two different support awards.

14 *Stegienko v Stegienko*, 295 Mich App 530, 535; 295 NW 252 (1940); *See also Rodenhiser v Duenas*, 296 Mich App 268, 272; 818 NW2d 465 (2012) (the party seeking an annulment must provide "clear and positive proof" that the marriage was not valid).

15 See Jonathan S. Greene, *Unfortunate Fairy Tale: Unhappy Marriage Of Immigration And Family Law*, 41-Oct Md. BJ 4, 7 (2008).

16 See *e.g., Toure-Davis v Davis*, 2014 WL 1292228; WGC-13-916 (D. Md. March 28, 2014) (rejecting attempted waiver of I-864); *Erler v Erler*, 2013 WL 6139721; CV-12-02793-CRB (N.D. Cal. Nov. 21 2013) (similar).

17 See 71 Fed. Reg. 35732, 35740 (June 21, 2006); *See also* Greg McLawsen, *The I-964 Affidavit of Support: An Intro to the Immigration Form You Must Learn To Love/Hate*, 48 Fam. L.Q. 581 (Winter, 2015) (relying on the text of pertinent Federal Regulation and referring to cases like *Toure-Davis* and *Erler* as "confounding").

18 See *Port Huron Ed. Ass'n v Harding Glass Co.,* 452 Mich 309, 319; 550 NW2d 228 (1996).

MEDIATION MATTERS

The Mediator Code

By Shon Cook

In February 2013, the Office of Dispute Resolution of the State Court Administrative Office of the Michigan Supreme Court (affectionately known as the ODRSCAOMCA), issued Mediator's Standards of Conduct. As mediators, we should all know and love these standards and be well-versed. But a review can always be helpful, and if broken down into its basic parts, they are easy to remember.

1. Self-determination:

While a mediator can offer direction and options, he or she must stop short of telling parties what to do and how to do it. Mediators should never argue their own position or advocate for the position of either party. The parties must reach their own agreements without any coercion or forced direction from the mediator. Simply put, resist the urge to control the process. This does not mean a mediator cannot caucus or ask questions that might help a party realize a potential problem or find a potential solution.

2. Impartiality:

Don't like one party better, or one attorney better. If you do, don't show it. And most important, be aware that it may bias you. The parties must believe at all times that the mediator is not on anyone's side and is simply there to reach resolution without judgment or favoritism. If you actually feel that you cannot be impartial due to a very strong hostility or dislike of a party, you must withdraw.

3. Conflicts of Interest:

Avoid the appearance of impropriety at every turn. If you have a special relationship or friendship with one of the attorneys or parties, you must disclose it, and in some circumstances, you should probably not be the mediator. In *Hartman v Hartman*, MI Ct of Appeals NW2d 304026; 2012 Mich. App. LEXIS 1554, (Ct App, Aug. 7, 2012), the Court of Appeals did not set aside the mediator/arbitrator settlement agreement, but certainly raised significant questions about the mediator/arbitrator's vacation with defense counsel and the appearance of a conflict of interest. The Court held that no evidence of clear or actual bias was proven. But, it would be hard to convince the plaintiff that a fair deal was reached in the course of the mediation or that the mediator/arbitrator was neutral.

4. Mediator Competence:

Get trained. It is incredibly important to understand different mediation techniques and the role that domestic violence and power struggles play out in mediation. You also need to have decent social skills, with the ability to listen and understand the pain that individuals are going through as they try to resolve their conflicts.

5. Confidentiality:

Your confidentiality agreement needs to be in writing and explained at the beginning of every mediation. One of the huge benefits of mediation is the ability of parties and their attorneys to disclose information that actually resolves cases, rather than escalate the litigation. The silence of the mediator is a powerful force in learning what really motivates a party to resolve conflict. The confidentiality must be kept unless:

a. You are subpoenaed, the parties waive the confidentiality, and the judge, orders the testimony.

b. There is information of harm to a child, vulnerable adult, or safety issues to other individuals in the home that could result in immediate harm.

c. You are filing the boring little mediation status report, or notice of mediation.

6. Safety of Mediation:

Screen for safety. Use the domestic violence protocol and make each party independently fill it out before they meet with you to truly evaluate if there is a domestic violence concern. The court form that is submitted is simply not enough to give a true evaluation of how parties communicate and resolve conflict, or if there has been past domestic violence, which includes emotional abuse. Mediate in separate rooms, if necessary. If you sense someone about to escalate to a boiling point, stop it in a calm and

serious way and provide separate rooms, exits and places for parties to regroup and regain composure.

7. Quality of Process:

Be ready to wait and sit. Mediation is not a race. Every person comes to decision making in his or her own way and at their own pace. Be prepared for silence, hostility, and some yelling. Listen to proposals and stories that might not make sense, but are part of the exploration and understanding process. Try to maintain civility, and ask everyone to use inside voices when things get heated. Conflict can promote resolution, if done carefully. Ask questions that get people thinking about outcomes.

Have an agreement to mediate that outlines your job, the attorneys' jobs, the fees, confidentiality, and the length of each mediation session. If you feel that someone cannot understand or respect the process, don't conduct the mediation. Don't force an agreement, or make assessments about what a judge or referee would or would not do.

8. Be neutral:

Don't wince, flinch, growl, or let out huge sighs at peoples' positions and thoughts. If parties are talking, that is usually a positive direction. Don't judge an agreement that the parties enter into based upon your own bias or experience. Only intervene in an agreement if you sense that it is done out of fear of safety. Make sure everyone in the room clearly understands your role as a mediator, not an attorney or counselor or private investigator. If for some reason, you are asked what a judge would do, or what a party should do, you must be clear that you cannot give that advice.

9. Advertising and Solicitation:

Mediators may not call themselves "certified mediators." The advertising simply may state that the mediator has taken certain training. The mediator cannot promise results or guarantee resolution or agreement. The mediator can indicate what types of cases are mediated, the years of mediating, and the training received to mediate. The advertising cannot promise results or guarantee agreements.

10. Fees:

Put your fee agreement in writing and send to clients/attorneys in advance of mediation. Discuss at the beginning of mediation the fee structure and have the parties determine how the mediation fees will be paid. Put the fee arrangement in the actual mediation agreement. And, under no circumstances may there be a contingency fee agreement based upon the results at the mediation.

11. Advancement of Mediation:

As mediators, we have an obligation to promote resolution and agreement and try to reduce conflict. Stand on a mountain and shout out the fact that mediation is so much better than litigation for families. Help to train, observe, and better the mediation profession. We need good mediators, and good mediations, and good agreements that our esteemed courts of higher knowledge will accept and endorse, so that parties can rely on our services and reach finality in their conflicts.

Now go forward and serve the Code.

About the Author

Shon Cook *has been practicing family law for twenty years and is finally starting to get it right. With a combination of humor, negotiation, decent people skills and the ability to still throw down a good legal objection or two, Shon has deemed herself "The Good Witch of the Law." Shon is determined to help people in a positive way get through the worst times of their life and give back some respect and dignity that the legal process seems to erode. Shon is the owner of Shon Cook Law, PC, which operates out of a very cool building in Whitehall, Michigan, which was the first library in the city. Shon Cook Law, PC has a total of three attorneys covering Family Law, Bankrutpcy, Estate Planning, Real Estate and Business Formation.*

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The Helper In Need Of Help: When A Lawyer Experiences Domestic Abuse

By Marla Linderman and Tish Vincent

Introduction

The State Bar of Michigan Lawyers and Judges Assistance Program helps attorneys maintain their licenses, if the grieved behavior can be explained by the presence of a mental health disorder or substance abuse problem. There is no such program to help attorneys who have survived domestic violence. This article will explore the need for such a program and a path to encourage support in the legal community.

In February, 2016, the American Bar Association Commission on Lawyers Assistance Programs, partnering with Hazelden/Betty Ford, published its report on a comprehensive, peer reviewed research project studying the mental health of lawyers.[1] The results confirmed that lawyers battle higher levels of depression, anxiety, and substance use disorders than other equally educated individuals. The research study also inquired about lawyers' comfort level seeking professional help for these conditions. Lawyers reported hesitation about seeking help for their emotional and mental problems for two reasons. First, they feared that admitting the need for help would damage their reputation. Second, they feared that confidentiality would not be protected.

Law school, legal training, and the practice of law encourage and reward critical thinking, perfectionism, aggressive competition, and pride in distinguishing oneself as a respected practitioner. Those who successfully graduate from law school and pass the bar exam often equate their worth and success to their identity as lawyers. A lawyer struggling with an illness, mental illness, addiction, extreme stress, or being the target of domestic violence may attempt to deal with her/his difficulties alone due to a belief s/he should be self-sufficient and a concern that s/he may seem weak if s/he seeks help, ruining her/his reputation and identity as a lawyer.

This article seeks to explore the nature of the unique issues faced by attorneys experiencing domestic abuse who seek assistance from the judicial community and to offer new approaches from the bench and bar to provide support to our colleagues during a difficult time.

Lawyers Who Are Survivors Of Domestic Violence

Studies of lawyer wellness and stress management indicate that when lawyers begin to experience high levels of stress they often isolate from others, work more, and pressure themselves to cope with the stress on their own.[2]

Pressure to appear competent and impervious to stress may emanate from the particular area of practice chosen. For example, family law attorneys may fear admitting they are the target of domestic violence by a partner. These lawyers may worry that their own competence to handle divorce cases will be questioned for being unable to handle their own family problems.

Lawyers who seek Personal Protection Orders or file for divorce are in the unique position of needing to share their personal matters with professional colleagues. In discussions on this issue, lawyers have shared that they found this quite stressful. Their prior dealings with fellow attorneys, judges, and court staff may have resulted in personality conflicts that caused them to feel uncomfortable. Even when there are no such difficulties, the fear of colleagues and coworkers knowing the lawyer's most private details, and appearing in front of a judge familiar with the specifics of the lawyer's personal relationship can create barriers preventing lawyers from seeking help.

Another challenge described by attorney survivors of domestic violence is being told not to state her profession in the therapy group. One attorney survivor of domestic violence recounted how her facilitator explained that if the lawyer admitted she was a lawyer to the other women in the group, it would distort the therapy process. The facilitator predicted that the other women would start asking for legal advice and possibly representation instead of staying within the therapeutic journey. This could isolate the attorney survivor and deprive her of productive therapy.

