MICHIGAN
BAR JOURNAL
MAY 2025

# IMMIGRATION LAW

- Getting in line? The myth and reality
- The H-1B visa: Navigating the January 17, 2025 final rule and its impact on entrepreneurs and employers
- Understanding child abuse, neglect, and abandonment as an immigrant advocate
- Expanding access to our courts: Extending probate court's jurisdiction to establish guardianships

SINCE 1951

# SINAS DRAMIS

## PERSONAL INJURY LAW

## Michigan's Advocates for the Injured

## Referral Fees Honored*

SinasDramis.com - 866.758.0031

*Subject to ethical rules

Office Locations:

Lansing ~ Grand Rapids ~ Kalamazoo ~ Metro Detroit ~ Ann Arbor

SBM
State Bar of Michigan

The State Bar of Michigan Career Center offers job seekers the tools they need to quickly find and apply for top legal jobs.

# LEGAL PROFESSIONALS:

## Keep Your Career on the Move

- **SEARCH** and apply to hundreds of jobs on the spot
- **QUICKLY** configure alerts to deliver jobs to your inbox
- **SEEK** expert advice about your career issues
- **RECEIVE** a free evaluation of your résumé

### Questions?

Quickly connect with thousands of highly engaged professionals through same-day job postings. Questions? Contact Micayla Goulet at 860.532.1888 or micayla.goulet@communitybrands.com.

ymcareers™
by communitybrands

**jobs.michbar.org**

# The best-run law firms use Clio.

"We have been using Clio for six years. As our firm grows and our needs mature, Clio is right there with us.

– Billie Tarascio, Managing Member
Modern Law, Mesa, AZ

SBM
State Bar of Michigan

State Bar of Michigan members receive a 10% discount with Clio.

Clio is the world's leading practice management solution. Find out why over 150,000 lawyers trust Clio to better manage their law firm.

**1-877-754-9153**
**clio.com/sbm**

Clio®

MICHIGAN
# BAR JOURNAL

MAY 2025 | VOL. 104 | NO. 05



## OF INTEREST

MICHIGAN
# BAR JOURNAL

MAY 2025 • VOL. 104 • NO. 05

**OFFICIAL JOURNAL OF THE STATE BAR OF MICHIGAN**
EXECUTIVE DIRECTOR: PETER CUNNINGHAM

DIRECTOR OF COMMUNICATIONS
**MARJORY RAYMER**

DESIGN & ART DIRECTION
**SARAH LAWRENCE**

ADVERTISING
**STACY OZANICH**

LAYOUT ASSISTANCE
**DEPHANIE QUAH**
**CIESA INC.**

THEME EDITOR
**NEIL GIOVANATTI**



**CONTACT US**
BARJOURNAL@MICHBAR.ORG

**ADVERTISING**
ADVERTISING@MICHBAR.ORG

**READ ONLINE**
MICHBAR.ORG/JOURNAL



The Michigan Bar Journal (ISSN 0164-3576) is published monthly except August for $60 per year in the United States and possessions and $70 per year for foreign subscriptions by the State Bar of Michigan, Michael Franck Building, 306 Townsend St., Lansing, MI 48933-2012. Periodicals postage paid at Lansing, MI and additional mailing offices. POSTMASTER: Send address changes to the Michigan Bar Journal, State Bar of Michigan, Michael Franck Building, 306 Townsend St., Lansing, MI 48933-2012.

## COLUMNS



## NOTICES

# REFER YOUR INJURY CASES TO BUCKFIRE LAW FIRM

**Our award-winning trial lawyers are the best choice to refer your personal injury and medical negligence cases.**

Robert J. Lantzy, Attorney

## We are the best law firm to refer your BIG CASES.

In the past ***12 months***, we have won the following verdicts and settlements. And we paid referral fees to attorneys, just like you, on many of these significant cases.

**$9,000,000** **Autistic child abuse settlement**
**$6,400,000** **Civil rights prison death jury verdict**
**$6,000,000** **Boating accident death**
**$1,990,000** **Auto accident settlement**
**$1,000,000** **Assisted living facility choking death settlement**
**$ 825,000** **Neurosurgery medical malpractice settlement**
**$ 775,000** **Doctor sexual assault settlement**
**$ 750,000** **Motorcycle accident settlement**

### BUCKFIRE LAW HONORS REFERRAL FEES

We use sophisticated intake software to attribute sources of our referrals, and referral fees are promptly paid in accordance with MRPC 1.S(e). We guarantee it in writing.

### Refer Us These Injury Cases

- Auto Accidents
- Truck Accidents
- Motorcycle Accidents
- No-Fault Insurance
- Dog Attacks
- Medical Malpractice
- Cerebral Palsy/Birth Injury
- Nursing Home Neglect
- Wrongful Death
- Police Misconduct
- Sexual Assault
- Defective Premises
- Poisonings
- Other Personal Injuries

### HOW TO REFER US YOUR CASE

**Referring us your case is fast and easy. You can:**

1. Call us at **(313) 800-8386**
2. Go to **https://buckfirelaw.com/attorney-referral**
3. **Scan the QR Code** with your cell phone camera

Attorney Lawrence J. Buckfire is responsible for this ad: (313) 800-8386.


**BuckfireLaw.com**

# MONEY JUDGMENT INTEREST RATE

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals in January and July of each year from when the complaint was filed as is compounded annually.

For a complaint filed after Dec. 31, 1986, the rate as of January 1, 2025, is 4.016%. This rate includes the statutory 1%.

A different rule applies for a complaint filed after June 30, 2002, that is based on a written instrument with its own specific interest rate. The rate is the lesser of:

13% per year, compounded annually; or

The specified rate, if it is fixed — or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see https://www.michigan.gov/taxes/interest-rates-for-money-judgments.

As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.

RECENTLY RELEASED

# MICHIGAN LAND TITLE STANDARDS

**6TH EDITION**
**8TH SUPPLEMENT (2021)**

The Eighth Supplement (2021) to the 6th Edition of the Michigan Land Title Standards prepared and published by the Land Title Standards Committee of the Real Property Law Section is now available for purchase.

Still need the 6th edition of the Michigan Land Title Standards and the previous supplements? They are also available for purchase.

# DUTY TO REPORT AN ATTORNEY'S CRIMINAL CONVICTION

All Michigan attorneys are reminded of the reporting requirements of **MCR.9120(A)** when a lawyer is convicted of a crime

## WHAT TO REPORT:

A lawyer's conviction of any crime, including misdemeanors. A conviction occurs upon the return of a verdict of guilty or upon the acceptance of a plea of guilty or no contest.

## WHO MUST REPORT:

Notice must be given by all of the following:
1. The lawyer who was convicted;
2. The defense attorney who represented the lawyer; and
3. The prosecutor or other authority

## WHEN TO REPORT:

Notice must be given by the lawyer, defense attorney, and prosecutor within 14 days after the conviction.

## WHERE TO REPORT:

Written notice of a lawyer's conviction must be given to **both**:

**Grievance Administrator**
Attorney Grievance Commission
PNC Center
755 W. Big Beaver Road, Suite 2100
Troy, MI 48084

**Attorney Discipline Board**
333 W. Fort St., Suite 1700
Detroit, MI 48226

SBM
State Bar of Michigan

## BOARD OF COMMISSIONERS MEETING SCHEDULE

JUNE 13, 2025
JULY 25, 2025
SEPTEMBER 19, 2025

SBM
State Bar of Michigan

## MEMBER SUSPENSION FOR NONPAYMENT OF DUES

This list of active attorneys who are suspended for nonpayment of their State Bar of Michigan 2023-2024 dues is published on the State Bar's website at michbar.org/generalinfo/pdfs/suspension.pdf.

In accordance with Rule 4 of the Supreme Court's Rules Concerning the State Bar of Michigan, these attorneys are suspended from active membership effective Feb. 15, 2025, and are ineligible to practice law in the state.

For the most current status of each attorney, see our member directory at directory.michbar.org.

# STATE BAR OF MICHIGAN

## BOARD OF COMMISSIONERS

Joseph P. McGill, Livonia, President
Lisa J. Hamameh, Southfield, President-Elect
Erika L. Bryant, Detroit, Vice President
Thomas H. Howlett, Bloomfield Hills, Treasurer
David C. Anderson, Southfield, Secretary
Aaron V. Burrell, Detroit
Hon. B. Chris Christenson, Flint
Alena M. Clark, Lansing
Ponce D. Clay, Detroit
Tanya Cripps-Serra, Detroit
Patrick J. Crowley, Marquette
Sherriee L. Detzler, Utica
Robert A. Easterly, Okemos
Jacob G. Eccleston, Kalamazoo
Nicole A. Evans, East Lansing
Claudnyse D. Holloman, Southfield
Elizabeth A. Kitchen-Troop, Ann Arbor
Suzanne C. Larsen, Marquette
Joshua A. Lerner, Royal Oak
James L. Liggins Jr., Kalamazoo
James W. Low, Southfield
Ashley E. Lowe, Pontiac
Elizabeth L. Luckenbach, Troy
Silvia A. Mansoor, Livonia
Gerard V. Mantese, Troy
Gerrow D. Mason, Marysville
Thomas P. Murray Jr., Grand Rapids
Takura N. Nyamfukudza, Okemos
Nicholas M. Ohanesian, Grand Rapids
Hon. David A. Perkins, Detroit
John W. Reiser III, Ann Arbor
Douglas B. Shapiro, Ann Arbor
Hon. Kristen D. Simmons, Lansing
Danielle Walton, Pontiac

## AMERICAN BAR ASSOCIATION

321 North Clark Street, Chicago, IL 60610
312.988.5000

### MICHIGAN DELEGATES

Dennis W. Archer, Past President 2003-04
Mark A. Armitage, State Bar Delegate
Carlos A. Escurel, State Bar Delegate
Emma N. Green, State Bar Young Lawyers Section
Lisa J. Hamameh, State Bar Delegate
Sheldon G. Larky, State Bar Delegate
James W. Low, Oakland County Bar Association Delegate
Joseph P. McGill, State Bar Delegate
Hon. Denise Langford Morris, National Bar Association
Harold D. Pope III, State Delegate
Thomas C. Rombach, ABA Board of Governors
Reginald M. Turner Jr., Past President 2022-23
Janet K. Welch, State Bar Delegate

## MICHIGAN STATE BAR FOUNDATION

Michael Franck Building, 306 Townsend St.
Lansing, MI 48933 517.346.6400

### DIRECTORS

Craig H. Lubben, President
Julie I. Fershtman, Vice President
Richard K. Rappleye, Treasurer
Ronda Tate Truvillion, Secretary
Thomas R. Behm
Thomas W. Cranmer
Steven G. Howell
Karen Leppanen Miller
Hon. William B. Murphy
Jonathan E. Osgood
Michael L. Pitt
Robert F. Riley
Hon. Victoria A. Roberts
Richard A. Soble
Nicole M. Wotlinski
Hon. Elizabeth T. Clement, Ex Officio
Joseph P. McGill, Ex Officio
Lisa J. Hamameh, Ex Officio
Jennifer S. Bentley, Executive Director

## ATTORNEY GRIEVANCE COMMISSION

PNC Center
755 W. Big Beaver Rd., Ste. 2100
Troy, MI 48084 | 313.961.6585
Michael V. Goetz, Grievance Administrator

## JUDICIAL TENURE COMMISSION

Cadillac Place
3034 W. Grand Blvd., 8th Floor, Ste. 450
Detroit, MI 48202 | 313.875.5110
Lynn A. Helland, Executive Director and General Counsel

## ATTORNEY DISCIPLINE BOARD

333 W. Fort Street, Ste. 1700
Detroit, MI 48226 | 313.963.5553
Wendy A. Neeley, Executive Director and General Counsel

# STATE BAR OF MICHIGAN

## REPRESENTATIVE ASSEMBLY

**CIRCUIT 1**
Jean-Paul H. Rudell

**CIRCUIT 2**
Amber D. Peters
Scott R. Sanford

**CIRCUIT 3**
Deborah K. Blair
Erika L. Bryant
Aaron V. Burrell
LaKena T. Crespo
Robin E. Dillard
Judge Macie Tuiasosopo Gaines
Robbie J. Gaines, Jr.
Judge Kristina Robinson Garrett
Michael E. Hall
Daniel S. Korobkin
Mark M. Koroi
Dawn S. Lee-Cotton
Joseph P. McGill
Shanika A. Owens
Judge David A. Perkins
Richard M. Soranno
Delicia A. Taylor Coleman
Lisa W. Timmons
Kimberley A. Ward
Rita O. White
Chastity A. Youngblood

**CIRCUIT 4**
Brad A. Brelinski
Steven E. Makulski

**CIRCUIT 5**
William D. Renner, II

**CIRCUIT 6**
David C. Anderson
Michael J. Blau
Fatima M. Bolyea
Spencer M. Bondy
Mary A. Bowen
James P. Brennan
Lanita L. Carter
Coryelle E. Christie
Jennifer A. Cupples
Alec M. D'Annunzio
Tanisha M. Davis
Ashley Felton Eckerly
Catrina Farrugia
Dennis M. Flessland
Dandridge Floyd
Karen R. Geibel
Lisa J. Hamameh
Edward L. Haroutunian
Elizabeth A. Hohauser
Thomas H. Howlett
Nicole S. Huddleston
Toya Y. Jefferson
Sheldon G. Larky
Tracey L. Lee
Rhonda Spencer Pozehl
Marcileen C. Pruitt
Kymberly Kinchen Reeves
Steven L. Rotenberg
Michael E. Sawicky
Kimberly L. Ward
James T. Weiner
Vacancy