Attorneys Murdered By Spouse Or Significant Other

On December 6, 2011, Lara Herrington Stutz, a Michigan attorney and former President of the Lapeer Count Bar Association, was murdered by her husband in the family home

in front of the couple's three children.[3] He then took his own life. Her coworkers were surprised. She had kept this turmoil from them. Speaking of this tragic loss, a staff attorney at Legal Services of Northern Michigan stated, ". . .as lawyers, we're a little less likely to admit defeat. . . [the personal problems of a prominent professional] are more likely to end up in the newspaper, especially if the situation is slightly seedy or sordid."[4]

In preparing to write this article the authors performed a search to find Lara Herrington Stutz's name. To their surprise, the search revealed numerous accounts of attorneys who had suffered the same fate as Lara Herrington Stutz: On February 20, 2009, Chiquita Tate, a Louisiana criminal defense attorney, was stabbed to death in her Baton Rouge, Louisiana office. Her husband of 14 ½ months was convicted of her murder. Her colleagues and neighbors were unaware that the couple was having trouble. Court records indicated that her husband was charged with using "force and violence" against Tate in late 2007.[5]

- In February, 1992, James Cooney, a prominent Florida tax attorney, was shot and killed by his wife, Linda Cooney. Linda Cooney was acquitted of murder charges based on self-defense. The couple was in the process of a divorce and engaged in a bitter custody battle. In June, 2011, the couple's son Kevin, thirty years old at that time, was shot in the neck and paralyzed.[6] In July, 2014, Linda Cooney was convicted of attempted murder charges in this incident.[7]
- On October 19, 1988, Carol Irons, a district court judge and Kent County's first female judge, was fatally shot in her chambers by her estranged husband, Clarence Ratliff, an off-duty police officer. Her chief judge shared that he had no knowledge of violence in this marriage. He knew the couple was divorcing but Judge Irons had not expressed any fear of her estranged husband.

Victims Or Survivors

There is concern in the domestic violence services community that using the label "victim" to describe those experiencing domestic abuse increases their feelings of powerlessness and shame. Rather, the term "survivor" is used in recognition of the fact that individuals experiencing domestic abuse have developed coping mechanisms that enable them to survive. There is wisdom in this distinction. Yet, surviving domestic violence is a process, and those mired in the process, living with this potentially lethal situation, need support to become survivors. Barriers in the legal community impeding the survival process need to be identified and removed.

It is important to share the stories of lawyers who are survivors. According to one survivor, her request for a Personal Protection Order was denied and subsequently her ex-husband held a gun to her head in her law office. She survived, but the legal system's failure to adequately respond to her request for protection could have easily resulted in her being a victim of domestic violence rather than a survivor.

In the interest of full disclosure, your author, Marla Linderman, is also a survivor of domestic violence who struggled in full view of the legal community during her tenure as president of the Women Lawyers Association of Michigan. Ultimately, she was offered support from colleagues in the judicial system, yet part of the trauma of coming forward was realizing that her peers knew about her personal circumstances and wondering to what extent it impacted their view of her as an attorney. As Marla's ordeal became public, other lawyers experiencing domestic abuse contacted her for support and Marla approached the Women Lawyers Association of Michigan, which created its Domestic Violence Committee to develop a process to help lawyer survivors of domestic violence.

Domestic Violence Interventions

Domestic violence is a serious threat. Domestic violence survivors need to accept that perpetrators do not assault and batter because they have a mental illness or a substance use disorder. Those are excuses for behaviors that perpetrators choose to engage in to obtain and maintain control over their partners. Perpetrators assault and batter because they refuse to respect other human beings and refuse to obey the law. Targets of this criminal and non-criminal abusive activity need to recognize it as such and turn to those professionals who can assist in empowering them to leave the relationship and stay involved with the service delivery system, including the judicial system, sufficiently to protect themselves and their children. Redefining oneself as a survivor of domestic violence empowers a person to see that she is not at fault and that there are services in the community to assist her in leaving the relationship, finding safety, and healing from the trauma.

In June, 1998, the Governor's Task Force on Batterer Intervention Standards released its report, *Batterer Intervention Standards for the State of Michigan.*[8] This report defines domestic violence as:

> . . .a pattern of controlling behaviors, some of which are criminal, that includes but is not limited to physical assaults, sexual assaults, emotional abuse, isolation, economic coercion, threats, stalking and intimidation. These behaviors are used by the batterer in an effort to control the intimate partner. The behavior may be directed at others with the effect of controlling the partner.

Domestic violence is not a symptom of a mental illness or a substance use disorder. It is critically important to grasp this point. Some individuals in the general population and some heathcare providers believe that domestic violence is a symptom of these other conditions. This is dangerous because

those who believe it operate under the assumption that if the mental illness or substance use disorder is treated, the domestic violence will cease. This mistaken belief is not supported by evidence. Treatment of a mental illness or substance use disorder can leave the batterer more focused on his/her goal of controlling his/her partner.

Some batterers do kill their target(s) as we see in the cases presented above. The referenced BIS reports 13 indicators of lethality,[9] including: those who exhibit rage toward their target for thinking of leaving or trying to leave; those who feel they "own" their partner; those who have a history of intervention by law enforcement; those with weapons; those who have mental health problems, particularly severe depression; and those who have substance use disorders, particularly those who are intoxicated at the time of the assault, who are more likely to kill their partner or children. The Batterer Intervention Standards (BIS) are extremely clear that interventions with batterers must involve confronting their abusive and controlling behaviors towards their partners and children; promote responsibility for their own actions; develop awareness of the effects of violence and abuse on partners and children; and teach them non-abusive and responsible ways of treating partners and children.

The BIS warn that any treatment modality which blames the survivor is inappropriate, not helpful, and dangerous. They warn against couple and family counseling in domestic violence cases because these modalities can reinforce power differences and leave survivors at a disadvantage. They also warn against alternative dispute resolution in domestic violence cases. ADR is based on each participant having equal bargaining power. The batterers have exercised control over their targets which puts them on unequal footing. They also warn against any intervention which does not address battering as the *primary* problem. Addictions treatment, psychodynamic treatment, and systems approaches that see the battering as secondary to some other primary cause are damaging. When seeking a program for holding a batterer accountable, it is imperative that referrals be sought from the county and state agencies that oversee programs' adherence to the standards set out in the BIS.

Trauma Survivors

Survivors of domestic violence are trauma survivors. Many of the cases that attorneys and judges deal with entail violence and trauma sufficient to diagnose the individuals as meeting criteria for Posttraumatic Stress Disorder. In the Diagnostic and Statistical Manual of Mental Disorders (DSM5), that trauma is defined as:

- Exposure to actual or threatened death, serious injury, or sexual violence in one (or more) of the following ways:
    - Directly experiencing the traumatic events.
    - Witnessing, in person, the event(s) as it occurred to others.

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- Learning that the traumatic event(s) occurred to a close family member or close friend. In cases of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental.
- Experiencing repeated or extreme exposure to aversive details of the traumatic event(s).[10]

It is important for attorneys and judges working with domestic violence survivors to be mindful of the special needs of these trauma survivors. Trauma survivors experience impairment in their ability to take in and process information for a time. They may look to legal professionals as rescuers and expect the law to save or defend them. They may display extreme vulnerability and need someone to talk to who has the appropriate skills to offer support, yet be able to *convey the truth the circumstances* and what needs to be done to cope with them. It is advisable to refer domestic violence survivors to a mental health professional who has experience and training with this issue.[11] Lawyers experiencing domestic violence may also be trauma survivors. In addition to the trauma responses described, lawyers require additional support from the legal community in order to continue to function as effective, caring professionals.

Family law attorneys and family law judges are also at risk to develop Vicarious Traumatization or Secondary Trauma from hearing the details of so many trauma survivors.[12] The legal professional may start to develop the symptoms of Post-traumatic Stress Disorder themselves. This has been identified in attorneys and judges, especially those who work with violent crimes and domestic violence. This development can lead to legal professionals who lose their objectivity and get too involved with the parties' problems. It can also lead to legal professionals becoming judgmental and withdrawing from the parties' problems, distress and needs, resulting in negative consequences for the legal professional and those they serve.

Assistance For Attorney Survivors From The Legal Community

Collaboration

To whom can attorneys turn when they are experiencing domestic violence? Seeing the coverage of the attorneys who were murdered by their spouses and the shock of the legal community in response, it is concerning that these lawyers did not feel comfortable reaching out for help. A consistent theme is that coworkers and family had no knowledge that there was trouble. What steps could be taken by the legal profession and the justice system to provide accessible interventions which recognize the impact of domestic violence on attorney survivors?

The Lawyers and Judges Assistance Program (LJAP) at the State Bar of Michigan (SBM) supports Michigan legal professionals and works to optimize their general wellness through education, free consultations, clinical assessments, and referrals to properly trained, credentialed, and effective providers. LJAP establishes and maintains a panel of attorney volunteers who meet with other attorneys in need of help with substance issues or mental health concerns.

The Women Lawyers Association of Michigan is a statewide organization of women attorneys, judges, and law students. WLAM's mission is to "advance the interest of women members of the legal profession, promote improvements in the administration of justice, and promote equality and social justice for all people."[13] Throughout the year the seven chapters of WLAM work to provide service to women and families, to recognize excellence in their ranks, and to advocate for women in the legal profession and for all women and society.

The State Bar of Michigan's Domestic Violence Committee is charged with the tasks to "[m]ake recommendations concerning increasing attorney awareness of the problem of domestic violence; advise on the encouragement of training of attorneys and judges on legal remedies and community resources concerning domestic violence; help develop and distribute legal resources concerning domestic violence and victims' access to the legal process; assist in the coordination of programs and activities concerning domestic violence in Michigan."

The authors of this article see a place for collaboration between LJAP, WLAM, and the Domestic Violence Committee to identify and address the needs of law students, attorneys, and judges who are the targets and survivors of domestic violence and in need of help. As lawyers, our competition with our peers and belief that we should be the problem solvers may make us loath to admit we are in trouble and need help. Yet our decision to deal with such a desperate situation without assistance may be the death of us.

We are suggesting that WLAM and the Domestic Violence Committee partner with LJAP to develop attorney volunteers who have experienced domestic violence and have moved through the experience to a state of health. We are also suggesting that the LJAP staff familiarize themselves with the resources specific to domestic violence survivors that are approved by the state and local governments to be ready to properly refer individuals in need of help. Attorney survivors could trust that their information and circumstances would be kept completely confidential by the LJAP staff. LJAP is–and should be–a place in the state where attorneys can turn for personal, confidential help.

Court Responses

Discussions with attorneys identified two issues most distressing to attorney survivors of domestic violence. First, there can be responses from judges, other attorneys, or court personnel that are unhelpful and indicative of the myth that well-educated, professional women are immune from abuse. Second,

the difficulties that originate in a domestic violence situation, should be cause for flexibility to allow for completion of work within the reasonable time frames.

This article serves to raise issues and invite input about possible solutions. Solutions to the first distressing issue could be addressed through education of family law judges and their personnel about the impact of trauma on survivors and of vicarious trauma on court staff. Vicarious trauma can lead professionals to err on the side of rescuing survivors of domestic violence, or becoming judgmental and withdrawing from them to protect the professional from feelings that are triggered by the circumstances and needs of the survivor in front of them.

A solution to the second distressing issue could be creation of procedures to allow the attorney domestic violence survivor to approach the court and request an extension. For the attorney who is fearful that her abuser may be stalking her, additional procedures could include removing the attorney's name from public dockets.

Conclusion

We hope that resources can be dedicated to reaching out effectively to those in need. Knowing that attorney survivors have been able to continue in their legal careers with their reputations intact and as public figures will hopefully calm fears of other attorneys and help them come forward and seek help from authorities, courts and their peers.

About the Authors

Marla A. Linderman *owns Linderman Law PLLC, a firm that concentrates in employment law representing both employees and employers, and also plaintiff-side auto and personal injury law. She was President of the Women Lawyers Association of Michigan in 2013-2014 and was also President of the Washtenaw Association for Justice from 2011-2013. She has been named a Top 25 Women Consumer Lawyer by Super Lawyers since 2013.*

Tish Vincent *is the Program Administrator of the Lawyers & Judges Assistance Program at the State Bar of Michigan. Tish is a clinical social worker with twenty four years of experience as an addictions therapist. She is also an attorney. She practiced in the areas of Health Law and ADR until taking a position with SBM. She is a past Vice President of the Mid-Michigan Chapter of the Women Lawyers Association of Michigan from 2011 through 2014.*

Endnotes

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9 *Id.*, BIS Appendix A: Lethality Evaluation.

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11 Buzolits, J and Rogers, L. *Trauma Informed Practice in Family Law Cases.* February 2013.

12 See for example Andrew P. Levin and Scott Greisberg, *Vicarious Trauma in Attorneys,* 24 Pace L. Rev. 245 (2003), and Peter Jaffe, Claire Crooks, Billie Lee Dunford-Jackson, & M. Town, *Vicarious Trauma in Judges: The Personal Challenge of Dispensing Justice.* 54 Juv. & Fam. Ct. J. 1-9 (2003).

13 Women Lawyers Association of Michigan. *https://womenlawyers.org/new/*

The Case of the Issue

By Henry S. Gornbein

Stephanie Kathleen Kaeb -vs- Darin Lee Kaeb
For Publication March 12, 2015

The Issue

Proper cause and payment of attorney fees.

Statement Of Facts

The parties had three children. A divorce complaint was filed in December 2009. A judgment of divorce was entered in July 2010. The Judgment granted joint legal and physical custody to the parties, with the children residing primarily with the Plaintiff mother during the school year and the Defendant father having extensive parenting time during the school year and equal parenting time during summers.

In March 2011, the mother sought modification of custody based upon the fact that the father had serious alcohol and gambling problems and possibly mental health issues, which impaired his ability to provide care and custody to the children. There was a stipulated order changing custody in September 2011 granting Plaintiff mother sole legal and sole physical custody and providing Defendant father with very limited supervised parenting time. He was also ordered to complete alcohol treatment and therapy, comply with all aftercare treatment recommendations, and was to abstain from the use of alcohol. In February 2012, a new order was entered requiring father to continue alcohol treatment and therapy and stating that he could petition for modification after three months of compliance with the schedule and requirements.

In July 2012, Defendant father moved for a change in custody and unsupervised parenting time, stating that he had complied with the earlier orders and treatment with his issues concerning anger and alcohol. An order was entered granting him unsupervised parenting time on specific days and provided that he must continue with AA and counseling.

In May 2013, there was a review hearing with the conclusion that the evidence showed father had been complying with the court's requirements. The court required him to continue counseling, and to attend AA regularly. Defendant's lawyers asked the trial court to order reviews with fixed intervals. The court refused to grant automatic review and required the filing of motions. An order was entered in June 2013.

In August 2013, father requested that the trial court remove the requirements that he continue counseling and continue to attend AA meetings. He attached a report by a psychologist who found that he was not suffering from any mental illness, that he had not gambled or used alcohol since September 2011, and that he was motivated and very committed to staying alcohol-free. The letter also implied that he was mentally and emotionally stable, did not pose any risk of violence, and exhibited adequate parenting skills. The father also presented a letter from his counselor discharging him from counseling. Mother argued that there were no grounds for amending the order because father had failed to show that there was a sufficient change in circumstances to warrant review.

There was a hearing on the motion in September 2013. Upon cross-examination, father's counselor admitted that he sent the letter at father's request. The psychologist testified that he did not believe father was an alcoholic and did not believe that he needed to attend AA meetings because there was no clinical reason for it.

At the close of proofs, the trial judge noted the contentious history of the case and described some of the problematic behaviors that led to the limitations on father's parenting time. The court ruled that there was no change in circumstances and assessed costs and attorney fees against father in the amount of $2,090.

The Court Of Appeals

On appeal the father argued that the trial court erred when it determined that his motion was frivolous. He argued that the trial court improperly determined that the change of circumstances threshold applied to his motion and, even if it did, erred when it determined that there was no evidence to support the motion. The trial court found the motion was frivolous because there was no evidence of any change in circumstances to support the motion and thought it was without any legal basis. The trial court did not cite the authority on which it relied, but it is evident. See MCR 2.114(F); MCL 600.2591(1).

The Court of Appeals discussed the change in circumstances in custodial care. Under *Vodvarka,* there must be one or more appropriate grounds that have or could have a significant effect on the child's life to the extent that a reevaluation of the child's custodial situation is to be undertaken.

The Court of Appeals then discussed *Shade v Wright*, which deals with modification of parenting time, recognizing that child custody and parenting time serve different purposes. While the court in *Shade* did not precisely define what types of proper cause or change of circumstances would be required to modify parenting time, normal life changes experienced by the child in a case may be sufficient to warrant modification of the parenting time, even though the same changes would be insufficient for a change of custody.

The Court of Appeals went on to state that the trial court had the authority to order father to attend AA meetings and participate in counseling as conditions on his exercise of parenting time, if the court determined that those restrictions were in the children's best interests.

In this case, the requested modification did not involve either a change in custody or a change in the duration or frequency of parenting time. It involved a request to remove a condition on the exercise of parenting time. For these reasons, neither *Shade* nor *Vodvarka* are directly on point.

The imposition, revocation, or modification of a condition on the exercise of parenting time will generally not affect an established custodial environment or alter the frequency or duration of parenting time. Thus, the lesser, more flexible, understanding of "proper cause" or "change in circumstances" should apply to a request to modify or amend a condition on parenting time.

Rulings

The Court of Appeals concluded that the trial court clearly erred when it found that the father's motion was submitted in violation of MCR 2.114(D)(2). Even if the letter and report did not establish a change in circumstance the documents were sufficient to establish "proper cause" for the trial court to reconsider whether the conditions remained in the children's best interests. A reasonable trial court would be justified in revisiting whether the conditions remained in the children's best interests on the basis of these expert opinions. It cannot be said that father's motion was not well grounded in fact and warranted by existing law as required under MCR 2.114(D)(2).

The Court of Appeals ruled that the trial court erred in ordering the father to pay his former wife's costs and attorney fees associated with the motion under MCR 2.114 (E). There was a request for remand to a different judge. This was denied. The Court of Appeals vacated the trial court decision to order sanctions and further held that father properly supported his motion with documentary evidence and that the evidence established a proper cause for revisiting the conditions. The case was reversed and remanded to the trial court for further proceedings.

Comments

This is a very interesting case and we now have a third standard regarding situations involving counseling or drug or alcohol. It is worth reading in its entirety.

About the Author

Henry S. Gornbein *is a partner with the law firm of Lippitt O'Keefe Gornbein PLLC in Birmingham, Michigan. His practice is exclusively devoted to Family Law. He is a former chairperson of the Family Law Section of the State Bar of Michigan; a former president of the Michigan Chapter of the American Academy of Matrimonial Lawyers; former Chair of the Long Range Planning Committee for the national American Academy of Matrimonial Lawyers; member of the Oakland County Friend of the Court Citizens Advisory Committee; winner of the Professionalism Award from the Oakland County Bar Association in 2004; author of the "Spousal Support" Chapter of* Michigan Family Law*; author of "Case of the Issue" for the* Michigan Family Law Journal*, State Bar of Michigan; blogger for the* Huffington Post*; creator and host of the award-winning cable television show,* Practical Law, *now entering its 17th year; and Podcaster for DivorceSourceRadio.com. His new book,* Divorce Demystified, Everything You Need to Know Before Filing for Divorce*, is available on Amazon as a softcover or eBook.*

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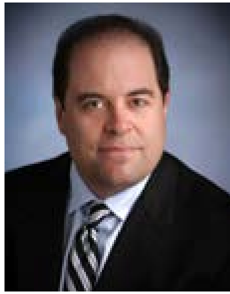

Professor Lex

By Harvey I. Hauer and Mark A. Snover
Hauer & Snover

Dear Professor Lex,

I am a family law attorney who just read the case of *Hudson v Hudson,* ___ Mich App ___ ; ___ NW2d ___ , (2016) WL 90732. I am also familiar with MCL 552.101(5). Do you read the case as I do that if a Judgment of Divorce awards a spouse a portion of the other spouse's qualified retirement benefits, without referencing survivor benefits, the recipient may unilaterally select any form of survivor benefit available to him or her under the plan?

Dear Practitioner,

Hudson is a significant case that should be reviewed carefully by practitioners who have divorce cases involving qualified, eligible, or similar plans.

In *Hudson,* Defendant was awarded as his sole and separate property, free and clear of any claim thereto or interest therein by Plaintiff 50% of 79% of Plaintiff's M.P.S.E.R.S. benefits as of April 23, 2013, adjusted for gains and losses thereafter until the date of distribution, pursuant to an Eligible Domestic Relations Order.

Defendant sent Plaintiff a proposed EDRO to be filed with M.P.S.E.R.S. The document is a standardized form that allows the preparer to select options.