**CIRCUIT 7**
Marc D. Morse
Katherine M. Stanley
Julie A. Winkfield

**CIRCUIT 8**
Katie M. Johnson

**CIRCUIT 9**
Mark A. Holsomback
Donald L. R. Roberts
Gail M. Towne

**CIRCUIT 10**
Jennifer A. Van Benschoten Jones
Krystal K. Pussehl

**CIRCUIT 11**
Chad W. Peltier

**CIRCUIT 12**
Vacancy

**CIRCUIT 13**
Kyle F. Attwood
Agnieszka Jury
Anca I. Pop

**CIRCUIT 14**
Shawn L. Perry
Vacancy

**CIRCUIT 15**
Zachary W. Stempien

**CIRCUIT 16**
Brianne M. Gidcumb
R. Timothy Kohler
Aaron P. Ogletree
Vacancy
Lauren D. Walker
Ashley L. Zacharski

**CIRCUIT 17**
Daniel V. Barnett
Davina A. Bridges
Brent T. Geers
Tobijah B. Koenig
Jonathan J. Paasch
Ashleigh Kline Russett
Philip L. Strom
Carolyn M. Horton Sullivan

**CIRCUIT 18**
Vacancy
Vacancy

**CIRCUIT 19**
Lesya N. Dull

**CIRCUIT 20**
Anna C. White
Christopher M. Wirth

**CIRCUIT 21**
Becky J. Bolles

### OFFICERS

John W. Reiser III, Chairperson
Nicole A. Evans, Vice Chairperson
Alena M. Clark, Clerk

### UPCOMING MEETINGS

September 19, 2025

MICHBAR.ORG/GENERALINFO/REPASSEMBLY

**CIRCUIT 22**
Toi E. Dennis
Lisa C. Hagan
Mark W. Jane
Elizabeth C. Jolliffe
Amy S. Krieg
John W. Reiser, III

**CIRCUIT 23**
Vacancy

**CIRCUIT 24**
Vacancy

**CIRCUIT 25**
Suzanne C. Larsen
Jeremy S. Pickens
Judge Karl A. Weber

**CIRCUIT 26**
Lucas B. Patton

**CIRCUIT 27**
Vacancy

**CIRCUIT 28**
Alexander S. Mallory

**CIRCUIT 29**
Laura J. Lambert
Ann C. Sharkey

**CIRCUIT 30**
Elizabeth K. Abdnour
Ernscie Augustin
Kristina A. Bilowus
Alena Clark
Nicole A. Evans
Kara R. Hart-Negrich
Joshua M. Pease

**CIRCUIT 31**
Richard W. Schaaf
Vacancy

**CIRCUIT 32**
Rudolph F. Perhalla

**CIRCUIT 33**
Amanda J. Skeel

**CIRCUIT 34**
Troy B. Daniel

**CIRCUIT 35**
Vacancy

**CIRCUIT 36**
Christopher N. Moraitis

**CIRCUIT 37**
David E. Gilbert
Lee D. Graham

**CIRCUIT 38**
Gregg P. Iddings
Jessica M. Paladino

**CIRCUIT 39**
Katarina L. DuMont

**CIRCUIT 40**
Bernard A. Jocuns

**CIRCUIT 41**
Judge Christopher S. Ninomiya

**CIRCUIT 42**
Patrick A. Czerwinski
Vacancy

**CIRCUIT 43**
Nicholas A. Lebbin

**CIRCUIT 44**
David T. Bittner
David E. Prine

**CIRCUIT 45**
Keely A. Beemer

**CIRCUIT 46**
Courtney E. Cadotte

**CIRCUIT 47**
Dean W. Herioux

**CIRCUIT 48**
Michael J. Becker

**CIRCUIT 49**
Steven M. Balkema

**CIRCUIT 50**
Robert L. Stratton, III

**CIRCUIT 51**
Tracie L. McCarn-Dinehart

**CIRCUIT 52**
Judge David B. Herrington

**CIRCUIT 53**
Vacancy

**CIRCUIT 54**
Vacancy

**CIRCUIT 55**
Mark Toaz

**CIRCUIT 56**
Timothy Hilton Havis
Adam Hunter Strong

**CIRCUIT 57**
Christina L. DeMoore

# NEWS & MOVES

## ARRIVALS & PROMOTIONS

**ALI BAZZI** has joined Varnum's Corporate Practice Team in the Birmingham office.

**BRADLEY GRAY** has joined Plunkett Cooney, in the firm's Labor & Employment Law Practice Group.

**DAN BRUBAKER** has been named the Michigan Supreme Court's Chief Operating Officer.

**JASON P. COLVIN** has joined the Kalamazoo office of Warner Norcross + Judd LLP as a partner.

**SAM KOKOSZKA** has joined the Birmingham office of Varnum, as a partner in the firm's Real Estate Practice Team.

**JOHN W. POLDERMAN** and **RACHAEL FRAWLEY-PANYARD** joined Stevenson & Bullock PLC.

**ERIC RAMAR** has joined Ottenwess Law as a Partner.

**KRISTA COTTER RANTA**, **ALEXIS LAURING**, **DAVID LIN**, and **KEVIN MAJEWSKI** have joined Maddin Hauser.

**KATELYN WIERENGA** has joined the Grand Rapids office of Plunkett Cooney as a member of its Transportation Law and Litigation practice groups.

**SARA ZIVIAN ZWICKL** has joined Couzens Lansky as of counsel.

## LEADERSHIP

**LUIS AVILA**, with Varnum, has been re-appointed to the Grand Rapids Art Museum board of trustees for 2025.

**LEE HORNBERGER** has been approved to be on the District of Columbia Public Employee Relations Board List of Neutrals.

**JORDAN VALENTINE**, with Varnum, has been appointed to the board of trustees for Siena Heights University.

## OTHER

**BUTZEL** is accepting applications now through Monday, March 31, 2025, for the inaugural Richard Rassel Butzel Core Values Scholarship, an annual $15,000 award to be presented to a deserving law school student.

**FISHMAN STEWART PLLC** has expanded its practice areas to include sports law.

**GOODMAN ACKER** is moving to a new Southfield location, Two Towne Square, Suite 444.

## PRESENTATIONS, PUBLICATIONS & EVENTS

**ATTORNEY'S RESOURCE CONFERENCE**—Attention personal injury, medical malpractice, and any attorney who works on cases involving medical records! Join The Attorney's Resource Conference, August 12 -14, 2025, in Garden Theater, Detroit, Michigan.

The **INGHAM COUNTY BAR ASSOCIATION** will host a presentation titled, Ethics Refresher: Navigating IOLTA, Attorney Grievances, and Legal Malpractice Claims, on Wednesday, April 9, 2025.

The **INGHAM COUNTY BAR FOUNDATION** will host a Judicial Retirement Reception on Thursday, April 17, 2025, at 5 p.m.

**REGINALD A. PACIS**, with Butzel, was a featured presenter during a virtual program addressing key immigration issues hosted by Global Detroit on Tuesday, March 25, 2025.

## SECTION BRIEF

**THE HEALTH CARE LAW SECTION** sponsored the 30th Annual ICLE Health Law Institute on March 13. The event focused on current state and federal updates and regulatory trends, along with critical updates on hot topics. The Section also held a toy drive for the Bottomless Toy Chest, which provides gifts to children with cancer. The evening closed with a volunteer appreciation dinner honoring those Section members who have volunteered their time and talents.

# IN MEMORIAM

**HON. JANET M. ALLEN**, P30817, of Gaylord, died April 14, 2025. She was born in 1951, graduated from Detroit College of Law, and was admitted to the Bar in 1979.

**JEFFREY H. BEUSSE**, P29869, of Ada, died July 4, 2024. He was born in 1944, and was admitted to the Bar in 1979.

**GARY T. BRITTON**, P26132, of Muskegon, died September 16, 2024. He was born in 1947, graduated from Wayne State University Law School, and was admitted to the Bar in 1976.

**FRANK J. BUJOLD**, P11369, of Bloomfield Hills, died January 3, 2025. He was born in 1931, graduated from University of Detroit Mercy School of Law, and was admitted to the Bar in 1954.

**TERRIE J. HARTMAN BULLINGER**, P32161, of Grand Rapids, died July 24, 2024. She was born in 1952, graduated from Wayne State University Law School, and was admitted to the Bar in 1980.

**KEITH D. CERMAK**, P11756, of Sterling Heights, died April 17, 2025. He was born in 1947, and was admitted to the Bar in 1972.

**PAUL B. COFFEY**, P12008, of Bingham Farms, died February 24, 2025. He was born in 1936, and was admitted to the Bar in 1968.

**DOUGLAS F. DUCHEK**, P42657, of Birmingham, died May 23, 2024. He was born in 1947, and was admitted to the Bar in 1989.

**DYNAH NAOMI JULIETTE DUNCAN-WHITE**, P74200, of Dearborn, died February 28, 2025. She was born in 1964, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 2010.

**GERALD K. FLAGG**, P23280, of West Bloomfield, died October 16, 2024. He was born in 1933, graduated from Detroit College of Law, and was admitted to the Bar in 1973.

**RONALD F. GEE**, P26395, of Rochester Hills, died January 13, 2025. He was born in 1947, graduated from University of Detroit Mercy School of Law, and was admitted to the Bar in 1976.

**ROBERT B. HART**, P14700, of Berkley, died May 22, 2024. He was born in 1926, graduated from Wayne State University Law School, and was admitted to the Bar in 1953.

**AMY B. HARTMANN**, P39217, of Grosse Pointe Farms, died March 27, 2025. She was born in 1960, graduated from Wayne State University Law School, and was admitted to the Bar in 1986.

**HON. ARCHIE L. HAYMAN**, P37516, of Flint, died March 14, 2025. He was born in 1956, graduated from Detroit College of Law, and was admitted to the Bar in 1985.

**WM D. JENNESS, III**, P15489, of Lansing, died August 12, 2024. He was born in 1933, and was admitted to the Bar in 1972.

**FRANKLIN H. KASLE**, P25379, of Flint, died December 9, 2024. He was born in 1941, graduated from University of Michigan Law School, and was admitted to the Bar in 1975.

**BARRY M. KELMAN**, P15851, of Farmington, died May 5, 2024. He was born in 1947, graduated from Wayne State University Law School, and was admitted to the Bar in 1971.

**RANDALL W. KRAKER**, P27776, of Grand Rapids, died April 17, 2025. He was born in 1950, and was admitted to the Bar in 1977.

**MICHAEL R. KRAMER**, P16207, of Troy, died March 28, 2025. He was born in 1943, graduated from Wayne State University Law School, and was admitted to the Bar in 1969.

**JOSEPH M. LA BELLA**, P37987, of Detroit, died March 5, 2025. He was born in 1955, graduated from University of Detroit Mercy School of Law, and was admitted to the Bar in 1985.

**HON. JAMES E. LACEY**, P16327, of Northville, died March 21, 2025. He was born in 1934, graduated from Detroit College of Law, and was admitted to the Bar in 1962.

**KAREN E. LIVINGSTON-WILSON**, P36585, of Madison, Miss., died December 25, 2024. She was born in 1957, graduated from Wayne State University Law School, and was admitted to the Bar in 1984.

**JONATHAN D. LOWE**, P27128, of Bloomfield Hills, died February 2, 2025. He was born in 1954, graduated from University of Michigan Law School, and was admitted to the Bar in 1977.

**MARTIN K. MAGID**, P23183, of Watkinsville, Ga., died November 15, 2024. He was born in 1933, graduated from Wayne State University Law School, and was admitted to the Bar in 1973.

**PETER G. MANSOUR**, P43209, of Farmington Hills, died October 27, 2024. He was born in 1940, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1990.

**RICHARD C. MARSH**, P17120, of Ann Arbor, died September 27, 2024. He was born in 1943, graduated from University of Michigan Law School, and was admitted to the Bar in 1969.

**GEORGE G. MATISH**, P17209, of Ann Arbor, died July 14, 2024. He was born in 1940, graduated from Wayne State University Law School, and was admitted to the Bar in 1968.

**BRIAN K. MILLINGTON**, P17793, of Henderson, Nev., died February 15, 2025. He was born in 1932, graduated from Wayne State University Law School, and was admitted to the Bar in 1958.

**ANN L. NICKEL**, P37005, of Monroe, died March 21, 2025. She was born in 1957, and was admitted to the Bar in 1984.

**MICHAEL D. PERKINS**, P31705, of Flint, died August 28, 2024. He was born in 1953, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1980.

**BRUCE B. PRILLWITZ**, P26587, of Rochester, died August 3, 2024. He was born in 1950, and was admitted to the Bar in 1976.

**CHARLES A. ROEHL**, P19553, of Grosse Pointe Farms, died March 27, 2025. He was born in 1936, and was admitted to the Bar in 1968.

**CHRIS E. ROSSMAN**, P25611, of Detroit, died April 12, 2025. He was born in 1950, graduated from Wayne State University Law School, and was admitted to the Bar in 1975.

**ROBERTA R. RUSS**, P41369, of West Bloomfield, died August 14, 2024. She was born in 1943, graduated from Wayne State University Law School, and was admitted to the Bar in 1988.

**JAMES F. SCALES**, P40639, of Grand Rapids, died March 26, 2025. He was born in 1961, graduated from University of Michigan Law School, and was admitted to the Bar in 1987.

**LAWRENCE E. SCHULTZ**, P20097, of Ocala, Fla., died March 20, 2025. He was born in 1944, graduated from University of Detroit Mercy School of Law, and was admitted to the Bar in 1971.

**WEBB A. SMITH**, P20718, of Lansing, died April 2, 2025. He was born in 1938, graduated from University of Michigan Law School, and was admitted to the Bar in 1963.

**RICHARD G. SWANEY**, P21188, of Holland, died March 1, 2025. He was born in 1947, graduated from University of Michigan Law School, and was admitted to the Bar in 1973.

**DAVID MARK THOMPSON**, P26945, of Asheville, N.C., died July 25, 2024. He was born in 1947, and was admitted to the Bar in 1976.

**OLIVER E. TODD, JR.**, P62539, of Charlevoix, died January 15, 2025. He was born in 1940, and was admitted to the Bar in 2001.

**SAMUEL C. URSU**, P37593, of Beverly Hills, died January 15, 2025. He was born in 1932, graduated from Detroit College of Law, and was admitted to the Bar in 1985.

**JOHN H. WALDECK**, P21901, of New Baltimore, died July 7, 2024. He was born in 1936, and was admitted to the Bar in 1965.

---

*In Memoriam information is published as soon as possible after it is received. To notify us of the passing of a loved one or colleague, please email barjournal@michbar.org.*

---

# FROM THE PRESIDENT

JOSEPH PATRICK MCGILL

# We all could use a little Irish pragmatism (and the rule of law)

It is no secret that the practice of law by and large is the dispute resolution process with an emphasis on the term "resolution." In the pursuit of justice and to obtain resolutions, lawyers and judges rely on a multitude of legal doctrines and precedents. The rule of law and the doctrine of Irish pragmatism are two fundamental principles that shape the social, political, and legal landscapes of societies. Though these concepts are grounded in different intellectual traditions, they both play pivotal roles in shaping governance, social justice, and decision-making. The rule of law is a widely accepted legal principle, while Irish pragmatism reflects a specific cultural and historical context that influences the nation's political thought and practices. Comparing and contrasting these two doctrines demonstrates how the application of Irish pragmatism in the practice of law in the state of Michigan, combined with the doctrine of the rule of law, reveals connections between the philosophy's flexibility and the practical decision-making involved in American legal processes.

## ORIGINS AND FOUNDATIONS

### The rule of law

The rule of law is a foundational concept in legal theory and practice. Its origins can be traced back to Ancient Greece, notably in the writings of Aristotle, who emphasized the importance of law as a guide to virtuous living. However, it was during the Enlightenment period, particularly with thinkers such as John Locke, Montesquieu, and A.V. Dicey, that the rule of law was more formally defined and incorporated into modern legal and political frameworks.

In its most basic form, the rule of law asserts that everyone, regardless of power or status, is subject to the law. This principle ensures that the law governs a nation, rather than arbitrary decisions by individuals. It is underpinned by concepts such as equality before the law, fairness in the legal process, and the independence of the judiciary. It also demands transparency, accountability, and legal certainty, ensuring that laws are clear, public, and consistent. In democratic societies, the rule of law serves as a safeguard against tyranny and injustice.

## IRISH PRAGMATISM

Irish pragmatism, on the other hand, is a more culturally specific doctrine that draws from a long tradition of Irish philosophical thought and political experience. Rooted in the intellectual contributions of thinkers like George Berkeley, John Toland, and later, in the 20th century, figures such as Eamon de Valera, Irish pragmatism is closely linked to the country's historical experiences, including colonialism, independence, and the challenges of state-building. Pragmatism in its general philosophical sense was developed by American thinkers like Charles Sanders Peirce, William James, and John Dewey.

The key tenet of pragmatism is that ideas, policies, or actions should be judged by their practical effects, rather than abstract principles or theories. Irish pragmatism, however, took a more distinct form due to the unique sociopolitical context of Ireland. This doctrine emphasizes adaptability, compromise, and practicality in political and social affairs. It stresses the importance of making decisions based on what works in real-life situations, often favoring incremental change over idealistic or revolutionary shifts.

## KEY PRINCIPLES

### The rule of law

The rule of law encompasses several key principles that guide the functioning of legal systems in democratic societies:

1. **Equality before the law**: This principle holds that all individuals, regardless of their status, wealth, or political power, are subject to the same laws and legal processes. It prevents discrimination and ensures fairness in the legal system.
2. **Supremacy of law**: The rule of law dictates that laws are supreme and must be followed by all, including government officials. This principle prevents arbitrary or dictatorial actions, ensuring that legal norms govern society.
3. **Legal certainty and transparency**: The laws must be clear, stable, and accessible to ensure that individuals understand their rights and obligations. Laws should not be arbitrary or retrospective.
4. **Independence of the judiciary**: An impartial and independent judiciary is crucial to the rule of law, as judges must be free from external pressures, including political influence, to interpret and apply the law fairly.
5. **Access to justice**: This principle ensures that individuals have the right to a fair trial and to seek remedies for injustices, which are essential for protecting individual rights.

## IRISH PRAGMATISM

Irish pragmatism, as reflected in the country's political philosophy, operates on a set of principles that prioritize practical, context-sensitive solutions over theoretical ideals. Some key tenets of Irish pragmatism include:

1. **Practicality and adaptability**: Irish pragmatism encourages decision-making that is grounded in real-world experience and effectiveness. Policies and actions are judged by their outcomes, with an emphasis on practicality rather than theoretical purity.
2. **Compromise and incremental change**: Given Ireland's history of division and conflict, particularly the experience of colonialism and the subsequent struggle for independence, Irish pragmatism often leans towards gradual reform and compromise. The idea is to avoid extreme positions and instead find middle-ground solutions that are acceptable to different groups.
3. **Context sensitivity**: Irish pragmatism places a strong emphasis on the specific historical, cultural, and social context in which decisions are made. It recognizes that different situations require different solutions and that abstract universal principles may not always apply in complex, evolving societies.
4. **Pragmatic nationalism**: This is another key aspect of Irish pragmatism, especially as it relates to the formation of the Irish state. Irish political leaders like Eamon de Valera were known for their practical approach to achieving independence and building the Irish state, often prioritizing stability and sovereignty over ideological purity.

## PRACTICAL APPLICATIONS

### The rule of law in practice

In practice, the rule of law serves as the bedrock of a functioning democracy, ensuring that the government and its institutions act within the confines of the law. The principle of legal equality, for example, ensures that everyone has equal access to justice, whether they are ordinary citizens or powerful political leaders. In countries that uphold the rule of law, the judiciary plays a crucial role in maintaining this balance, as courts hold the power to review government actions and ensure they comply with the law.

The rule of law also requires the protection of fundamental rights, which is often enshrined in constitutions or bills of rights. For instance, the European Convention on Human Rights is a key document that enforces the rule of law across European nations, ensuring that governments uphold basic human freedoms such as the right to a fair trial and freedom of expression.

## IRISH PRAGMATISM IN PRACTICE

In Ireland, Irish pragmatism has been central to the country's approach to governance and diplomacy. For example, the peace process in Northern Ireland demonstrates the application of Irish pragmatism, where leaders from both the Protestant and Catholic communities sought practical, workable solutions to the conflict rather than adhering to ideological positions. The Good Friday Agreement (1998) was a result of such pragmatic efforts, bringing about a power-sharing government that accommodated different political and cultural perspectives.

Another example is Ireland's approach to economic policy. The country has often demonstrated a pragmatic balance between maintaining social welfare and embracing economic liberalization. For instance, Ireland's rapid economic growth during the Celtic Tiger period (1995-2007) was driven by a pragmatic approach to economic policy, which included embracing foreign direct investment, deregulation, and fostering a competitive business environment.

## THE APPLICATION OF IRISH PRAGMATISM IN MICHIGAN'S LEGAL PRACTICE

While Irish pragmatism is primarily associated with Irish political and social contexts, its core tenets—pragmatic decision-making, adaptability, and contextual sensitivity—have resonances in American legal practice, including in Michigan. Michigan's legal system, while based on American constitutional law, frequently exhibits pragmatic approaches to legal decision-making, especially in cases that involve complex social, economic, and political issues.

For instance, Michigan courts have occasionally embraced pragmatic approaches when resolving issues related to public policy, such as land use, civil rights, and environmental regulations. Michigan has a history of balancing environmental protection with economic development, much like the incremental policy changes often seen in Irish governance. Michigan's approach to urban redevelopment and zoning laws exemplifies pragmatic flexibility—adapting legal frameworks to meet the specific needs of local communities, much as Irish pragmatists advocate for context-sensitive solutions.

In addition, Michigan's criminal justice system often demonstrates pragmatic decision-making in sentencing, with some judges emphasizing rehabilitation over punitive measures, aligning with pragmatic principles that focus on practical outcomes. For example, Michigan's juvenile justice reform is aimed at creating more rehabilitative opportunities rather than harsh punitive measures, which illustrates a tendency toward seeking workable, effective solutions based on the practical circumstances of each case.

## KEY DIFFERENCES

Despite both doctrines being concerned with governance and the public good, the rule of law and Irish pragmatism diverge in significant ways:

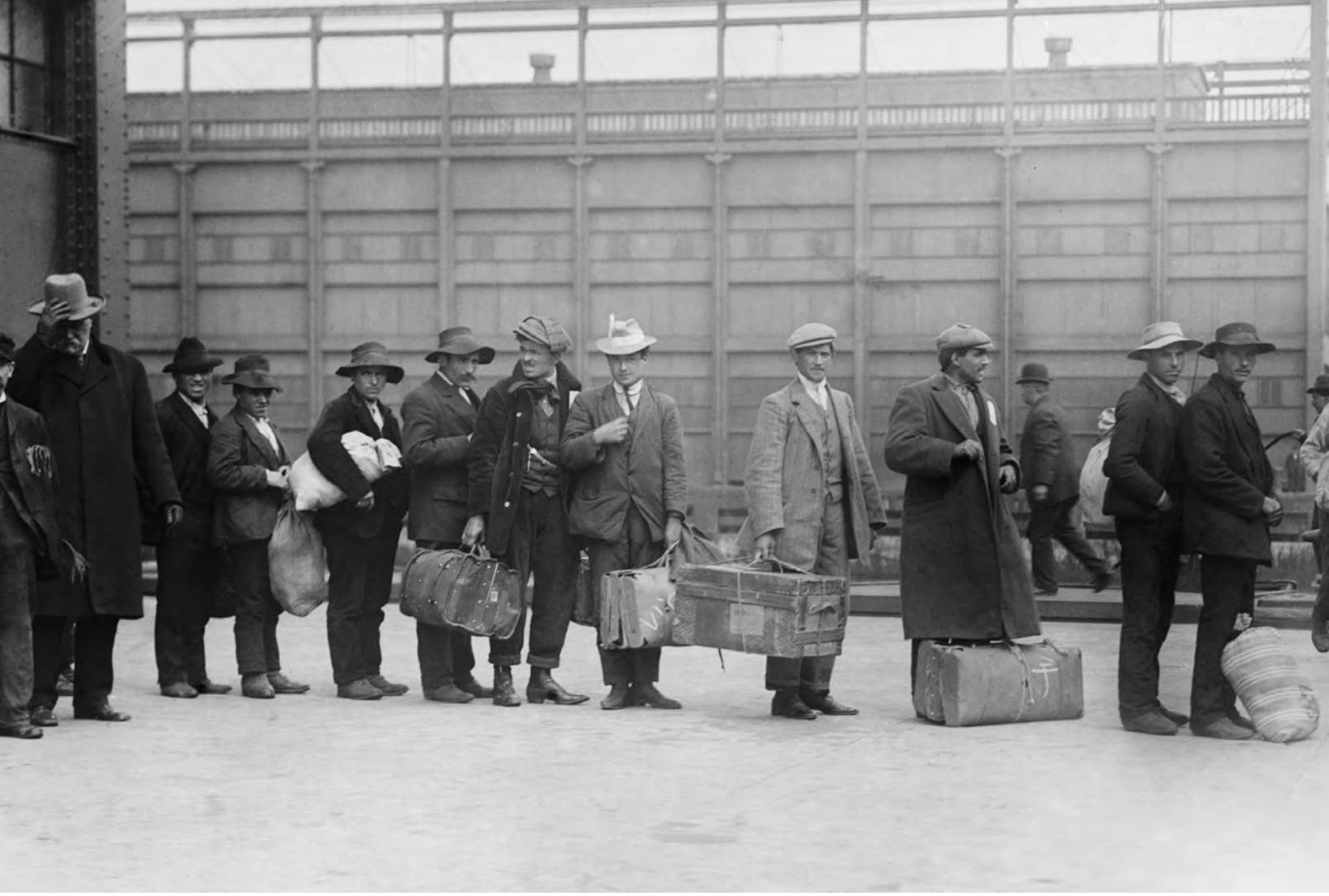
1. **Abstraction vs. practicality**: The rule of law is an abstract principle that emphasizes universal legal norms, equality, and fairness, often detached from specific cultural or political contexts. In contrast, Irish pragmatism is intensely context-sensitive and grounded in practical outcomes, often seeking to adapt solutions to the unique historical and political realities of Ireland.
2. **Ideals vs. outcomes**: The rule of law emphasizes consistency and legal integrity, sometimes at the cost of immediate practical concerns or political realities. In contrast, Irish pragmatism is more focused on achieving real-world results, sometimes requiring flexibility or compromise on certain ideals for the sake of stability or progress.
3. **Governance vs. legal framework**: The rule of law is primarily concerned with ensuring the legitimacy of laws and legal processes, acting as a safeguard against tyranny. Irish pragmatism, on the other hand, is more concerned with the practicalities of governance, including the accommodation of diverse political, cultural, and social interests.

## CONCLUSION

The rule of law and Irish pragmatism represent two distinct approaches to governance and legal theory. While the rule of law offers a universal, idealistic framework for ensuring justice, equality, and fairness, Irish pragmatism embraces a more flexible, context-dependent approach that seeks practical, workable solutions to political and social challenges. Both doctrines, however, have shaped the governance and legal practices of Ireland and continue to influence the country's approach to justice, politics, and policy. Understanding the differences and similarities between these two approaches offers valuable insight into how lawyers and judges here in Michigan can navigate the complex intersection of law, politics, and culture. The pragmatic elements of Irish thought have broad applicability in real-world legal contexts, providing an important model for tackling complex and multifaceted legal challenges.