The crux of the dispute between the parties is paragraph seven of the EDRO, which lays out three options for the form of payment. The parties agree that option (c), a Joint Survivor Option, is not relevant. At issue are options (a) and (b), which state:

> (a) Single Life Annuity – Payable Over Participant's Lifetime The benefits payable to the Alternate Payee will begin when the Participant begins to receive benefits under the Plan and will be in the form of a single life annuity payable during the lifetime of the Participant. If the Participant elects to receive an early-reduced retirement benefit, the Alternate Payee's benefit shall be reduced by the same factor.
>
> Death of Participant: If the Participant predeceases the Alternate Payee after payments to the Alternate Payee begin, all benefits payable to the Alternate Payee will permanently cease.
>
> Death of Alternate Payee: If the Alternate Payee predeceases the Participant after payments to the Alternate Payee begin, all benefits payable to the Alternate Payee under this EDRO will revert to the Participant.
>
> (b) Single Life Annuity - Payable Over Alternate Payee's Lifetime.
>
> The benefits payable to the Alternate Payee will begin when the Participant begins to receive benefits under the Plan and will be in the form of a single life annuity payable during the lifetime of the Alternate Payee. (Note: An actuarial adjustment to the Alternate Payee's benefit will be made to reflect the difference in life expectancies.)
>
> Death of Participant: If the Participant predeceases the Alternate Payee once the Alternate Payee has begun receiving payments, benefits will continue for the Alternate Payee's lifetime.
>
> Death of Alternate Payee: Once payment of the Alternate Payee's benefit begins, the Participant's benefit is permanently reduced and the Alternate Payee's benefit will not revert to the Participant if the Alternate Payee predeceases the Participant. *Id.*

Defendant selected option (b). Plaintiff objected to Defendant's selection. Plaintiff argued that it violated the Judg-

ment of Divorce because it unfairly granted Defendant rights in the Plaintiff's pension that were unavailable to Plaintiff in Defendant's pension because of an applicable federal regulation. Defendant argued that, according to MCL 552.101(5), he was allowed to select any option unless the option was specifically excluded by the Judgment of Divorce. The trial court ruled against Plaintiff and entered the EDRO. Plaintiff appealed.

The Court of Appeals held:

> ...the trial court erred in determining that MCL 552.101(5) required that defendant be allowed to select option (b) in paragraph 7 of the EDRO. However, the trial court's ultimate conclusion that it was bound by court rule to enforce the terms of the judgment of divorce, and that the EDRO complied with the judgment, was correct, and we therefore affirm.
>
> MCL 552.101(5) states as follows:
>
>> For any divorce or separate maintenance action filed on or after September 1, 2006, if a judgment of divorce or judgment of separate maintenance provides for the assignment of any rights in and to any pension, annuity, or retirement benefits, a proportionate share of all components of the pension, annuity, or retirement benefits shall be included in the assignment unless the judgment of divorce or judgment of separate maintenance expressly excludes 1 or more components. Components include, but are not limited to, supplements, subsidies, early retirement benefits, postretirement benefit increases, surviving spouse benefits, and death benefits. This subsection shall apply regardless of the characterization of the pension, annuity, or retirement benefit as regular retirement, early retirement, disability retirement, death benefit, or any other characterization or classification, unless the judgment of divorce or judgment of separate maintenance expressly excludes a particular characterization or classification.
>>
>> ***
>>
>> The question thus becomes whether defendant's option to choose the form of payment, combined with plaintiff's inability to select an option similar to the one chosen by defendant, renders the resulting division contrary to the party's stated intent in the judgment of divorce.
>
> We hold that it does not. The parties expressly agreed to, and the resulting judgment of divorce expressly provides for, specific mathematical divisions of the parties' benefits under their respective pension plans. The parties had an opportunity, before the judgment of divorce entered, and regardless of whether they took advantage of the opportunity, to fully explore available form of payment options under the parties' respective pension plans, to consider and address the impact, if any, of the available options and the apparently asymmetrical nature of the options available under the MPSERS plan and the FERS plan, and to make appropriate provision for the handling of the options in the settlement agreement and in the judgment of divorce. For example, the standard EDRO form applicable to plaintiff's MPSERS pension, which specifically sets forth the form of payment options at issue in this case, was available to the parties and their legal counsel before the entry of the judgment of divorce. Similarly, the impact of 5 CFR 838.302(b) on the availability of similar options under defendant's FERS plan was readily determinable by the parties and their legal counsel before the entry of the judgment of the divorce.
>
> It was thus incumbent on the parties and their counsel to include within the judgment of divorce a determination of all rights of the parties relative to each other's pension plans, including any restrictions on the selection of options relating to the form of payment. The fact that they may have neglected or chosen not to address this issue at the time of the judgment of divorce does not afford a basis for subsequently contesting whether the selection of an option afforded by the EDRO is contrary to the terms of the judgment of divorce. It is not. Nor does it afford a basis for finding on grounds of "equity"—as plaintiff argued—"an implied term of th[e] settlement agreement" (and therefore of the resulting judgment of divorce). See Rory v. Continental Ins Co, 473 Mich. 457, 461; 703 NW2d 23 (2005) ("the judiciary is without authority to modify unambiguous contracts or rebalance the contractual equities struck by the contracting parties because fundamental principles of contract law preclude such subjective post hoc

judicial determinations of 'reasonableness' as a basis upon which courts may refuse to enforce unambiguous contractual provisions."). The parties are bound by the terms of the agreed-upon judgment of divorce. See MCR 2.507(G); see also *Lentz v. Lentz*, 271 Mich.App 465, 472; 721 NW2d 861 (2006) ("Absent fraud, coercion, or duress, the adults in the marriage have the right and the freedom to decide what is a fair and appropriate division of the marital assets, and our courts should not rewrite such agreements.") *Id.*

This case sends a strong message by stating that it is incumbent on the parties to include within the judgment of divorce a determination of all rights of the parties relative to each other's pensions plans, including any restrictions on the selection of options related to the form of payment. As attorneys we must be diligent in our fact gathering. Prior to advising a client with regard to the division of a plan, the attorney must be familiar with the terms of the plan.

The above response is not meant to serve as a solution to a case. That would require complete disclosure of all facts in the case, including client consultation. Rather, the intent is to provide informal guidance based upon the facts that have been presented. The inquiring lawyer bears full legal responsibility for determining the validity and use of the advice provided herein.

Please send questions for Professor Lex to Hhauer@hauer-snover.com. Include "Professor Lex" in the e-mails subject line.

About the Authors

Harvey I. Hauer, *Hauer & Snover, PC, is a Fellow of the American Academy of Matrimonial Lawyers and the former president of the Michigan Chapter. He has also served as chairperson of the State Bar of Michigan Family Law Section, the Michigan Supreme Court Domestic Relations Court Rule Committee and the Oakland County Bar Association Family Law Committee. He has been named by his peers to Best Lawyers in America, Super Lawyers and Leading Lawyers. He is a co-author of Michigan Family Law.*

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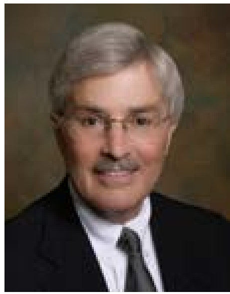


Court of Appeals Upholds Equal Division of Federal Tax Refund

By Joseph W. Cunningham, JD, CPA

Court of Appeals Upholds Equal Division of Federal Tax Refund, *Demil* v *Demil,* Mich App No. 323205 (10/20/15), and Tips on Providing for Tax Overpayments and Estimated Taxes

Facts

- The parties agreed to a settlement in June 2013 which, *inter alia*, provided that they would split the federal tax refund resulting from their 2012 joint income tax return, as follows:

  "IT IS FURTHER ORDERED AND ADJUDGED that the parties shall equally divide any refund they receive from the 2012 Federal Tax returns. (sic) The defendant shall provide proof of the refund received directly to the Plaintiff within one week of receipt."

- Neither party signed the return which was filed electronically by their tax preparer in April 2013.
- The refund was represented to be "in the approximate amount of $2,372".
- In fact, the refund was $34,318, of which H applied $23,000 to his 2013 federal tax liability.
- During the divorce proceedings, H had represented that $2,300 "was a correct characterization of the refund and that he did not have any other assets to disclose to the court."
- W later learned that the refund was substantially more than what had been previously indicated and filed a motion to enforce the provision in the judgment for equal division.
- The trial court rejected H's claim that a large component of the refund was attributable to his father's income which was reported on the joint tax return "for estate planning and income tax purposes" and ruled the $34,318 refund be divided equally.
- H appealed.

Court of Appeals Decision

- The Court upheld the trial court's decision ruling that it did not err in its interpretation of the tax refund provision in the judgment of divorce.

Tips on Providing for Division of Tax Overpayments Joint and Several Liability

- **Joint Tax Refunds**

  New Address–Most divorce settlements provide for the division of a tax refund on the final joint return. The check will be sent to the address on the return and will be payable to both parties. Thus, delay in receipt of a refund may result if the principal residence is used on the return and the refund is sent after the house is sold and the effective "forwarding address" period has expired. If this is foreseeable, use another address on the return (e.g., in care of the CPA/tax preparer).

  Notification and Documentation–As was done in the *Demil* divorce settlement, it is advisable to provide that the party who receives the refund check must notify the other party and provide documentation of the refund and payment of the other party's share within a specified period of time, e.g., one week.

  Take Away–Consider potential logistical problems concerning receipt of a joint tax refund and make appropriate arrangements, and provide for notification, documentation, and payment.

- **Joint Tax Overpayments Applied to Estimated Tax**

  Advantage of Applying an Overpayment–Many taxpayers apply for extensions rather than file by April 15. And most with income not subject to withholding–LLC income; S Corporation income; investment income–must make estimated tax payments due April 15, June 15, September 15, and January 15 each year.

  An overpayment from a prior year is deemed received by the IRS as of the April 15 initial due date even if the return is filed six months later at or near the October 15

extended due date. Thus, it is often advantageous to apply an overpayment to the succeeding year tax liability, especially if a taxpayer realizes late in the year when the return is filed that preceding estimated payments are insufficient to avoid the underpayment tax liability. This can be done with the entire overpayment, or just part of it with the balance refunded, as in the *Demil* case.

Parties Can Each Apply Part of Overpayment - Parties are free to agree to the application of an overpayment on a joint return to the next year's tax. If the amount so applied is allocated 100% to the husband, nothing needs to be done on either spouse's succeeding year tax return. However, if such amount applied exceeds 50% of the overpayment that is to be divided equally, husband will need to make an after-tax payment to wife to square things off.

If any of the overpayment is to be applied to wife's tax, she must enter husband's SSN in the appropriate space on page one of her Form 1040 followed by "DIV". If wife has remarried, she must enter ex-husband's SSN at the bottom of Form 1040 page one, again followed by "DIV".

Take Away–If either party relies on estimated tax payments and an overpayment is possible, make provisions in advance for potential advantageous use of the overpayment.

- **Estimated Taxes**

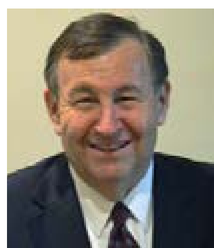
  New Requirement for Many–Many recipients of spousal support have never needed to make quarterly estimated tax payments. However, since no income tax is withheld on spousal support payments, estimated tax payments are generally necessary to avoid (1) a large April 15 payment and (2) corresponding underpayment of tax penalties. This applies to both federal and state income taxes.