**Authentic References:**


1. **Dicey, A.V.** (1885). *Introduction to the Study of the Law of the Constitution*. London: Macmillan.
2. **Hayek, F.A.** (1973). *Law, Legislation and Liberty, Volume 1: Rules and Order*. Chicago: University of Chicago Press.
3. **Bingham, Tom.** (2011). *The Rule of Law*. London: Allen Lane.
4. **Tamanaha, Brian Z.** (2004). *On the Rule of Law: History, Politics, Theory*. Cambridge: Cambridge University Press.
5. **James, William.** (1907). *Pragmatism: A New Name for Some Old Ways of Thinking*. Cambridge, MA: Harvard University Press.
6. **Dewey, John.** (1922). *Human Nature and Conduct: An Introduction to Social Psychology*. New York: Henry Holt and Company.
7. **Berkeley, George.** (1910). *A Treatise Concerning the Principles of Human Knowledge*. London: George Bell & Sons.
8. **Foster, R. F.** (1989). *Modern Ireland 1600-1972*. London: Allen Lane.
9. **Coakley, J., & Gallagher, M.** (2005). *Politics in the Republic of Ireland (3rd ed.)*. London: Routledge.



# Getting in line? The myth and reality

**BY** ARTURO ALFARO

In recent years, the United States' southern border has drawn unprecedented media attention due to record numbers of foreign individuals arriving and seeking protection and better economic opportunities. Stories and narratives about immigrants and immigration policies dominated many news and media conversations. Often, advocates and critics try to answer this question: "Why don't immigrants just get in line and wait their turn?" Simply stated, there is no easy answer. Our immigration laws are complex, to say the least, and options are very limited for those seeking lawful status in our country. They are even more limited after individuals have crossed without documents or prior immigration records. However, is there really a "line" for immigrants?

The Immigration and Nationality Act (INA) governs our immigration system, defining immigrant and nonimmigrant categories of foreign nationals who can enter the United States lawfully. Immigrant visas allow foreign nationals to reside permanently in the United States while maintaining their native citizenship or nationality. Nonimmigrant visas allow foreign nationals to enter the country for a defined period and to perform specific activities, such as employment or education, but require foreign nationals to maintain an intent to return to their home country. Although some immigrant visa categories do not have annual numeric limitations, many are subject to annual caps set by statute. Two of the main pathways for foreign nationals to enter the United States are family-based and employment-based

visas. Due to the complexities of our immigration system, the following overview of family-based visa categories shows current limitations and the reality of "getting in line." For a comprehensive analysis of an individual's circumstances, please consult an experienced immigration attorney to explore potential options.

## THE BASICS OF FAMILY-BASED IMMIGRATION

As the category indicates, foreign nationals can seek and obtain immigrant visas (IVs) if they have a qualifying relationship with a U.S. citizen (USC) or lawful permanent resident (LPR). USCs may file relative petitions on behalf of their qualifying relatives, which includes spouses, children under the age of 21, parents, unmarried children over the age of 21, married children over the age of 21 and siblings.[1] Permanent residents may file relative petitions on behalf of their spouses, unmarried children under the age of 21 and unmarried children over the age of 21.[2] When a USC or LPR properly files a relative petition with the United States Citizenship and Immigration Services (USCIS) on behalf of their foreign relative, the petition is assigned a "priority date" of receipt that serves as a placeholder in the system and determines when the application will be "acted upon" for adjudication by USCIS at local field offices or by the National Visa Center (NVC) and United States Department of State (USDOS) after an interview at designated United States embassies and consulates around the world.

Certain relatives of USCs — such as spouses, children under the age 21 and parents — are not subject to numerical limitations and may qualify for adjudication of their relative petition if the foreign relative is currently in the country, entered lawfully and the foreign national is not "inadmissible."[3] Inadmissibility is a term of art that covers several bars to entering or receiving status in the United States.[4] In many cases, the relative petition is concurrently filed with a petition to adjust the foreign relative's status to permanent residence. However, a significant number of relative petitions benefit foreign nationals who reside in their native countries and who require consular processing, meaning that they must appear for an interview before the designated United States embassy or consulate in their country of origin.

USCIS data for the fourth quarter of fiscal year 2024 indicates that as of September 30, 2024, there were 3,339,578 family-based relative petitions with pending decisions.[5] The table below reflects all family-based applications received, approved and denied since October 1, 2023.[6]

| | **Family-Based Petitions[7]** |
|---|---|
| Petitions received | 1,156,989 |
| Approved | 954,740 |
| Denied | 131,087 |
| Pending (including backlog) | 2,539,275 |

Beyond processing delays, Congress sets annual limits for immigrant visas that USCIS and consular posts can approve. Depending on the petitioner and beneficiary's qualifying relationship, the petition falls within a specific preference category. Preference categories have an annual limit, and for certain categories with historically high numbers of applications, there are per-country limitations, like China, India, Mexico and the Philippines.[8]

## PREFERENCE CATEGORIES

INA § 203(a) defines preference categories to prioritize IVs based on the current, statutory numerical limits.[9] The USDOS publishes its monthly Visa Bulletin showing each preference category's available visas by tracking the priority dates for these petitions. INA § 201 sets an annual minimum limit of 226,000 visas for family-based petitions.[10] There are four preference categories with annual numerical limits:[11]

- **First (F1)**: Unmarried sons and daughters of U.S. citizens – 23,400 plus any numbers not used by fourth preference.
- **Second** – 114,200 plus the number (if any) by which the worldwide family preference level exceeds 226,000, plus any unused first preference numbers.
  - **F2A**: Spouses and children under age 21 of permanent residents (77% of the overall allocation, with 75% of these exempted from per-country limits).
  - **F2B**: Unmarried children over age 21 of permanent residents (23% of the overall allocation).
- **Third (F3)**: Married sons and daughters of U.S. citizens – 23,400 plus any unused numbers from the first and second preferences.
- **Fourth (F4)**: Brothers and sisters of U.S. citizens – 65,000 plus any unused numbers from the first three preferences.

An important distinction on how USCIS processes relative petitions from USCs is that each beneficiary requires an individual petition on their behalf. However, petitions that fall under the preference categories allow the beneficiaries to include their spouses and unmarried minor children under age 21.[12] The qualifying beneficiaries are typically called "principal" beneficiaries, while their spouses and minor children are typically called "derivative" beneficiaries.

The USDOS tracks the annual immigrant visa allocations and provides the following numbers on visas for fiscal years 2019 to 2023.[13]

Table 1. Immigrant and Nonimmigrant Visas Issued at Foreign Service Posts

| | **2019** | **2020** | **2021** | **2022** | **2023** |
|---|---|---|---|---|---|
| **Immigrant Categories** | | | | | |
| Immediate Relatives | 186,584 | 108,292 | 170,604 | 212,185 | 245,696 |
| Special Immigrants[1] | 11,384 | 8,722 | 13,421 | 14,903 | 21,040 |
| Vietnam Amerasian Immigrants | 96 | 95 | 63 | 168 | 237 |
| Family Sponsored Preference | 190,938 | 90,435 | 63,858 | 156,800 | 194,419 |
| Employment-Based Preference | 28,538 | 14,694 | 19,779 | 55,058 | 46,508 |
| Armed Forces Special Immigrants | 0 | 0 | 0 | 0 | 0 |
| Diversity Immigrants | 44,882 | 18,288 | 17,344 | 54,334 | 55,076 |
| **Total** | **462,422** | **240,526** | **285,069** | **493,448** | **562,976** |

As these numbers indicate, IV allocations for all family-sponsored preference category petitions fell short of the congressional minimums between 2020 and 2021 due to lower number of approvals from pandemic-related closures at consular posts, which extended into 2021 and limited the number of interviews available around the world.

Notwithstanding the closures around the world, the number of relative petitions filed with USCIS remained significant in 2020, 2021 and 2022. For example, in the third quarter of fiscal year 2020, USCIS had 1,452,157 alien relative petitions awaiting a decision, after receiving a total of 110,547 petitions during that period.[14] On September 30, 2021, USCIS had 1,519,983 petitions pending, after receiving 757,206 in fiscal year 2021.[15] On September 30, 2022, USCIS had 1,808,240 petitions pending, after receiving 873,073 in fiscal year 2022.[16] Despite the pandemic closures, USCIS received a constant number of alien relative petitions, while processing delays and backlogs continued to increase. Thus, our current adjudication process, limited by both statute and agency staff available, creates a perceived "waiting line."

As of this writing, the average processing time for a USC's petition for a spouse or minor child is 17 months.[17] After USCIS reviews the petition, reaches a decision and issues an approval, the beneficiary's physical presence determines the process: If the beneficiary resides outside the United States, USCIS forwards the approved petition to the NVC for additional processing and scheduling of an interview at the applicable embassy or consulate; if the beneficiary resides in the United States, USCIS adjudicates concurrent applications for adjustment of status for those who are eligible. Foreign nationals who are working with the NVC to process the remainder of their case must refer to the USDOS Visa Bulletin for additional guidance to complete their case. The USDOS updates the Visa Bulletin[18] monthly and lists dates applicable to family-sponsored preference categories to take further action.

## CONGRESSIONAL LIMITATIONS ON FAMILY-BASED VISA PETITIONS IN PREFERENCE CATEGORIES

INA § 202 limits countries with a historically high number of petitions from receiving more than 7% of the available visas for each preference.[19] For April 2025, the Visa Bulletin lists these Final Action Dates chart for family-based petitions (see table 2).[20]

For example, a USC's petition filed on behalf of his brother (F4 preference), who resides in and is a citizen of the Philippines, becomes eligible under the Final Action Dates chart if the priority date assigned to the petition is earlier than January 1, 2005.[21] Thus, unless the priority date is earlier than the final action date listed, the case cannot proceed to a consular interview at the U.S. Embassy in the Philippines. The consular process requires the beneficiary to complete a consular electronic system registration, appear at a consular interview and be admissible into the United States. Each principal beneficiary and each derivative beneficiary, who are approved and allocated an immigrant visa, count toward the annual limits set for each preference. In our example above, if the brother in the Philippines is married and has two minor children at the time they are approved, they will use four visas out of the 65,000 allowed for the F4 preference.

For petitions that are not current under the Final Action Dates chart, the beneficiaries must watch the Dates for Filing chart that directs them to begin assembling their documents if they have received a notification from the NVC. For April 2025, the Visa Bulletin lists the following in the Dates for Filing chart for family-based petitions (see table 3).[22]

Table 2: Final Action Dates chart for family-based petitions

| Family-Sponsored | All Chargeability Areas Except Those Listed | CHINA mainland born | INDIA | MEXICO | PHILIPPINES |
|---|---|---|---|---|---|
| F1 | 15MAR16 | 15MAR16 | 15MAR16 | 01JAN05 | 15JUL12 |
| F2A | 01JAN22 | 01JAN22 | 01JAN22 | 15MAY21 | 01JAN22 |
| F2B | 22JUL16 | 22JUL16 | 22JUL16 | 01JAN06 | 22JAN12 |
| F3 | 01APR11 | 01APR11 | 01APR11 | 15JAN01 | 22MAR03 |
| F4 | 01AUG07 | 01AUG07 | 15JUN06 | 15MAR01 | 01JAN05 |

Table 3: Final Action Dates chart for family-based petitions

| Family-Sponsored | All Chargeability Areas Except Those Listed | CHINA mainland born | INDIA | MEXICO | PHILIPPINES |
|---|---|---|---|---|---|
| F1 | 01SEP17 | 01SEP17 | 01SEP17 | 01APR06 | 22APR15 |
| F2A | 15OCT24 | 15OCT24 | 15OCT24 | 15OCT24 | 15OCT24 |
| F2B | 01JAN17 | 01JAN17 | 01JAN17 | 01APR07 | 01OCT13 |
| F3 | 22JUL12 | 22JUL12 | 22JUL12 | 15JUN01 | 22SEP04 |
| F4 | 01APR08 | 01APR08 | 01OCT06 | 30APR01 | 01JAN08 |

Following our example above (Filipino brother, F4), only beneficiaries whose petitions have a priority date earlier than January 1, 2008, can begin assembling documents if the NVC has requested further action. Upon first impression, the priority dates that are "current" for further action under the Dates for Filing chart in the April 2025 Visa Bulletin appear to be more than seventeen years behind. However, the reality is that these dates advance as petitions are adjudicated and immigrant visas are issued, and subject to the preference category and per-country limits. Consider that on December 31, 2021, the date for filing an application under F4 preference for Filipino siblings of USCs was February 1, 2004,[23] while the date for the same preference category and country at the end of December 2020 was September 1, 2002.[24] Currently, although 39 months have passed since December 2021, the April 2025 dates in the Visa Bulletin for this specific preference category and country have only advanced to January 1, 2008, which illustrates the increased delays and wait times for relative petitions. In other words, there are significant delays in adjudicating petitions in family-based petitions.