  The underpayment penalty may be avoided if the amount paid in – via wage withholding or estimated tax payments – exceeds the party's hypothetical prior year tax based solely on his or her individual income and deductions. This often applies in the first year of receipt of spousal support, but not generally to subsequent years.

  Take Away–Attorneys should advise clients awarded spousal support to contact his or her tax advisor regarding estimated tax payment requirements.

About the Author

Joe Cunningham has over 25 years of experience specializing in financial and tax aspects of divorce, including business valuation, valuing and dividing retirement benefits, and developing settlement proposals. He has lectured extensively for ICLE, the Family Law Section, and the MACPA. Joe is also the author of numerous journal articles and chapters in family law treatises. His office is in Troy though his practice is statewide.



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Writing and Submitting the Military Pension Division Order: Five More Tips

By Mark E. Sullivan

The first part of this article contained a summary of what retired pay centers process military pension division orders, the resources available to practitioners, jurisdictional rules for direct-pay orders, what documents are acceptable for garnishment at the retired pay center, and the specific clauses and data required for pension division orders which will be honored at the retired pay center.

Tip #1 – Know What You Want.

The order may award a *percentage* or a *fixed dollar amount* to the former spouse of the military member.[1] Set out below are examples of the phrasing for these and other types of pension-division clauses.

A percentage clause might state: "Wife is granted 43% of Husband's military retired pay." Alternatively, a "fixed dollar amount" clause could read: "Wife is awarded $550 per month as military pension division." Every allowable clause automatically provides for cost-of-living adjustments (COLAs) except for the "fixed dollar amount" clause.[2] Attempting to add a COLA to a fixed dollar clause will result in rejection of the entire order.

The rules also allow awards that are not percentages or fixed dollar amounts.[3] The retired pay center will honor a court award that is expressed as a *formula* or a *hypothetical*. These are usually used if the SM is still serving.

A *formula* is an award expressed as a ratio.[4] For example, the order could state: "Wife shall receive 50% of the Husband's disposable retired pay times a fraction, the numerator being the months of marital pension service, and the denominator being the total months of service by Husband." The order must then *provide the numerator*, which is usually the months of marriage during which time the member performed creditable military service. The retired pay center cannot guess or infer what the court (or the parties) has determined to be the months of service during marriage (the numerator); however, the designated agent can provide the total months of service (the denominator). Note that if the court also provides the total months of service, DFAS will honor that number regardless of its accuracy.

A *hypothetical clause*[5] is the most difficult one to draft. It involves an award based on a rank or status which is different from that which exists when the SM retires. For example, the order might say: "Wife is granted 50% of what an Army staff sergeant (E-6) would receive if he were to retire with over 18 years of military service and 'High-3' pay of $___ per month."[6] Because there's no table that shows this type of pay, DFAS would calculate the hypothetical pay amount and compute a ratio to the actual retired pay in order to calculate the amount to which the wife in this example should receive.

A COLA will automatically be awarded with a hypothetical clause. Finally, be sure to include the rank and years of service of the member when submitting a hypothetical award, as well as the "High-3 pay" of the servicemember. If there are variables which are missing, the retired pay center will not supply them; the order will be rejected.

Guard/Reserve pension clauses deserve separate treatment. When a Guard or Reserve pension is involved and the member has not stopped drilling and put in for retirement, a "formula clause" is typically used, since the final retired pay isn't known and the total service creditable for retirement is also unknown. In a Guard/Reserve case involving a formula clause, you <u>must</u> specify division according to retirement points.[7] The usual language refers to points earned during marriage divided by total points during the member's career.

If a formula clause is not used for a still-drilling Reserve or Guard member, then this "points over points" rule does not apply. For example, the retired pay center will honor a percentage award for any Guard or Reserve servicemember with language such as "John will pay Mary 35% of his Army National Guard retired pay." It will also accept any decree in which all the variables are filled in by the court.

Tip #2 – A Helpful Checklist for Pension Division.

"One size fits all" definitely doesn't apply to military pension division orders. A good practitioner will check and re-check the pension division order to be sure it complies with the regulations and the statute, accomplishes the needs of the client, makes sense, and will be honored by the retired pay center. In addition to the tips shown above, here is a checklist used at DFAS for pension division orders:

DFAS Checklist For Military Pension Division Orders

✓	**General Validation Questions**
	Is the member active duty, reserve/guard, or retired?
	If retired, what is the member's retirement date?
	Is the member receiving temporary or permanent disability retired pay?
	Was a final decree of divorce, dissolution, annulment or legal separation submitted?
	Did the clerk of court certify the order?
	What is the date of divorce?
	Has the appeal time expired?
	Was a fully completed DD Form 2293 submitted?
	Are any additional documents required (such as a marriage certificate), or is the order/application invalid for any reason?
	Were the member's rights under the Servicemembers Civil Relief Act observed?
	What is the member's PEBD (pay entry base date)?
	Was the marriage date provided? (If there is a 10/10 overlap between years of marriage and military service, the system will automatically calculate whether the 10 year overlap of marriage and service requirement was met).
	Does the court have 10 USC 1408 (c)(4) jurisdiction over the member -- by reason of residence (not due to military assignment), domicile or consent?
	Does the order provide for the payment of a percentage, fixed dollar amount, formula, or hypothetical award?
	If the division of retired pay is based on a formula (i.e., marital fraction), does the order provide the numerator? For Reserve/Guard members, is the formula expressed in reserve retirement points?
	If the division of retired pay is based on a hypothetical retired pay award, is the award language valid? Are all the variables provided?
	A. For active duty members entering service before September 8, 1980, the variables are:
	1. Percentage awarded.
	2. Rank for hypothetical retired pay calculation.
	3. Number of years of service for hypothetical retired pay calculation.
	4. Hypothetical retirement date.
	-OR-
	1. Percentage awarded.
	2. Hypothetical retired pay base (base pay figure to be used in hypothetical retired pay calculation).
	3. Number of years of service for hypothetical retired pay calculation.
	B. For active duty members entering service on or after September 8, 1980 ("high 36" retirees):
	1. Percentage awarded.
	2. Hypothetical retired pay base (base pay figure to be used in retired pay calculation).
	3. Number of years of service for hypothetical retired pay calculation.
	C. For Reserve/Guard members:
	1. Percentage awarded.
	2. Rank for hypothetical retired pay calculation.
	3. Number of reserve retirement points for hypothetical retired pay calculation.
	4. Number of years of service for basic pay to be used in hypothetical retired pay calculation.
	5. Hypothetical date of eligibility to receive retired pay.

Tip #3 – Don't Forget the Survivor Benefit Plan.

SBP (the Survivor Benefit Plan) is an essential tool in divorce planning for the former spouse. It provides an annuity of 55% of the base amount chosen for the rest of the life of the former spouse, so long as she does not remarry before age 55. Divorce ends SBP coverage unless the court orders "former-spouse coverage" and the parties make a timely election with the retired pay center.

The retired pay center cannot apportion the SBP premium between the parties; the premium must be deducted "off the top" before arriving at "disposable retired pay."[8] DFAS resources on this topic are found at the DFAS website, *www.dfas.mil*, under the "Provide for Loved Ones" tab; look for "Survivor Benefit Plan" or "Reserve Component Survivor Benefit Plan." The checklist below will help the practitioner to understand SBP and the cost and benefits of coverage for the non-military spouse.

SBP Checklist

✓	Action or issue	Comments
	SBP is a unitary benefit, cannot be divided between current spouse and former spouse	
	Election: Servicemember on active duty is automatically covered; at retirement an election must be made, and spouse concurrence is necessary if member chooses no SBP, child coverage or coverage at base amount less than his/her full retired pay	
	Election - Guard/Reserve: There is opportunity to make election at the 20-year mark (i.e., after 20 years of creditable Guard/Reserve service). Spouse concurrence needed for Option A (defer decision till age 60) or Option B (elect coverage, but to start at age 60); no spouse consent needed for Option C (immediate coverage).	Option C is also called RC-SBP, or Reserve Component SBP.
	If representing the nonmilitary spouse and survivor annuity is desired, be sure order requires member/retiree to elect former spouse coverage, with full retired pay as base amount	SBP benefit payments equal 55% of the selected base amount, which can be $300 or above
	If representing the member/retiree and SBP coverage for the FS is not desired, make sure that the base amount selected yields about the same death benefit as the lifetime benefit, so that the FS doesn't profit by retiree's death. Some people call this a "mirror award."	This can only be done if the active-duty member is about to retire at the time of the court order, or if the Guard/Serve member elected Option A and the order is being entered at age 60 – since only at those points in time can one determine the retired pay of the member.
	If representing the member/retiree, try to negotiate a reduction of the FS's share of the military pension to reflect the additional cost of the SBP premium, which is taken out of the retired pay	SBP premium is 6.5% of selected base amount (in active duty cases), payable out of retired pay before taxes. It is about 10% for Reserve Component SBP coverage. The premium is "taken off the top" and deducted before division of disposable retired pay, so both parties pay in same shares as their shares of the retired pay.
	If representing the member/retiree, ask the court to value the SBP, present evidence on this, and then argue that the present value must be placed on the FS's side of the "property division ledger"	This may require hiring a CPA, economist or actuary.
	When member/retiree is to submit SBP election to DFAS, make sure this is done within one year of divorce. Enclose divorce decree and SBP application form titled Survivor Benefit Plan (SBP) Election Statement for Former Spouse Coverage (DD Form 2656-1)	
	When spouse/former spouse applies, be sure to enclose copy of divorce decree that includes language about SBP coverage and Survivor Benefit Plan Request for Deemed Election (DD Form 2656-10).	By federal law, the deemed election request must be received within one year of the order that requires SBP.
	Above one-year deadlines are mandated by statute.	If above deadlines are exceeded, apply to the appropriate Board for the Correction of Military Records for relief
	SBP is reduced by Dependency and Indemnity Compensation in certain circumstances.	For information, go to http://www.vba.va.gov/bln/21/Milsvc/Docs/DICDec2002Eng.doc for full information, or call 1-800-827-1000.

Tip #4 – Where and How to Serve the Order.

Addresses for service are found on the application form, DD 2293. Note that the decree must be certified by the clerk of court. The spouse or former spouse must sign the form, and the documents to be included are a certified copy of the order and divorce judgment (if separate order). DD Form 2293 can be obtained from the DFAS website, or from any internet search engine. Anyone may serve the completed application. While you should ensure delivery by sending the documents by certified mail, return receipt requested, this is not a *requirement*.