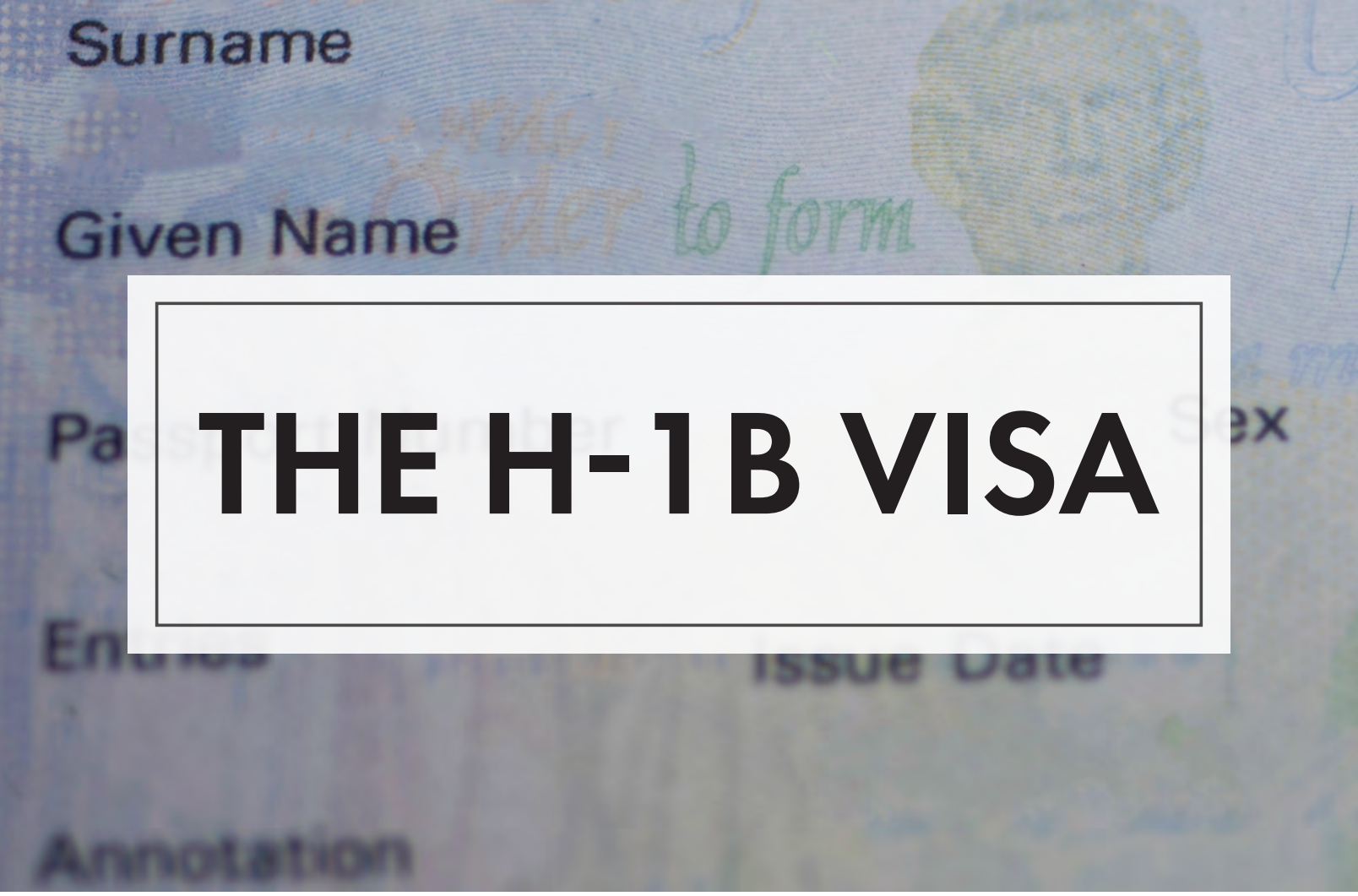
## IS THERE A WAITING LINE?

Our immigration system is very complex, and any significant changes and updates require congressional action to amend the INA. Although popular belief suggests that foreign nationals can "get in line" to apply for status in the United States, the reality is that there is no path for foreign nationals to simply "get in line and wait their turn." As discussed, a main avenue for foreign nationals to obtain lawful status in the United States is through family-based petitions, which have annual, numerical, and country-specific limits for specific preference categories defined in the INA. Thus, unless a foreign national has qualifying relatives who are USCs or LPRs, the foreign national must follow the applicable "line" based on their relative preference category or country of residency and citizenship, or seek an entirely distinct pathway to lawful status in the United States, such as asylum, withholding of removal, protected status as victims of crimes committed in the United States, or some other temporary and discretionary relief, such as Deferred Action or Temporary Protected Status. Consequently, family-based immigration and the preference categories demonstrate the labyrinth of "lines" that each beneficiary may fall into. There is no one "line"; this is just a myth. There are many efforts, at all levels, to develop a sensible immigration policy because there is no "line to get in" and wait a turn, but each administration focuses on different priorities. Currently, the focus remains on enforcement action and removal operations, but this may change at any time.

**Arturo Alfaro** is an immigration attorney at Plunkett Cooney, P.C. He maintains a multi-faceted immigration law practice where he assists corporate clients, individuals, and families with family-based petitions, employment authorizations, change of status filings, asylum and removal proceedings. He is a 2020 Cooley Law School graduate and has been recognized in Best Lawyers: Ones to Watch in America™ and Up & Coming Lawyer Award, Michigan Lawyers Weekly, 2025.

## ENDNOTES

1. 8 USC 1153(a).
2. *Id.*
3. 8 USC 1151(b)(2)(A)(i).
4. 8 USC 1182(a).
5. *All USCIS Application and Petition Form Types (Fiscal year 2024, Quarter 4)*, US Citizenship and Immigration Services <https://www.uscis.gov/sites/default/files/document/data/quarterly_all_forms_fy2024_q4.xlsx> (all websites accessed March 22, 2025).
6. See *id.*
7. Beyond family-based petitions, for fiscal year 2024, USCIS reported receiving a total of 12,938,465 petitions for all types, approved 11,173,641, and denied 1,227,964 petitions. As of September 30, 2024, USCIS had 9,474,182 petitions of all types pending. Although USCIS is working to improve processing times for all applications, the increasing number of petitions awaiting a decision creates a system-wide backlog that delays processing adjustments of status within the United States and adjudications at embassies and consulates around the world.
8. 8 USC 1152(a).
9. 8 USC 1153(a).
10. 8 USC 1151(c)(B)(ii).
11. 8 USC 1153(a).
12. See 8 USC 1153.
13. *Immigrant and Nonimmigrant Visas Issued at Foreign Service Posts: Fiscal Years 2019 – 2023*, US Department of State <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2023AnnualReport/FY2023_AR_TableI.pdf>.
14. *Number of Service-wide Forms Fiscal Year to Date (FY2020 Q3)*, US Citizenship and Immigration Services <https://cis.org/sites/default/files/2020-11/Quarterly_All_Forms_FY2020Q3.pdf>.
15. *Number of Service-wide Forms Fiscal Year to Date (FY2022 Q4)*, US Citizenship and Immigration Services<https://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2022_Q4.pdf>.
16. *Number of Service-wide Forms Fiscal Year to Date (FY2021 Q4)*, US Citizenship and Immigration Services <https://www.uscis.gov/sites/default/files/document/data/Quarterly_All_Forms_FY2021Q4.pdf>.
17. See *Check Case Processing Times*, US Citizenship and Immigration Services <https://egov.uscis.gov/processing-times/> (select "I-130 Petition for Alien Relative" in Form field, "U.S. citizen filing for a spouse, parent, or child under 21" in Form Category field, "All Service Centers" in Field Office or Service Center field, click Get processing time).
18. Also applies to employment-based preference categories.
19. 8 USC 1152(a)(2).
20. *April 2025 Visa Bulletin*, US Department of State <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2025/visa-bulletin-for-april-2025.html>.
21. *Id.*
22. *Id.*
23. *December 2021 Visa Bulletin*, US Department of State <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2022/visa-bulletin-for-december-2021.html>.
24. *December 2020 Visa Bulletin*, US Department of State <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-december-2020.html>.




# THE H-1B VISA

## Navigating the January 17, 2025 final rule and its impact on entrepreneurs and employers

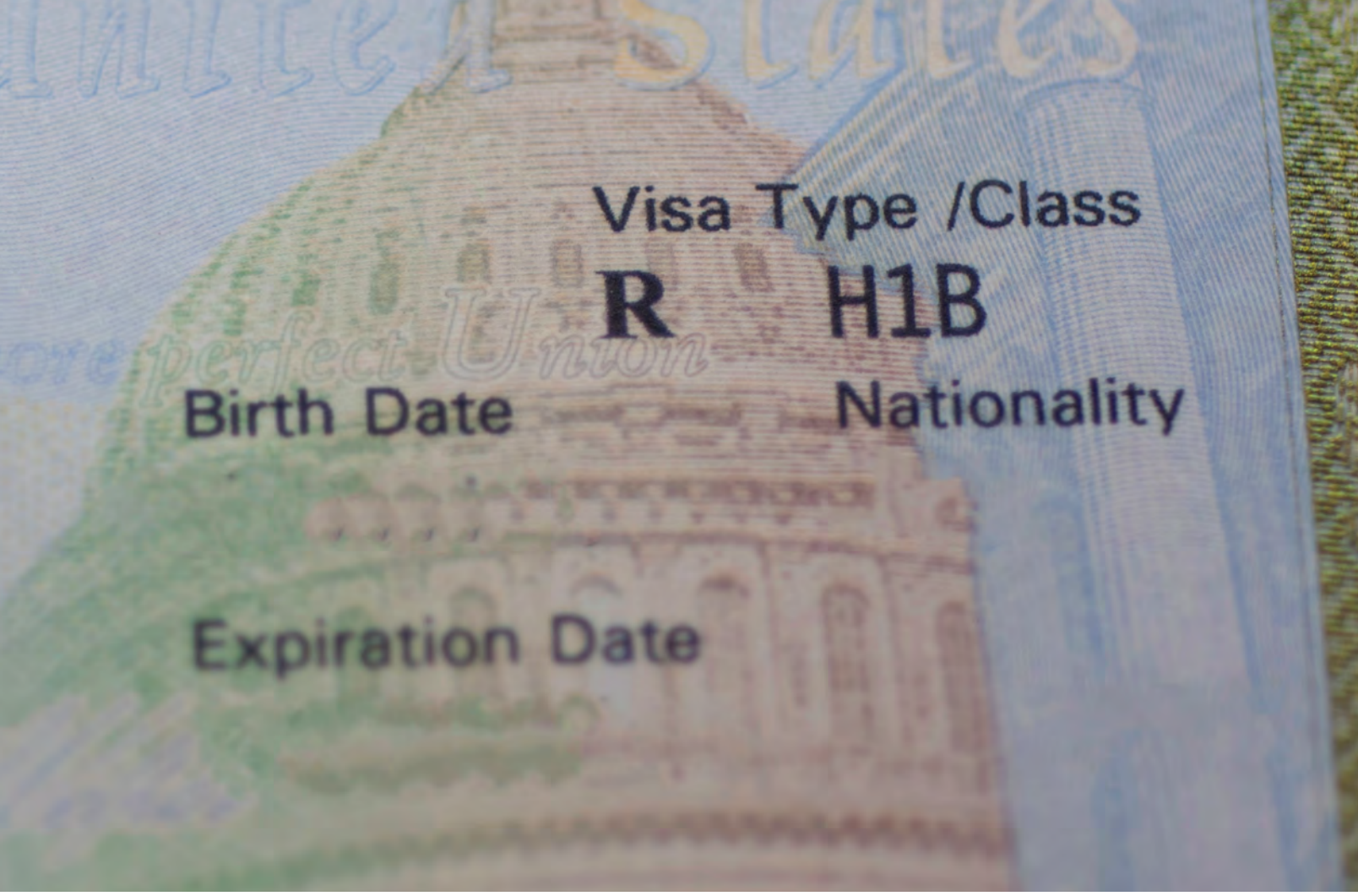
**BY** ALYSSA HUSSEIN

The H-1B nonimmigrant classification has been a critical tool for American businesses to attract highly skilled foreign workers in specialty occupations. While traditionally associated with large corporations in STEM fields, the program has also presented significant opportunities for foreign entrepreneurs seeking to establish and grow businesses in the United States.

On January 17, 2025, the Department of Homeland Security (DHS) introduced a final rule implementing modifications to the H-1B program. This article provides a high-level overview of the H-1B classification; examines the impact of some of these regulatory changes on startups, employers, and employees; and outlines strategic considerations for navigating the new final rule.

### BACKGROUND AND EVOLUTION OF THE H-1B VISA

The H-1B classification, established in 1990, initially capped visas at 65,000 per fiscal year, allowing U.S. employers to hire foreign nationals in specialty occupations requiring specialized knowledge and typically a bachelor's degree.[1] Legislative changes, including the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA)[2] and the American Competitiveness in the Twen-




ty-First Century Act of 2000 (AC21),[3] modified the program, and in 2004, the cap reverted to 65,000 with an additional 20,000 visas for U.S. master's degree holders, creating a total cap of 85,000.[4]

These statutory provisions also provided for exemptions from the annual H-1B numerical limitations. The numerical limitation, commonly referred to as the "H-1B cap," generally does not apply to H-1B petitions filed on behalf of certain noncitizens who have previously been counted against the cap.[5] Thus, typically, a petition to extend an H-1B nonimmigrant's period of stay, change the conditions of current employment, or request new H-1B employment for an H-1B worker already in the U.S. do not count against the H-1B fiscal year numerical cap. An approved petition for initial employment is also exempt from the cap if the U.S. petitioner is a public or nonprofit institution of higher education or nonprofit entity affiliated with or related to such an institution of higher education, or if the petitioner is a nonprofit research organization or governmental research organization, commonly referred to as "cap-exempt" organizations.[6]

These legislative and regulatory shifts reflect ongoing debates over the H-1B visa's role in balancing the needs of U.S. businesses, foreign talent, and domestic workforce protections. U.S. employers have leveraged H-1B visas to attract foreign talent. Foreign entrepreneurs have also utilized the H-1B classification as a tool to support their growth in the U.S., increasing investment and innovation in the U.S.

## THE H-1B VISA PROCESS

Employers may file an H-1B petition for a noncitizen to perform services in a specialty occupation.[7] If the employee has not been previously selected in the H-1B cap and will be working for a U.S. employer that is not "cap-exempt," then the beneficiary must be selected in the H-1B annual lottery.