Tip #5 – Suggested Military Pension Division Order Clauses

For a set of model clauses to use in a military pension division order, see the sample order contained in the SILENT PARTNER info-letter, "Getting Military Pension Orders Honored by the Retired Pay Center," at *www.nclamp.gov*, the website of the North Carolina State Bar's military committee. While this sample order is not perfect, and it's not for every case, it will help with most military pension division cases. It should only be used in consultation with an expert in this area (if the drafting attorney is not such an expert) or after extensive review of the rules, regulations, statutes, and state cases in regard to division of the pension, allocation of SBP, indemnification and other matters, which are important to the client.

About the Author

__Mr. Sullivan__ is a retired Army Reserve JAG colonel. He practices family law in Raleigh, North Carolina and is the author of The Military Divorce Handbook *(ABA, 2nd Ed, 2011) and many internet resources on military family law issues. A Fellow of the American Academy of Matrimonial Lawyers, Mr. Sullivan has been a board-certified specialist in family law since 1989. He works with attorneys and judges nationwide as a consultant and an expert witness on military divorce issues in drafting military pension division orders. He can be reached at 919-832-8507 and mark.sullivan@ncfamilylaw.com.*

Endnotes

1 DoDFMR § 290601.C.

2 DoDFMR § 290601.C.

3 DoDFMR § 290601.E.

4 DoDFMR § 290211.

5 DoDFMR § 290213 and 290608.

6 For members entering military service on or after September 8, 1980, retired pay is calculated using the average of the member's highest 36 months of basic pay at retirement, also known as "High-3." See Chapter 3 of the DoDFMR, § 030101.A.2.

7 DoDFMR § 290211.B.

8 DoDFMR § 290610. "Disposable retired pay" is defined at 10 U.S.C. § 1408 (a)(4) and at DoDFMR § 290701.

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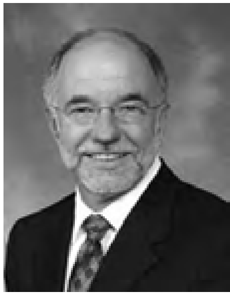

Legislative Update

By William Kandler, Lobbyist & Stephanie Johnson
Kandler Reed Khoury and Muchmore

Since the last report, the legislature has been very active reporting budgets for the 2016-17 Fiscal Year, working on legislation to address issues within the Detroit Public Schools and continuing to deal with the Flint water crisis. At the time of this writing, the House has already reported out its version of the budgets and the Senate is expected to do so this week. Budget items that are expected to receive a lot of discussion between the Governor, Senate, and House include standardized testing for students in K-12, revenue sharing to local governments, funding specifically designated for Flint, and the possible closure of two prison facilities. It is expected that the legislature will wrap up the budget process by the second week of June.

Prior to the legislative spring recess, the legislature passed two bills that would provide approximately $50 million in emergency funding to the Detroit Public Schools (DPS). This funding was necessary to keep the schools open until the end of the school year. Last week, DPS informed staff that they would be out of money by June and would not be able to make payroll for staff that deferred their pay to the summer months in order to help the district financially.

As a result, teachers and staff in the DPS system organized two 'sick-out' days that closed the district. Both legislative chambers have legislation that has passed committee to provide financial and structural reform for DPS. The House version of the bills tie financial reforms to other labor reforms such as prohibiting 'sick-outs' and excluding more items from collective bargaining. In total, the financial reforms call for approximately $740 million over 10 years as well as additional restructuring of debt.

The fallout from the Flint crisis is continuing. President Obama will be coming to Flint this week to meet with officials including Governor Snyder. The Governor is hopeful that this opportunity may lead to some Federal assistance

This week the House Judiciary committee heard testimony on three bills relating to Dower Rights, SB 558 and 560 sponsored by Sen. Rick Jones (R-Grand Ledge) and HB 5520 sponsored by Rep. Klint Kesto (R-Commerce Twp). The bills would do the following:

- Senate Bill 558 abolishes a wife's dower right in both statute and at common law and repeals sections of the Revised Judicature Act that pertain to dower rights.
- House Bill 5520 deletes a provision that judgments of divorce and separate maintenance include a provision in lieu of dower.
- Senate Bill 560 applies the right of dower only to a surviving widow whose spouse died before the effective date of Senate Bill 558.

The section is opposed to these bills without additional notice requirements. The committee did not report the bills out at this time. It is unclear when the bills are expected to receive a vote.

HJR L	SAME-SEX MARRIAGE (Moss) Repeals constitutional prohibition of same-sex marriage and civil unions. Bill Text Introduced (3/24/2015; To Families, Children and Seniors) Position: Support
SJR I	SAME-SEX MARRIAGE (Warren) Repeals constitutional prohibition of same-sex marriage and civil unions. Repeals section 25 of article I of the state constitution of 1963 to allow the recognition of marriage or similar unions of two people Bill Text Introduced (3/24/2015; To Judiciary) Position: Support
HB 4023	CHILD CARE (Kosowski) Limits hours children can be left in child care. Am. 1973 PA 116 (CL 722.111 to 722.128) by adding Sec. 1b. Bill Text Introduced (1/15/2015; To Families, Children and Seniors) Position: Oppose

HB 4024	NEWBORN LEAVE TIME (Kosowski) Creates Birth or Adoption Leave Act to give new parents certain time off work. Bill Text Introduced (1/15/2015) Position: No Position
HB 4028	RESPONSIBLE FATHERS (Kosowski) Creates Responsible Father Registry to provide putative fathers with notice of certain proceedings. Am. Sec. 2805, 1978 PA 368 (CL 333.2805) as amended by 1996 PA 307; adds Secs. 2893, 2893a, 2893b, 2893c, 2893d and 2893e. Bill Text Introduced (1/15/2015; To Families, Children and Seniors) Position: Support
HB 4071 (PA 50)	CHILD CUSTODY (Barrett) Modifies requirement to file motion for change of custody or parenting time order when parent is called to active military duty. Amends 1970 PA 91 by amending section 7a (MCL 722.27a), as amended by 2012 PA 600. Bill Text Signed by the Governor (6/10/2015; Signed: June 8, 2015; Effective: September 7, 2015) Position: Support
HB 4132	FAMILY LAW (Geiss) Provides for right to first refusal of child care for children during other parent's normal parenting time. Amends 1970 PA 91 (MCL 722.21 to 722.31) by adding section 7c. Bill Text Introduced (2/3/2015; To Families, Children and Seniors) Position: Oppose
HB 4133	SECOND PARENT ADOPTION (Irwin) Provides for second parent adoption. Amends 1939 PA 288 by amending sections 24, 41 and 51 of chapter X (MCL 710.24, 710.41 and 710.51), section 24 as amended by 2012 PA 614, section 41 as amended by 1994 PA 222 and section 51 as amended by 1996 PA 409. Bill Text Introduced (2/3/2015; To Families, Children and Seniors) Position: Support
HB 4141	FAMILY LAW (Runestad) Mandate joint custody in every custody dispute between parents except in certain circumstances. Amends 1970 PA 91 by amending sections 5 and 6a (MCL 722.25 and 722.26a), section 5 as amended by 1993 PA 259 and section 6a as added by 1980 PA 434. Bill Text Introduced (2/5/2015; To Families, Children and Seniors) Position: Oppose
HB 4170	VETERAN COMPENSATION (Franz) Excludes veteran disability compensation from marital estate. Amends 1846 RS 84 by amending section 18 (MCL 552.18), as amended by 1991 PA 86. Bill Text Committee Hearing in House (10/13/2015) Position: Oppose
HB 4188 (PA 53)	RELIGIOUS CONVICTIONS (LaFontaine) Allows objection to placements by child placing agency based on religious or moral convictions. Amends 1973 PA 116 (MCL 722.111 to 722.128) by adding sections 14e and 14f. Bill Text Signed by the Governor (6/11/2015, Presented 6/10/2015; Signed: June 11, 2015; Effective: September 9, 2015; earlier Presented) Position: Oppose
HB 4189 (PA 54)	RELIGIOUS CONVICTIONS (Santana) Allows objection to placements by child placing agency based on religious or moral convictions. Amends 1999 PA 288 (MCL 710.21 to 712B.41) by adding section 23g to chapter X. Bill Text Signed by the Governor (6/11/2015, Presented 6/10/2015; Signed: June 11, 2015; Effective: September 9, 2015; earlier Presented) Position: Oppose
HB 4190 (PA 55)	RELIGIOUS CONVICTIONS (Leutheuser) Allows licensure of child placing agency that objects to placements on religious or moral grounds. Amends 1939 PA 280 (MCL 400.1 to 400.119b) by adding section 5a. Bill Text Signed by the Governor (6/11/2015, Presented 6/10/2015; Signed: June 11, 2015; Effective: September 9, 2015; earlier Presented) Position: Oppose
HB 4223	ADOPTION LEAVE (Kosowski) Requires businesses with 50 or more employees to offer adoption leave. Bill Text Introduced (2/19/2015; To Commerce and Trade) Position: No Position