Upon selection, prior to employing an H-1B temporary worker, the U.S. employer must first obtain a certified Labor Condition Application (LCA) from the Department of Labor and then file a Petition for a Nonimmigrant Worker with U.S. Citizenship and Immigration Services.[8] The LCA specifies the job, wages, length, and geographic location of employment. The employer must pay the noncitizen the greater of the actual wage paid by the employer to other workers with similar experience and qualifications for the specific employment in question or the prevailing wage for the occupation in the area of intended employment.[9]

The position must meet one of the following criteria to qualify as a specialty occupation:

1. a bachelor's or higher degree or its equivalent is normally the minimum entry requirement for the position;
2. the degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, the position is so complex or unique that it can be performed

only by an individual with a degree;
3. the employer normally requires a degree or its equivalent for the position; or
4. the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with attainment of a bachelor's or higher degree.[10]

In order to perform services in a specialty occupation, the noncitizen must meet one of the following criteria:

1. hold a U.S. bachelor's or higher degree as required by the specialty occupation from an accredited college or university;
2. possess a foreign degree determined to be equivalent to a U.S. bachelor's or higher degree as required by the specialty occupation from an accredited college or university;
3. have any required license or other official permission to practice the occupation in the state in which employment is sought, with limited exceptions; or
4. have education, specialized training, or progressively responsible experience (or a combination thereof) that is equivalent to completion of a U.S. bachelor's degree or higher in the specialty occupation, and have recognition of expertise through progressively responsible positions directly related to the specialty occupation.[11]

USCIS adjudicates eligibility for the H-1B classification sought. The responsibility for visa issuance rests with the U.S. Department of State, which determines whether the employee is eligible for issuance of a visa abroad after the H-1B petition has been approved by USCIS.[12] Generally, a noncitizen may be admitted to the U.S. in H-1B status for a maximum period of six years; however, each H-1B petition may only be approved for a maximum initial period of admission of three years.[13] The H-1B petition may be used to sponsor a noncitizen for an initial period of H-1B employment or to extend or change the authorized stay of a noncitizen previously admitted to the U.S. in H-1B status or another nonimmigrant status. An employer may file the petition to sponsor a noncitizen who currently has H-1B nonimmigrant status working for another employer or amend a previously approved petition. Therefore, the total number of approved petitions in any given fiscal year may exceed the actual number of noncitizens who are provided nonimmigrant status in the H-1B classification.

## KEY PROVISIONS OF THE JANUARY 17, 2025, FINAL RULE

On January 17, 2025, the Department of Homeland Security (DHS) implemented a "final rule" aimed at modernizing the H-1B visa program, enhancing program integrity, and providing clearer pathways for foreign entrepreneurs and skilled workers.[14] These changes were implemented to balance economic needs with fraud prevention, improve fairness in the H-1B lottery system and strengthen compliance measures for employers. The rule was developed following stakeholder feedback. Concerns such as abuse of the lottery system, increased visa denials, and uncertainty for entrepreneurs were key motivators behind these reforms.[15]

### A. Changes to the H-1B Lottery and Registration Process

The final rule introduces significant changes to the H-1B lottery and registration process, with the goal of addressing fraud in the selection system. Under the previous system, H-1B beneficiaries could be entered into the lottery multiple times if different employers submitted separate registrations on their behalf, disproportionately benefiting individuals with multiple job offers. This practice skewed the selection process, reducing the chances for smaller businesses, startups, and first-time petitioners to secure skilled foreign talent.

The new rule implements a beneficiary-centered selection process. Instead of prioritizing employers, the system selects unique beneficiaries first, regardless of how many registrations were submitted on their behalf. USCIS will now count each beneficiary only once in the lottery, even if multiple employers submit registrations for them.[16] If selected, only one employer's petition will be approved for that beneficiary, preventing duplicate selections. This change is relevant for beneficiaries and smaller employers, which often compete with larger multinational companies for skilled talent but have historically been at a disadvantage due to bulk registrations by major consulting and staffing firms.

Additionally, USCIS has implemented stricter fraud detection measures, including mandatory attestations by both employers and beneficiaries, and has expanded its authority to deny or revoke registrations linked to fraudulent or coordinated multiple entries.

### B. Increased Enforcement and Compliance Measures

The final rule introduces increased enforcement and compliance measures designed to increase oversight of the H-1B program and reduce fraud and misuse, particularly in industries where third-party placements and contractor-based employment models are prevalent.

The rule addresses increases in site visits conducted by USCIS under its Administrative Site Visit and Verification Program (ASVVP).[17] USCIS officers will conduct more frequent and targeted site visits at H-1B employers' locations, as well as third-party client sites. These visits will assess whether employers are complying with labor condition application (LCA) attestations, such as paying the prevailing wage and ensuring working conditions do not adversely impact U.S. workers.[18] Employers who fail to meet these requirements may face petition denials, revocations, or even potential debarment from the H-1B program.

The rule also introduces stricter scrutiny of third-party placements to address concerns that some employers abuse the H-1B program by placing workers at client sites without properly overseeing their employment. Employers who place H-1B workers at third-party locations must demonstrate a legitimate employer-employee relationship throughout the visa period, including showing ongoing control over the employee's work.[19] Contracts, itineraries, and additional evidence may be required to verify compliance, which is particularly relevant for employers that rely on H-1B contractors for project-based work.

Another critical update is the codification of USCIS's longstanding deference policy for H-1B extensions.[20] Previously, DHS had a discretionary policy of deferring to prior H-1B approvals for the same employer, position, and employee, but this was not explicitly stated in the regulations. By codifying this policy, there is greater clarity for employers and H-1B workers applying for extensions, streamlining the adjudication process.

These enforcement measures increase employer accountability while also providing clearer guidelines for businesses navigating the complex compliance landscape of the H-1B program. Employers should proactively review their compliance programs, maintain meticulous documentation, and prepare for increased USCIS scrutiny to avoid potential penalties and workforce disruptions.

### C. Opportunities for Foreign Entrepreneurs

The final rule clarifies H-1B sponsorship for immigrant entrepreneurs, particularly startup founders. It builds on cap-exempt H-1Bs and confirms that entrepreneurs can qualify for sponsorship and hold concurrent H-1Bs. These changes confirm existing strategies to help entrepreneurs maintain valid work authorization while growing their businesses.

There is an explicit recognition of concurrent H-1B employment through cap-exempt entities, such as universities, nonprofit research institutions, and government-affiliated organizations. If an individual secures H-1B employment through a cap-exempt entity, they can simultaneously hold a separate cap-subject H-1B with a private employer—such as their own startup—without being subject to the annual H-1B lottery.[21] This provision has been used by entrepreneurs, in collaboration with cap-exempt organizations, which have programs designed to support immigrant founders.

Additionally, the final rule provides further clarity on the employer-employee relationship requirement, a crucial issue for startup founders who hold majority ownership in their companies.[22] Under previous USCIS policies, although possible, founders faced challenges proving that their own companies could act as legitimate petitioning employers with the necessary control over their employment. The final rule clarifies that founders can qualify for H-1B sponsorship if they can demonstrate a formalized structure, such as a board of directors or investor group with the authority to hire, supervise, and terminate the H-1B beneficiary, a contractual employment agreement outlining work duties, salary, and reporting structures, or operational independence, ensuring that the startup entity exercises distinct employer control.[23]

By codifying this guidance, DHS has removed much of the uncertainty surrounding H-1B sponsorship for entrepreneurs, making it easier for high-skilled foreign nationals to launch businesses in the U.S., which is critical to American's economic growth.

For foreign entrepreneurs, these updates provide a clear and more predictable pathway to securing work authorization while building and scaling their companies. Many Michigan-based cap-exempt organizations, including but not limited to Global Detroit, support immigrant founders and leverage these new provisions to help more international entrepreneurs establish roots in the state, driving job creation and economic development.

### D. Employer Considerations and Compliance Requirements

While the updated regulations aim to reduce fraud, enhance program integrity, and create a fairer lottery system, they also place additional compliance obligations on employers, necessitating adjustments in recruitment, sponsorship, and workforce planning strategies.

Under the new lottery system, which prioritizes individual beneficiaries over employer-based registrations, companies should review their recruitment strategies to maximize their chances of securing high-skilled foreign talent. This change is particularly important for large firms that submit multiple H-1B registrations for different positions, as they can no longer gain an advantage by submitting numerous entries for the same worker through affiliated entities.

Additionally, the rule strengthens oversight on third-party placements and remote work arrangements, which could impact firms that rely on H-1B contractors for project-based work. Employers who place H-1B workers at third-party worksites will face heightened scrutiny regarding control, supervision, and work location compliance, requiring detailed itineraries and work agreements to avoid compliance violations.

The final rule also clarifies the viability of concurrent H-1B employment for startup founders, providing a clearer path for immigrant entrepreneurs to legally work for their own startups while maintaining valid H-1B status. Cap-exempt institutions will continue to enjoy year-round access to H-1B sponsorship without being subject to the annual cap. However, they must comply with updated DHS regulations designed to strengthen site visit protocols, verify employment conditions, and prevent misuse of cap-exempt privileges.

These compliance measures mean stricter record-keeping, more frequent audits, and potential site visits to ensure that H-1B employees are properly classified and employed under the terms of their petitions. Cap-exempt organizations must also be mindful of collaborations with private sector partners, ensuring that H-1B employees placed in joint projects remain compliant with cap-exemption rules.

## PRACTICAL CONSIDERATIONS FOR EMPLOYERS AND EMPLOYEES

Employers should take proactive steps to align with the new H-1B regulations. This includes refining H-1B sponsorship strategies, as the beneficiary-based selection process requires careful submission of registrations. Companies with third-party placements, remote workers, or multiple affiliates should enhance compliance programs and conduct rigorous internal audits to meet the updated requirements. Startups and small businesses can also leverage cap-exempt opportunities by pursuing concurrent H-1B sponsorship through cap-exempt institutions, while considering eligibility for alternative visas like the

O-1 for extraordinary ability workers or permanent pathways. Additionally, employers should ensure full compliance with LCA requirements, prevailing wage regulations, and recordkeeping. By staying informed and adapting to these changes, businesses can attract global talent and remain competitive in the evolving workforce.

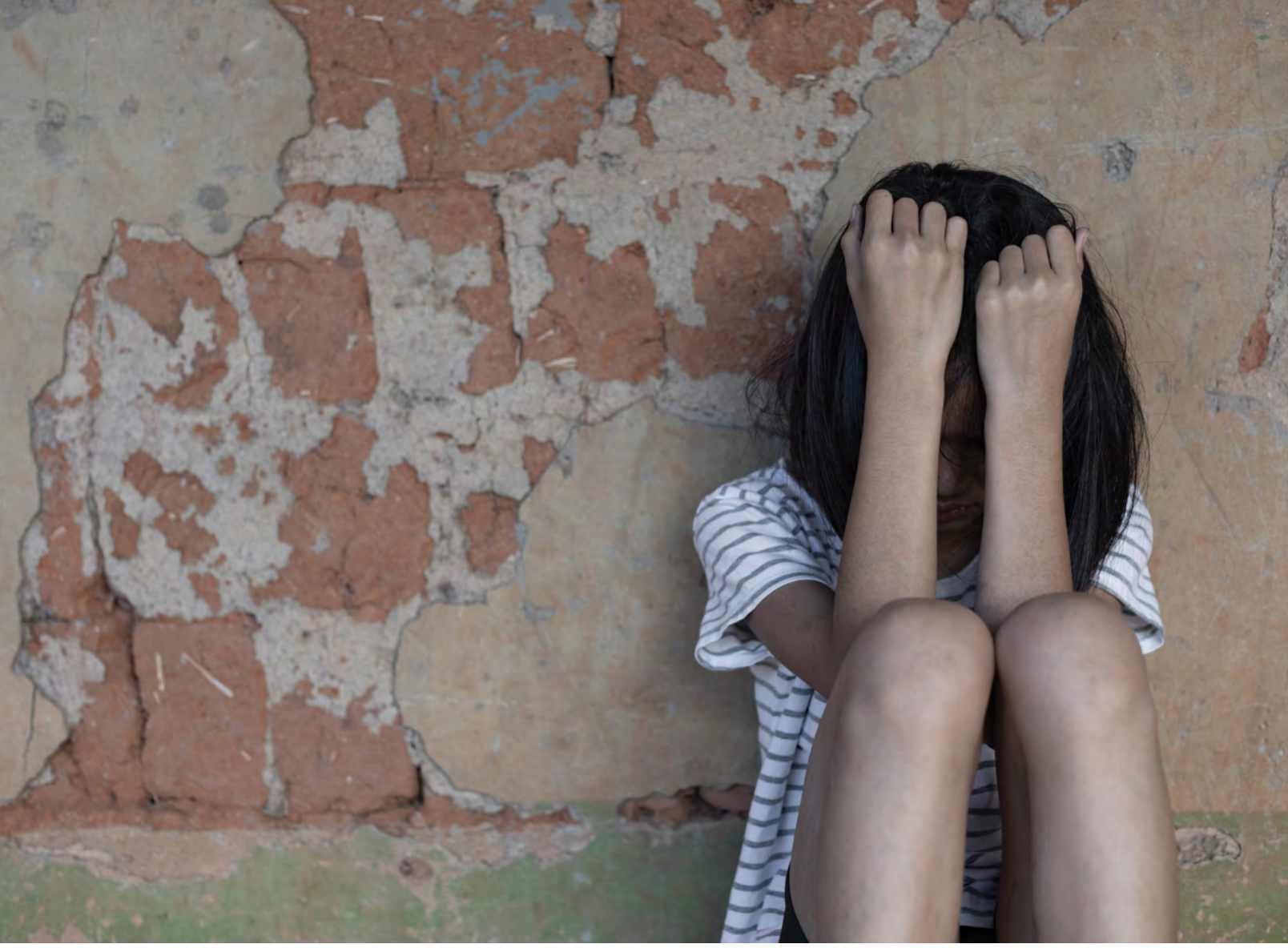
## CONCLUSION

The January 17, 2025, H-1B rule introduces significant changes for businesses and entrepreneurs, some of which are discussed in this article, particularly in areas of compliance and access to talent. By adapting to these changes, employers can maintain competitiveness while foreign entrepreneurs have clearer pathways to establish and grow their companies in the U.S.

**Alyssa Hussein** is a U.S. business immigration attorney licensed in Michigan, Ontario, and Alberta at Crossing Frontiers Immigration Law. She advises companies and professionals on employment-based immigration, investment, and trade-related visa matters. With experience advising major tech companies and startups, she provides strategic guidance to growing businesses and international founders. Her practice includes U.S. immigration and employer compliance legal support.