HB 4374	SAME-SEX MARRIAGE (Irwin) Removes prohibition on same-sex marriage. Amends 1846 RS 83 by amending sections 2, 3 and 9 (MCL 551.2,551.3 and 551.9), sections 2 and 3 as amended by 1996 PA 324 and to repeal acts and parts of acts.Bill Text Introduced (3/24/2015; To Families, Children and Seniors) Position: Support
HB 4375	SAME-SEX MARRIAGE (Zemke) Removes prohibition of same-sex marriage from foreign marriage act. Amends 1939 PA 168 by amending section 1 (MCL 551.271), as amended by 1996 PA 334 and to repeal acts and parts of acts. Bill Text Introduced (3/24/2015; To Families, Children and Seniors) Position: Support
HB 4376	SAME-SEX MARRIAGE (Wittenberg) Allows issuance of marriage license to same-sex couples without publicity. Amends 1897 PA 180 by amending section 1 (MCL 551.201) as amended by 1983 PA 199. Bill Text Introduced (3/24/2015; To Families, Children and Seniors) Position: Support
HB 4411	DOMESTIC VIOLENCE VICTIMS (Singh) Prohibits housing discrimination for domestic violence victims. Amends 1976 PA 453 by amending the title and section 502 (MCL 37.2502), the title as amended by 1992 PA 258 and section 502 as amended by 1992 PA 124. Bill Text Introduced (3/26/2015; To Judiciary) Position: Support
HB 4412	DOMESTIC VIOLENCE VICTIMS (Irwin) Creates exception from disqualification from receiving benefits when leaving employment for domestic violence victim. Amends 1936 (Ex Sess) PA 1 by amending sections 17 and 29 (MCL 427.17 and 421.29), section 17 as amended by 2011 PA 269 and section 29 as amended by 2013 PA 146 and by adding section 29a. Bill Text Introduced (3/26/2015; To Commerce and Trade) Position: Support
HB 4413	DOMESTIC VIOLENCE VICTIMS (Hovey-Wright) Creates address confidentiality program for victims of domestic violence crimes. Bill Text Referred in House (11/10/2015; To Criminal Justice) Position: Support
HB 4414	SICK LEAVE (Brinks) Expands criteria use of sick leave. Bill Text Introduced (3/26/2015; To Commerce and Trade) Position: Support
HB 4476 (PA 93)	DOMESTIC RELATIONS (Santana) Limits mediation in certain domestic relations actions. Amends 1961 PA 236 (MCL 600.101 to 600.9947) by adding section 1035. Bill Text Signed by the Governor (5/3/2016; Signed: May 3, 2016; Effective: August 1, 2016) Position: Support
HB 4477 (PA 91)	APPEALS (Kesto) Provides for alternative service of papers if party is protected by protected order. Amends 1961 PA 236 by amending sections 227 and 316 (MCL 600.227 and 600.316). Bill Text Signed by the Governor (4/26/2016; Signed: April 26, 2016; Effective: July 25, 2016) Position: Oppose
HB 4478 (PA 94)	PERSONAL PROTECTION ORDERS (Kosowski) Includes harming animals owned by the petitioner in acts that may be enjoined. Amends 1961 PA 236 by amending section 2950 (MCL 600.2950), as amended by 2001 PA 200. Bill Text Signed by the Governor (5/3/2016; Signed: May 3, 2016; Effective: August 1, 2016) Position: Support
HB 4479 (PA 87)	PREGNANT WOMEN (Price) Increases penalties for assault of a pregnant woman. Amends 1931 PA 328 by amending section 81 (MCL 750.81), as amended by 2012 PA 366. Bill Text Signed by the Governor (4/26/2016; Signed: April 26, 2016; Effective: July 25, 2016) Position: No Position

HB 4480 (PA 95)	DOMESTIC VIOLENCE (Heise) Modifies factors determining best interest of child in cases of domestic violence. Amends 1970 PA 91 by amending section 3 (MCL 722.23), as amended by 1993 PA 259. Bill Text Signed by the Governor (5/3/2016; Signed: May 3, 2016; Effective: August 1, 2016) Position: Support
HB 4481 (PA 96)	DOMESTIC VIOLENCE (Lyons) Prohibits custody or parenting time for certain parents of a child conceived through sexual assault or sexual abuse. Amends 1970 PA 91 by amending sections 5 and 7a (MCL 722.25 and 722.27a), section 5 as amended by 1993 PA 259 and section 7a as amended by 2012 PA 600. Bill Text Signed by the Governor (5/3/2016; Signed: May 3, 2016; Effective: August 1, 2016) Position: Oppose
HB 4482 (PA 51)	CUSTODY (Kesto) Modifies requirement to file motion for change of custody or parenting time order when parent is called to active military duty. Amends 1970 PA 91 by amending section 2 (MCL 722.22), as amended by 2005 PA 327. Bill Text Signed by the Governor (6/10/2015; Signed: June 8, 2015; Effective: September 7, 2015) Position: Support
HB 4563 (PA 248)	DOMESTIC VIOLENCE (Leutheuser) Authorizes contracting for services to assist victims of domestic violence. Amends 1846 RS 16 by amending section 110c (MCL 41.110c), as added by 1989 PA 77. Bill Text Signed by the Governor (12/22/2015; Signed: December 22, 2015; Effective: March 21, 2016) Position: TBD
HB 4622	HUMAN TRAFFICKING (Hovey-Wright) Provides for personal protection orders for victims of human trafficking. Amends 1961 PA 236 by amending section 2950a (MCL 600.2950a), as amended by 2010 PA 19. Bill Text Introduced (5/19/2015; To Judiciary) Position: Support
HB 4658 (PA 257)	CIVIL PROCEDURE (McCready) Allows collection of court-ordered financial obligations from judgements against the state. Amends 1961 PA 236 (MCL 600.101 to 600.9947) by adding section 6096. Bill Text Signed by the Governor (12/23/2015; Signed: December 23, 2015; Effective: March 22, 2016) Position: TBD
HB 4731	MARRIAGE AND DIVORCE (Courser) Eliminate requirement for issuance of marriage license. Amends 1987 PA 180 by amending the title and sections 1, 2, 3 and 4 (MCL 551.201, 551.202, 551.203 and 551.204), the title and sections 1 and 2 as amended by 1983 PA 199 and by adding section 1a. Bill Text Introduced (6/17/2015; To Government Operations) Position: TBD
HB 4732	MARRIAGE AND DIVORCE (Courser) Eliminates requirement of marriage license and allows only clergy to solemnize marriage. Amends 1846 RS 83 by amending sections 2, 7 and 16 (MLC 551.2, 551.7 and 551.16), section 2 as amended by 1996 PA 324, section 7 as amended by 2014 PA 278 and section 16 as amended by 2006 PA 419. Bill Text Introduced (6/17/2015; To Government Operations) Position: TBD
HB 4733	MARRIAGE AND DIVORCE (Courser) Eliminate government facilitated marriage licenses, restores common law marriage and only allows clergy to solemnize marriages. Amends 1887 PA 128 by amending the title and sections 1, 2, 3, 4, 5, 6 and 8 (MCL 551.101, 551.102, 551.103, 551.104, 551.106 and 551.108) the title as amended by 1998 PA 333 and sections 2 and 3 as amended by 2006 PA 578 and by adding section 1a and to repeal acts and parts of acts. Bill Text Introduced (6/17/2015; To Government Operations) Position: TBD
HB 4742 (PA 255)	FAMILY LAW (Kosowski) Repeals uniform interstate family support act and recreates. Repeals 1996 PA 310 (MCL 552.1101 to 552.1901). Bill Text Signed by the Governor (12/23/2015; Signed: December 23, 2015; Effective: January 1, 2016) Position: TBD

HB 4743	FAMILY LAW (Kosowski) Updates reference to the uniform interstate family support act. Amends 1971 PA 174 by amending section 3 (MCL 400.233), as amended by 2014 PA 381. Bill Text Reported in Senate (12/2/2015; By Families, Seniors and Human Services) Position: TBD
HB 4744 (PA 256)	FAMILY LAW (Kesto) Updates references to uniform interstate family support act. Amends 1982 PA 295 by amending section 2 (MCL 552.602), as amended by 2014 PA 373. Bill Text Signed by the Governor (12/23/2015; Signed: December 23, 2015; Effective: January 1, 2016) Position: TBD
HB 4745	FAMILY LAW (Heise) Updates reference to the uniform interstate family support act. Amends 1982 PA 294 by amending section 2 (MCL 552.502), as amended by 2009 PA 233. Bill Text Reported in Senate (12/2/2015; By Families, Seniors and Human Services) Position: TBD
HB 4840	ADOPTION LICENSEES (Wittenberg) Requires adoption licensees to provide services to all applicants. Amends 1939 PA 288 by amending section 23g of chapter X (CL 710.23g) as added by 2015 PA 54. Bill Text Introduced (8/20/2015; To Families, Children and Seniors)
HB 4841	ADOPTION LICENSEES (Hoadley) Requires adoption licensees to provide services to all applicants. Amends 1973 PA 116 by amending sections 14e and 14f (CL 722.124e and 722.124f) as added by 2015 PA 53. Bill Text Introduced (8/20/2015; To Families, Children and Seniors)
HB 4842	ADOPTION/FOSTER CARE LICENSEES (Tinsley-Talabi) Requires adoption and foster care licensees to provide service to all applicants. Amends 1939 PA 280 by amending section 5a (CL 400.5a) as added by 2015 PA 55. Bill Text Introduced (8/20/2015; To Families, Children and Seniors)
HB 4845	CHILD RESIDENCE (Runestad) Reduces distance parents can move under custody orders; changes how distance is measured. Amends 1970 PA 91 by amending section 11 (CL 722.31) as added by 2000 PA 422. Bill Text Introduced (8/20/2015; To Judiciary)
HB 4855	FAMILY LAW (Glenn) Provides immunity for religious officials' refusal to solemnize a marriage based on violation of conscience or religious beliefs under certain circumstances. Amends 1846 RS 83 (MCL 551.1 to 551.18) by adding section 8.Bill Text Introduced (9/9/2015; To Government Operations)
HB 4858	FAMILY LAW (Gamrat) Provides for immunity for religious official refusing to solemnize a marriage based on conscience or religious beliefs under certain circumstances. Amends 1846 RS 83 (MCL 551.1 to 551.18) by adding section 8. Bill Text Introduced (9/9/2015; To Government Operations)
HB 4911	PATERNITY (Crawford) Allows option to disclose identity of paternity in a private adoption. Amends 1939 PA 288 by amending sections 36 and 56 of chapter X (MCL 710.36 and 710.56), section 36 as amended by 1996 PA 409 and section 56 as amended by 2014 PA 118. Bill Text Committee Hearing in Senate (5/4/2016-Canceled)
HB 5028 (PA 230)	COURT ACCESS (Kesto) Allows electronic access to courts. Amends 1961 PA 236 (MCL 600.101 to 600.9947) by adding chapter 19A. Bill Text Signed by the Governor (12/22/2015; Signed: December 22, 2015; Effective: January 1, 2016)
HB 5029 (PA 231)	COURT ACCESS (Heise) Allows electronic access to courts. Amends 1961 PA 236 (MCL 600.101 to 600.9947) by adding sections 1986 and 1987. Bill Text Signed by the Governor (12/22/2015; Signed: December 22, 2015; Effective: January 1, 2016)
HB 5030 (PA 232)	COURT ACCESS (Price) Allows electronic access to courts. Amends 1961 PA 236 (MCL 600.101 to 600.9947) by adding chapter 1989. Bill Text Signed by the Governor (12/22/2015; Signed: December 22, 2015; Effective: January 1, 2016)
HB 5270	FAMILY LAW (Irwin) Includes circuit court judges as persons authorized to solemnize marriage. Amends 1846 RS 83 by amending section 7 and 16 (MCL 551.7 and 551.16), section 7 as amended by 2014 PA 278 and section 16 as amended by 2006 PA 419. Bill Text Introduced (1/28/2016; To Judiciary)