## ENDNOTES

1. See Immigration Act of 1990, PL 101-649, § 205; 104 Stat 4978, 5021 (codified as amended at 8 USC 1184(g)(1)(A)).
2. PL 105-277, § 411, 112 Stat 2681, 2681-642.
3. PL 106-313, § 102, 114 Stat 1251, 1251-52.
4. 8 USC 1184(g)(1)(A); H-1B Visa Reform Act of 2004, PL 108-447, § 425, 118 Stat 2809, 3353 (codified at 8 USC 1184(g)(5)(C)).
5. See 8 USC 1184(g)(7).
6. See 8 USC 1184(g)(5)(A)-(B); see also 8 CFR 214.2(h)(8)(ii)(F)(1).
7. See 8 USC 1184(i)(1); see also 8 CFR 214.2(h)(4)(i)(A).
8. See 8 USC 1184(c)(1); see also 20 CFR 655.730; see also *I-129 Petition for a Nonimmigrant Worker*, Citizenship and Immigration Services <https://www.uscis.gov/i-129> (accessed February 18, 2025).
9. See 8 USC 1182(n)(1)(A); see also 20 CFR 655.731(a).
10. See 8 CFR 214.2(h)(4)(ii).
11. See 8 CFR 214.2(h)(4)(iii).
12. See 8 USC 1101(a)(15)(H); see also 22 CFR 41.112. Note: Canadian citizens are generally visa-exempt for entry into the U.S. under the H-1B category. They are not required to obtain a visa at a U.S. Embassy or Consulate prior to entry, although they must still be approved for H-1B status by USCIS and present necessary documentation at the port of entry. See *Visa Waiver for Canadian Nationals*, Department of State <https://travel.state.gov/content/travel/en/us-visas/tourism-visit/citizens-of-canada-and-bermuda.html> (accessed March 13, 2025).
13. See 8 USC 1184(g)(4). See also 8 CFR 214.2(h)(15)(ii)(A); 8 USC 1184(g)(4)(A)-(C).
14. Department of Homeland Security, *Final Rule: Modernizing the H-1B Visa Program*, 90 Fed Reg 2025, 2025 (January 17, 2025).
15. *Id.* at 2027.
16. 8 CFR 214.2(h)(8)(iii)(A)(3).
17. 90 Fed Reg 2025, 2030.
18. *Id.* at 2031.
19. See INA § 212(n); *see also* 8 CFR 214.2(h)(4)(ii).
20. 90 Fed Reg 2025, 2029-30.
21. 8 CFR 214.2(h)(8)(ii)(F)(2).
22. 90 Fed Reg 2025, 2032.
23. 90 Fed Reg 2025, 2033.



# Understanding child abuse, neglect, and abandonment as an immigrant advocate

**BY** KERRY MARTIN AND RUSSELL ABRUTYN

Take these two cases:

> **Case #1**: Ana is a 17-year-old Honduran girl who just arrived in the U.S. to reunite with her mom. She lived with her dad in Honduras, but fled after her dad was physically abusive to her brother (but not to her). She does not fear persecution in Honduras, but she would like to find a way to legally remain in the U.S.
>
> **Case #2:** Brian is a 50-year-old Nigerian man who has lived most of his life in the U.S. with a green card. One day, he accidentally ran over his teenage daughter's foot with his car, breaking one of her toes. He took her to the hospital immediately, but he was charged with the crime of fourth degree child abuse. He pleaded no contest. He is now in removal proceedings.

These cases raise the same legal question: what does the Immigration and Nationality Act (INA) mean by "child abuse, neglect, or abandonment"? The answer to this question is critical to two very different types of cases: whether a vulnerable noncitizen child is

eligible for protection through the Special Immigrant Juvenile Status (SIJS) process and whether a noncitizen is subject to a criminal ground of removability.

Every state has at least one law that defines or describes child abuse, neglect, or abandonment. Michigan law addresses it primarily in two places: the Michigan Child Protection Law (MCL 722.621 et seq.), and the child abuse criminal statute (MCL 750.136b).

Before the U.S. Citizenship and Immigration Services (USCIS) can grant SIJS, a state juvenile court judge must first find that the child's reunification with one or both parents "is not viable due to *abuse, neglect, abandonment*, or a similar basis found under State law."[1]

A noncitizen who has been admitted to the U.S. can become removable if they have been convicted of "a crime of *child abuse, child neglect, or child abandonment*."[2]

The repetition of "child abuse, neglect, or abandonment" (CANA for short) in these and other sections of the INA warrants a careful study of the phrase. Understanding its meaning can help advocates better represent their clients, either by proving that a SIJS applicant client *did* experience CANA, or by proving that a removal defense client *was not convicted of* a crime of CANA.

The different functions of CANA in immigration law create some tension in that a more expansive definition benefits some noncitizens but disadvantages others. However, it is possible to sidestep this potential tension because CANA in the SIJS context is determined based on the perpetrator's *actual conduct*, whereas CANA in the removal context is based solely on *the least acts criminalized* by the elements of the statute (the categorical approach).

## HOW FEDERAL LAW DEFINES A DEPORTABLE "CRIME OF CANA"

How *federal* law defines CANA is important for immigrants in "crimmigration" cases. If they are charged with a state or federal crime and want to assess the potential immigration consequences, they will need to understand whether the crime fits within the federal definition of a crime of CANA.

The Board of Immigration Appeals (BIA) treats a "crime of child abuse, child neglect, or child abandonment" at § 1227(a)(2)(E)(i) as one unitary concept—it does not draw distinctions between child *abuse*, child *neglect*, or child *abandonment*.[3] This determination is made through the application of the categorical approach, which focuses on the elements of the offense and the least of the acts criminalized by the state statute.[4]

The BIA has established an extremely broad definition of what constitutes a crime of CANA. It announced the definition in its 2008 case *Matter of Velazquez-Herrera*, which remains in place today (see full definition in footnote).[5] The definition is long and broad, reaching many crimes involving children.

The BIA's definition of a crime of CANA can even include a "child endangerment" crime where no harm actually came to a child.[6]

However, the BIA has left open the possibility that some child-victim offenses may not be deportable crimes of CANA. For child endangerment-type offenses, the BIA has emphasized that the statute must contain "a knowing mental state coupled with an act or acts creating a likelihood of harm to a child."—otherwise, it would not be a crime of CANA and may not be a deportable offense.[7]

The BIA has employed this reasoning in favor of the respondent in at least one unpublished decision, where it found that Pennsylvania's "child endangerment" statute covered conduct that did not create a likelihood of harm to a child, and therefore that it is not categorically a crime of CANA.[8]

## WHETHER MICHIGAN'S CHILD ABUSE LAW FITS WITHIN THE FEDERAL DEFINITION

When representing immigrants charged or convicted under a Michigan child abuse statute, it is crucial to assess whether the statute or the underlying conduct fits within the federal definition of a "crime of CANA." If it is not a crime of CANA, then the person might not be deportable.

The statute—MCL 750.136b—does not clearly or distinctly define CANA. Instead, it uses "child abuse" as a blanket term, creating four different crimes—child abuse in the first, second, third, and fourth degrees. The four degrees of criminal child abuse differ in their elements—particularly the mental state and harm elements—but each degree can encompass conduct that could be described as either "abuse," "neglect," or "abandonment."[9]

As of this writing, there are no published decisions by the BIA or federal courts directly addressing whether Michigan child abuse convictions constitute deportable crimes of CANA (or, for that matter, whether they constitute "crimes involving moral turpitude" or "aggravated felonies").[10]

Reading the Michigan statute, first-degree child abuse is likely to be classified as a "crime of CANA" as well as a "crime involving moral turpitude" for immigration purposes.[11] First-degree child abuse may not come within any of the 25-plus categories of convictions that are defined as aggravated felonies.[12]

But for the lower degrees of child abuse, particularly fourth degree, there may be some wiggle room. To sustain a removal charge under § 1227(a)(2)(E)(i), the government would have to prove that a conviction under this statute requires "a knowing mental state coupled with an act or acts creating a likelihood of harm to a child."[13]

> **Case #2:** Brian pleaded no contest to misdemeanor child abuse in the fourth degree, on the basis that he knowingly reversed his car without looking, which posed a risk of injury to a child. He was then served with a notice to appear, charging him as deportable under § 1227(a)(2)

(E)(i) for committing a crime of child abuse. His advocate argues that Michigan's fourth degree child abuse is *not* categorically a crime of CANA, and that Brian's conduct proves the statute to be overbroad due to the relatively low risk of harm and low culpability of his mental state.

For additional information regarding the immigration consequences of first- through fourth degree child abuse under Michigan law, as well as other crimes under Michigan law, please consult the Immigration Consequences of Selected Michigan Offenses Reference Chart.[14]

## USING MICHIGAN'S CHILD PROTECTION LAW IN SIJS CASES

How *state* law defines CANA is important for SIJS applicants. This is because SIJS applicants must get an order from a *state juvenile* court that contains special findings that they were victims of CANA as defined by *state* law to ensure protection from deportation.

The Child Protection Law contains clear and distinct definitions of "child abuse" and "child neglect" (in contrast to the child abuse criminal statute, which lumps these concepts together).[15] The definitions cover a very broad range of conduct, which can make it easier for advocates to demonstrate that their SIJS clients experienced CANA.

Notably, under the INA, SIJS eligibility can come from CANA or *"a similar basis found under State law."*[16] This "similar basis" language is an instruction to juvenile court judges to take a liberal view of what constitutes CANA. By contrast, no such "similar basis" language appears in the CANA deportability ground.[17] Deportability should *not* be triggered by crimes "similar" to CANA—rather, a person must have been convicted of an offense that *categorically* matches the removal definition of CANA to trigger this provision.

Immigration practitioners should cite to the Michigan Child Protection Law when asking state juvenile court judges to issue SIJS predicate orders.

Here is how Michigan's Child Protection Law can be used on behalf of a SIJS client.

> **Case #1:** An advocate representing Ana files a custody petition for Ana on behalf of her mother, along with a motion for SIJS findings. The advocate cites to MCL 722.622(g), arguing that Ana's father's physical abuse of her brother (but not directly of her) nonetheless constitutes child abuse under Michigan's Child Protection Law, because it represents "threatened harm to the child's health or welfare" through "mental injury" or "maltreatment." Even though Ana might not have been a victim of *criminal* child abuse as defined by Michigan law, the advocate argues that the judge should still issue the requested order, because her father's conduct falls within the Child Protection Law's broad definition of abuse. The advocate also cites to the INA's "similar basis found under State law" language to encourage the judge to think of CANA in the broadest terms possible.

A final note: Michigan's criminal child abuse statute (MCL 750.136b) can also be helpful in SIJS cases. SIJS applicants can show how their parent's conduct would be punishable as criminal child abuse if it had occurred in Michigan. While SIJS applicants do not *need* to demonstrate that their parent committed a crime, showing that the parent's conduct was criminal could help convince a judge to issue the order of SIJS findings. Unlike in the removal context, a conviction is not required to establish that a noncitizen child seeking SIJS was the victim of child abuse, abandonment, or neglect.

---

**Kerry Martin** is a public defender with the Neighborhood Defender Service of Detroit, where he founded the office's Immigration Taskforce. He previously worked at the Michigan Immigrant Rights Center and has been involved in immigrant rights since 2014.

**Russell Abrutyn's** full-service national immigration practice is based in Southfield. He is a former Michigan Chapter Chair of the American Immigration Lawyers Association and has served in many volunteer leadership capacities in the immigration field.

---

## ENDNOTES

1. 8 USC 1101(a)(27)(J) (emphasis added).
2. 8 USC 1227(a)(2)(E)(i) (emphasis added).
3. *Matter of Soram*, 25 I&N Dec 378, 381 (BIA 2010).
4. *Moncrieffe v Holder*, 569 US 184; 133 S Ct 1678; 185 L Ed 2d 727 (2013).
5. *Matter of Velazquez-Herrera*, 24 I&N Dec 503, 512 (BIA 2008). The crime of "child abuse" means any offense involving an intentional, knowing, reckless, *or* criminally negligent act or omission that qualifies as maltreatment, and harms a minor's mental or physical well-being. It remains to be seen how the federal courts examine this definition post-*Loper Bright Enterprises v Raimondo*, 603 US 369; 144 S Ct 2244; 219 L Ed 2d 832 (2024) (overruling the *Chevron* deference framework).
6. *Soram*, *supra* n 2; *Matter of Mendoza Osorio*, 26 I&N Dec 703 (BIA 2016); *see also Matter of Rivera-Mendoza*, 28 I&N Dec 184 (BIA 2020); *Matter of Aguilar-Barajas*, 28 I&N Dec 354 (BIA 2021).
7. *Mendoza Osorio*, *supra* n 6 at 706; *Soram*, *supra* n 2.
8. *In re Jose De Jesus Murillo Gutierrez*, unpublished decision of the Board of Immigration Appeals, issued May 12, 2017, (Docket No. A207-105-449) <https://www.scribd.com/document/349323537/Jose-de-Jesus-Murillo-Gutierrez-A207-105-449-BIA-May-12-2017> (all websites accessed March 15, 2025); *see also* Jeremy Lasnetski, *Will a Child Neglect or Child Endangerment Conviction Make Me Deportable?*, Lasnetski Gihon Law <https://www.floridaimmigrationlawyerblog.com/will-child-neglect-child-endangerment-conviction-make-deportable/> (posted March 27, 2018).
9. MCL 750.136b.
10. The BIA has ruled that MCL 750.145c(4) (knowing possession of child sexually abusive material) is *not* categorically an aggravated felony. *See In re Arturo Mandujano-Torres*, unpublished decision of the Board of Immigration Appeals, issued January 4, 2017 (Docket No. A091-480-873) <https://www.scribd.com/document/337540534/Arturo-Mandujano-Torres-A091-480-873-BIA-Jan-4-2017>.
11. 8 USC 1227(a)(2)(A)(i) and (ii).
12. See 8 USC 1101(a)(43)(A)–(U) (aggravated felony).
13. *Mendoza Osorio*, *supra* n 6 at 706.
14. See *Michigan Criminal Immigration Consequences Reference Chart*, SBM <https://waynecountydefendertraining.com/wp-content/uploads/2023/01/2023-MCL-Immigration-Reference-Chart.pdf> (posted October 2019), at 7.
15. See MCL 722.622(g), (k).
16. 8 USC 1101(a)(27)(J)(i) (emphasis added); see also Thronson & Thronson, *Child Welfare Law and Practice, Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases* (Colorado: Duquette & Maralambie, 2d ed, 2010), p 348.
17. 8 USC § 1227(a)(2)(E)(i).