HB 5310	GUARDIANS (Lucido) Provides procedure for ward's relative to petition court for access to ward and requires guardian to notify interested persons of ward's admission to hospital. Amends 1998 PA 386 by amending sections 5308, 5310 and 5314 (MCL 700.5308, 700.5310 and 700.5314), section 5308 as amended by 2005 PA 204, section 5310 as amended by 2000 PA 54 and section 5314 as amended by 2013 PA 157. Bill Text Introduced (2/3/2016; To Judiciary)
HB 5504	STATUTE OF LIMITATIONS (Kesto) Modifies statute of limitations period under uniform fraudulent transfer act for action relating to qualified dispositions in trust. Amends 1998 PA 434 by amending 1, 4 and 9 (MCL 566.31, 566.34 and 566.39), section 1 as amended by 2009 PA 44. Bill Text Introduced (3/22/2016; To Judiciary)
HB 5505	TRUSTS (Kesto) Enacts qualified dispositions in trust act. Bill Text Introduced (3/22/2016; To Judiciary)
HB 5520	DIVORCE (Kesto) Eliminates divorce provisions regarding "wife's dower rights." Amends 1909 PA 259 by amending section 1 (MCL 552.101), as amended by 2006 PA 288. Bill Text Committee Hearing in House (5/3/2016) Position: Oppose
HB 5522	LEGAL FEES (Lucido) Eliminates sunset for annual increases in fee for publication of legal notice based on inflation. Amends 1961 PA 236 by amending section 2534 (MCL 600.2534), as amended by 2004 PA 506. Bill Text Introduced (3/24/2016; To Judiciary)
HB 5536	PARENTING TIME (Vaupel) Allows another family member to use parenting time when parent is on active duty outside Michigan. Amends 1970 PA 91 (MCL 722.21 to 722.31) by adding section 7d. Bill Text Committee Hearing in House (4/19/2016)
SB 9 (PA 52)	PARENTING TIME (Jones) Modify requirement to file motion for change of custody or parenting time order when parent is called to active military duty. A bill to amend 1970 PA 91 by amending section 7 (MCL 722.27), as amended by 2005 PA 328. Bill Text Signed by the Governor (6/10/2015; Signed: June 8, 2015; Effective: September 7, 2015)
SB 227	SAME-SEX MARRIAGE (Hertel) Removes prohibition on same-sex marriage from family law. Amends 1846 RS 83 by amending sections 2, 3, and 9 (MCL 551.2, 551.3, and 551.9), sections 2 and 3 as amended by 1996 PA 324; and to repeal acts and parts of acts. Bill Text Introduced (3/24/2015; To Judiciary) Position: Support
SB 228	MARRIAGE LICENSES (Knezek) Allows issuance of marriage license to same-sex couple without publicity. Amends 1897 PA 180 by amending section 1 (MCL 551.201), as amended by 1983 PA 199. Bill Text Introduced (3/24/2015; To Judiciary) Position: Support
SB 229	SAME-SEX MARRIAGE (Smith) Removes prohibition on same-sex marriage from foreign marriage act. Amends 1939 PA 168 by amending section 1 (MCL 551.271), as amended by 1996 PA 334; and to repeal acts and parts of acts. Bill Text Introduced (3/24/2015; To Judiciary) Position: Support
SB 249	NO-FAULT INSURANCE (Hune) Amends cross-reference to no-fault act in the support and parenting time enforcement act to reflect amendments to the no-fault act. Amends 1982 PA 295 by amending section 25a (MCL 552.625a), as amended by 2009 PA 193. Bill Text Reported in House (4/23/2015; By Insurance) Position: Support
SB 252	UNEMPLOYMENT BENEFITS (Hertel) Creates exception from disqualification from receiving benefits when leaving employment for domestic violence victim. Amends 1936 (Ex Sess) PA 1 by amending sections 17 and 29 (MCL 421.17 and 421.29), section 17 as amended by 2011 PA 269 and section 29 as amended by 2013 PA 146, and by adding section 29a. Bill Text Introduced (4/14/2015; To Commerce) Position : Support

SB 253	MEDIATION (Bieda) Limits mediation in certain domestic relations actions. Amends 1961 PA 236 (MCL 600.101 to 600.9947) by adding section 1035. Bill Text Introduced (4/14/2015; To Judiciary) Position: No Position
SB 254	PROTECTIVE ORDERS (Bieda) Provides for alternate service of papers if party is protected by a protective order. Amends 1961 PA 236 by amending sections 227 and 316 (MCL 600.227 and 600.316). Bill Text Introduced (4/14/2015; To Judiciary) Position: Oppose
SB 255	DOMESTIC VIOLENCE VICTIMS (Warren) Prohibits housing discrimination for domestic violence victims. Amends 1976 PA 453 by amending the title and section 502 (MCL 37.2502), the title as amended by 1992 PA 258 and section 502 as amended by 1992 PA 124. Bill Text Committee Hearing in Senate (5/26/2015) Position: Support
SB 256	SICK LEAVE (Ananich) Expands criteria for use of sick leave. Requires employers to permit use of sick leave to address issues arising from sexual assault, domestic violence, or stalking. Bill Text Introduced (4/14/2015; To Commerce) Position: Support
SB 257	DOMESTIC VIOLENCE VICTIMS (Emmons) Creates address confidentiality program for victims of domestic violence crime. Creates the address confidentiality program; provides certain protections for victims of domestic abuse, sexual assault, stalking, or human trafficking; and prescribes duties and responsibilities of certain state departments and agencies. Bill Text Introduced (4/14/2015; To Judiciary) Position: Support
SB 258	CHILD'S BEST INTEREST (Warren) Modifies factors determining best interest of child in cases of domestic violence. Amends 1970 PA 91 by amending section 3 (MCL 722.23), as amended by 1993 PA 259. Bill Text Introduced (4/14/2015; To Families, Seniors and Human Services)
SB 351	DIVORCE (Jones) Prohibits contacting a party to a divorce action for a certain time period. Amends 1961 PA 236 (MCL 600.101 to 600.9947) by adding section 914. Bill Text Received in House (6/11/2015; To Judiciary) Position: Support
SB 458	PARENTAL RIGHTS (Schuitmaker) Clarify grounds for termination of parental rights under certain circumstances. Amends 1939 PA 288 by amending section 51 of chapter X (MCL 710.51), as amended by 1996 PA 409. Bill Text Advanced to Third Reading in House (4/21/2016)
SB 517	UNIFORM INTERSTATE FAMILY SUPPORT ACT (MacGregor) Repeals and recreates uniform interstate family support act (UIFSA). Makes uniform the laws relating to support enforcement; and repeals acts and parts of acts. Bill Text Received in House (12/1/2015; To Judiciary)
SB 518 (PA 253)	FRIEND OF THE COURT (MacGregor) Updates friend of the court reference to the uniform interstate family support act. Amends 1982 PA 294 by amending section 2 (MCL 552.502), as amended by 2009 PA 233. Bill Text Signed by the Governor (12/23/2015; Signed: December 23, 2015; Effective: January 1, 2016)
SB 519 (PA 254)	CHILD SUPPORT (Emmons) Updates child support reference to the uniform interstate family support act. Amends 1971 PA 174 by amending section 3 (MCL 400.233), as amended by 2014 PA 381. Bill Text Signed by the Governor (12/23/2015; Signed: December 23, 2015; Effective: January 1, 2016)
SB 520	PARENTING TIME (Emmons) Updates parenting time reference to the uniform interstate family support act. Amends 1982 PA 295 by amending section 2 (MCL 552.602), as amended by 2014 PA 373. Bill Text Received in House (12/1/2015; To Judiciary)
SB 558	DOWER RIGHTS (Jones) Repeals dower rights. Amends 1846 RS 66 (MCL 558.1 to 558.29) by adding section 30; and to repeal acts and parts of acts. Bill Text Committee Hearing in House (5/3/2016)

SB 559	DOWER RIGHTS (Jones) Eliminates requirement that judgment of divorce contain provisions regarding wife's dower rights. Amends 1909 PA 259 by amending section 1 (MCL 552.101) as amended by 2006 PA 288. Bill Text Received in House (11/5/2015; To Judiciary) Passed in Senate (11/5/2015; 34-4)
SB 560	WILLS AND ESTATES (Jones) Revises reference to dower in estates and protected individuals code to reflect abolition of dower. Amends 1998 PA 386 by amending sections 1303, 2202, 2205, and 3807 (MCL 700.1303, 700.2202, 700.2205, and 700.3807), sections 1303, 2202, and 2205 as amended by 2000 PA 54 and section 3807 as amended by 2000 PA 177. Bill Text Committee Hearing in House (5/3/2016)
SB 629	PARENTAL RIGHTS (Jones) Expands termination of parental rights to a child to include forcible rape where child results. Amends 1939 PA 288 by amending section 19b of chapter XIIA (MCL 712A.19b), as amended by 2012 PA 386. Bill Text Received in House (12/16/2015; To Judiciary)
SB 646	SECOND PARENT ADOPTION (Warren) Provides for second parent adoption. Amends 1939 PA 288 by amending sections 24, 41, and 51 of chapter X (MCL 710.24, 710.41, and 710.51), section 24 as amended by 2014 PA 531, section 41 as amended by 1994 PA 222, and section 51 as amended by 1996 PA 409. Bill Text Introduced (12/9/2015; To Families, Seniors and Human Services)
SB 742	ATTORNEYS (Casperson) Modifies eligibility requirements for attorney licensed in another state to practice law in Michigan. Amends 1961 PA 236 by amending sections 931, 937, 940, and 946 (MCL 600.931, 600.937, 600.940, and 600.946), section 931 as amended by 2000 PA 86, and by adding section 945. Bill Text Committee Hearing in Senate (2/23/2016)
SB 811	SURROGATE PARENTING ACT (Warren) Repeals surrogate parenting act and establishes the gestational surrogate parentage act. Establishes gestational surrogate parentage contracts; allows gestational surrogate parentage contracts for compensation; provides for a child conceived, gestated, and born according to a gestational surrogate parentage contract; provides penalties and remedies; and repeals acts and parts of acts. Bill Text Introduced (2/23/2016; To Families, Seniors and Human Services)
SB 858	PATERNITY REVOCATION (Jones) Clarifies revocation of paternity in cases where a child's birth is the result of criminal sexual conduct. Amends 2012 PA 159 by amending sections 13 and 15 (MCL 722.1443 and 722.1445), section 13 as amended by 2014 PA 374. Bill Text Committee Hearing in Senate (5/3/2016) Position: Oppose
SB 882	PARENTING TIME (Hune) Allows another family member to use parenting time when parent is on active duty outside of Michigan. Amends 1970 PA 91 (MCL 722.21 to 722.31) by adding section 7d. Bill Text Introduced (4/13/2016; To Families, Seniors and Human Services)
HR 149	DOMESTIC VIOLENCE AWARENESS (Cox) A resolution to declare October 2015 as Domestic Violence Awareness Month in the state of Michigan. Bill Text Passed in House (9/24/2015; Voice vote, With substitute H-1)

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