# EXPANDING ACCESS TO OUR COURTS

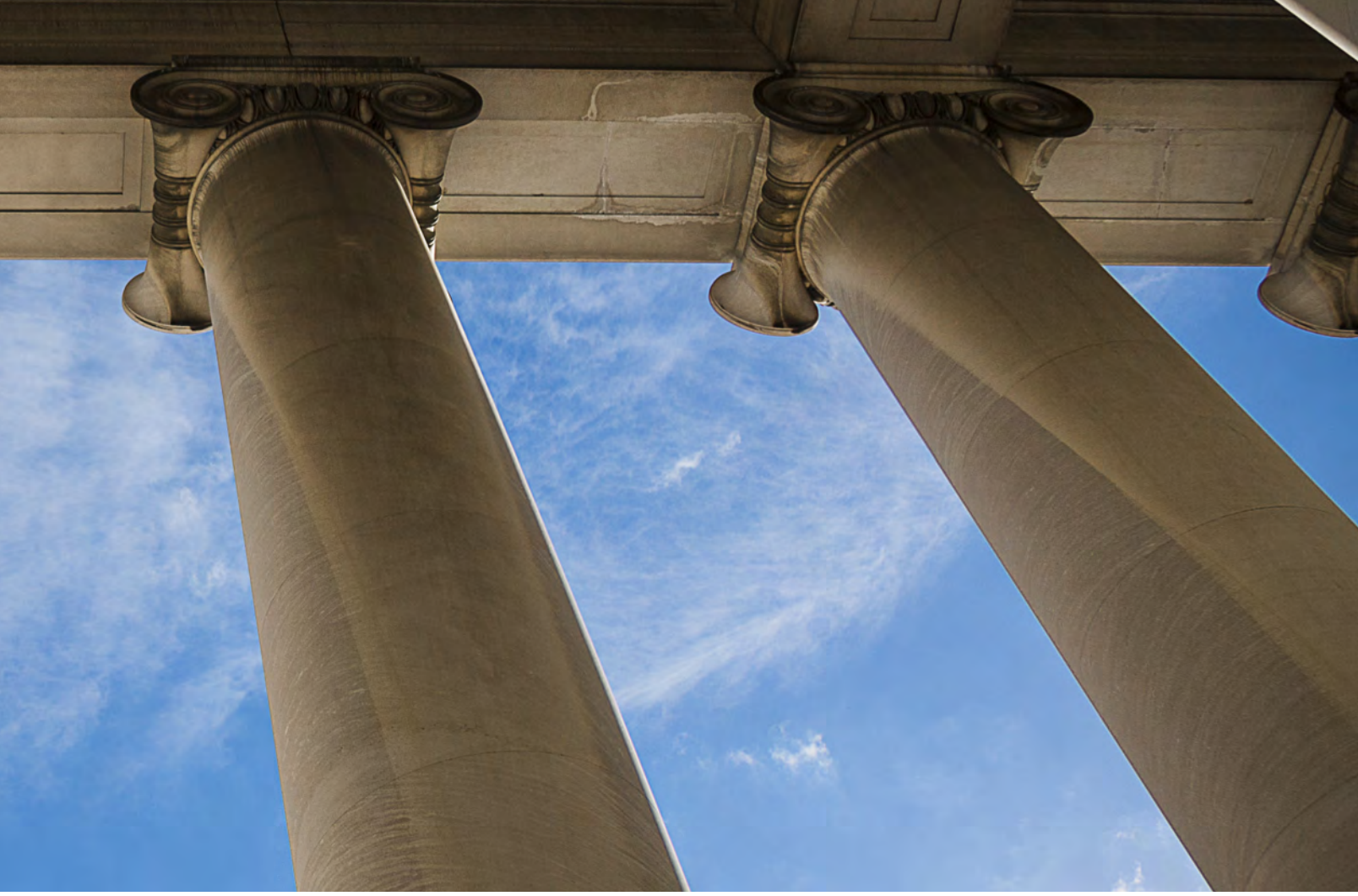
## How extending probate court's jurisdiction to establish guardianships protects vulnerable immigrant youth in Michigan

**BY** JULIANNA RIVERA MAUL

An 18-year-old immigrant youth who has been abused, neglected, or abandoned by one or both parents and resides in Minnesota[1] or Maine[2] (as well as several other states) can apply for immigration status through Special Immigrant Juvenile Status (SIJS) based on this parental maltreatment. However, in Michigan, that same young person would be foreclosed from such immigration relief because of a gap between Michigan and federal law.

Michigan probate courts generally lose jurisdiction to establish guardianships and appoint guardians for youth by their 18th birthday.[3] Without such jurisdiction, the probate court cannot make the critical findings, which only state courts have the authority to make, needed for vulnerable youth to apply for SIJS and receive immigration-related protections.

The Court of Appeals confronted this barrier in a recent unpublished decision, *In re EAHC*.[4] In EAHC, a Guatemalan youth's guardian sought SIJS findings for him based on his father being incarcerated, his mother's inability to provide adequate food and clothing, and his need to work under dangerous work conditions that subjected him to serious injury while in his mother's care.[5] The probate court dismissed the guardianship proceeding, without making SIJS findings, when EAHC turned 18 years old because no exceptions to extend guardianship jurisdiction applied.[6] The Court of Appeals affirmed



the dismissal, making clear that "no Michigan statute addresses the jurisdiction of a trial court when the guardianship of a minor terminates before a trial court fulfills a request for SIJ findings."[7] The Court of Appeals highlighted the issue that "[o]ther states have implemented statutes to specifically address this matter, but Michigan has not."[8]

To avoid repeating the unjust result, as seen in *EAHC*, extending jurisdiction in guardianship proceedings is the clear legislative answer to remedying this serious gap in protection impacting countless immigrant youth.

Indeed, as Michigan families have welcomed unaccompanied immigrant minors,[9] who are children in the United States without a parent or legal guardian but settled with relatives and other caregivers in counties across the state, the need to establish guardianship with their caretaker and to seek legal status becomes imperative. Having an appointed guardian and legal status will provide these youth with the necessary resources and support in addition to court protection and the stability and security they desperately need to best prepare for their futures, as well as ensure that they can safely stay in their new secure homes in Michigan.

Due to language, economic, and legal barriers, among other challenges, such as the difficulty of overcoming the trauma they experienced in their home countries, many young people in Michigan are not able to obtain the legal help they need and get into court by their 18th birthday to establish these guardianships and seek SIJS findings. Therefore, the status quo limiting the probate court's jurisdiction to establish guardianships before age 18 forever closes the door to applying for SIJS for these vulnerable youth who may otherwise qualify for SIJS and may have a pathway toward citizenship. Instead, they are denied protection from deportation and the opportunity to obtain lawful work authorization, which would allow them to fully contribute to both their communities and Michigan's economy. Without protection, these youth may become targets for trafficking and other types of labor exploitation[10] or are at risk of being deported to their home countries, where many have experienced physical and sexual abuse, and gang violence.[11] As such, the existing gap between Michigan and federal law prevents young people from seeking relief that could drastically change their lives and positively impact our state.

Since 1990, SIJS has been a pathway for permanent immigration status for abused, neglected, and abandoned immigrant children in the United States.[12] While previously limited to immigrant youth in foster care, Congress expanded this humanitarian protection to abused, neglected, and abandoned children who have been declared a dependent of the court or placed in the custody of an in-

dividual appointed by the court, such as in family custody cases or guardianship proceedings.[13] The purpose is to prevent deportation of more at-risk children and provide them a pathway to permanent residency and even citizenship.[14] Importantly, immigrant youth can qualify and apply for this status up until their 21st birthday,[15] which means youth 18 to 20 are to receive these protections as well.

Currently, there is a waitlist for SIJS-eligible youth to apply for permanent residency, but in an effort to "further [the] congressional intent to provide humanitarian protection" to these young people, the agency responsible for granting this status, the United States Citizenship and Immigration Services ("USCIS"), has implemented a new policy to provide these youth with deferred action–a type of protection against deportation–for four years and employment authorization.[16] Therefore, young people barred from applying for SIJS are also denied more immediate protection from deportation and work permits, which are especially crucial protections for 18- to 20-year-olds in the critical stages of pursuing educational and career paths.

Notably, unlike *all* other pathways for immigration status, to apply for SIJS, Congress mandated that state courts must first make findings applying its own state law to determine whether the immigrant child or youth can reunify with one or both parents due to abuse, neglect, abandonment, or a similar legal reason, and whether it would be contrary to their best interest to return to their home country.[17] "[T]he process for obtaining SIJ status is a unique hybrid procedure that directs the collaboration of state and federal systems."[18] Only after these findings are made will a child be eligible to apply for SIJS,[19] thereby underscoring the important role Michigan courts play in protecting immigrant children who have experienced abuse, neglect, or abandonment and preventing them from enduring further serious harm in the future.

Michigan courts now handling family and guardianship matters make SIJS findings in cases throughout the state,[20] and probate courts will be readily equipped also to make these findings for 18 to 20-year-olds if they receive the authority to do so.[21] A young person's need for a custodial figure in their lives indeed does not end at age 18.[22] This is especially true for immigrant youth, who are still adjusting to a new language, culture, and home. From medical and housing issues, to educational, employment, and financial decisions, these young people will be better prepared to tackle the problems and obstacles they face in their daily lives when they have a guardian to support them. Indeed, as highlighted by the California legislature, extending the state court's jurisdiction to establish initial guardianships past a youth's 18th birthday is necessary:

> Given the recent influx of unaccompanied immigrant children arriving to the United States, many of whom have been released to family members and other adults in California and have experienced parental abuse, neglect, or abandonment, it is necessary to provide an avenue for these unaccompanied children to petition the probate courts to have a guardian of the person appointed beyond reaching 18 years of age. This is particularly necessary in light of the vulnerability of this class of unaccompanied youth, and their need for a custodial relationship with a responsible adult as they adjust to a new cultural context, language, and education system, and recover from the trauma of abuse, neglect, or abandonment. These custodial arrangements promote permanency and the long-term well-being of immigrant children present in the United States who have experienced abuse, neglect, or abandonment.[23]

Given the importance of establishing these custodial relationships from youth ages 18 to 20, in recent years, many states enacted legislation extending guardianship jurisdiction to cover youth aged 18 to 20 and thus aligning state and federal law for SIJS. These include Minnesota,[24] California,[25] and Maine,[26] as identified above, and others like Illinois,[27] Oregon,[28] Washington,[29] Colorado,[30] Hawaii,[31] Maryland,[32] New Mexico,[33] Massachusetts,[34] and Vermont.[35] The District of Columbia recently joined these jurisdictions in July 2024[36] and it is hoped that the movement to protect vulnerable youth will continue to grow. All these legislative changes[37] not only provide ample examples in considering, adopting, and implementing new legislation to support at-risk immigrant youth but also demonstrate how these modest legislative initiatives to expand access to state courts have significant positive impacts on the lives of thousands of young people across the United States.

Today, Michigan likewise has an unmistakable opportunity to remedy the problem seen in *EAHC* and improve the lives and futures of these young people by enacting legislation to allow immigrant youth ages 18 to 20 to establish a guardianship with a trusted caretaker. By extending jurisdiction in guardianship proceedings, Michigan's state court jurisdiction will also align with federal SIJS eligibility and maintain protections for young people eligible for this special protective status, which benefits them, their communities, and our state.

**Julianna Rivera Maul** represents immigrant families and youth in state and federal courts and before the U.S. Citizenship and Immigration Services, with a particular focus on Special Immigrant Juvenile Status cases. Before opening her own practice, Rivera worked as a research attorney for the Michigan Court of Appeals. She holds a J.D. from Wayne State University Law School and is a member of the California and Michigan bars.

## ENDNOTES

1. Minn Stat 257D.01 *et seq*.
2. Me Rev Stat Ann tit 22, § 4099-I.
3. MCL 700.5204; MCL 700.5217.
4. *In re EAHC*, unpublished per curiam opinion of the Court of Appeals, issued October 14, 2024 (Docket No. 369381).
5. *Id.* at p 1-2.
6. *Id.* at p 2.
7. *Id.* at p 4.
8. *Id.* at p 4 n 2.
9. *Unaccompanied Children Released to Sponsors by State*, US Department of Health and Human Services, Office of Refugee Resettlement <https://www.acf.hhs.gov/orr/grant-funding/unaccompanied-children-released-sponsors-state> (accessed March 21, 2025).
10. See Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, New York Times (February 25, 2023)< https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html> (accessed March 26, 2025).
11. See Golberg, et al, *Children on the Run,* United Nations High Commissioner for Refugees, <https://www.unhcr.org/us/media/children-run-full-report> (accessed March 26, 2025).
12. 8 USC 1101(a)(27)(J); *In re LFOC*, 319 Mich App 476, 481; 901 NW2d 906 (2017); *In re Velasquez*, 344 Mich App 118; 998 NW2d 898 (2022).
13. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), PL 110–457, § 235(d)(1); 284 Stat 5044, 5079; 8 USC 1101(a)(27)(J); *In re Israel O*, 233 Cal App 4th 279, 284 (2015) ("TVPRA replaced the requirement of long-term foster care eligibility with a requirement that reunification with '1 or both' parents not be viable due to abuse, neglect, abandonment. TVPRA also made minors who had been placed in the custody of an individual or entity appointed by a state court eligible for SIJ status.")
14. See *In re LFOC*, *supra* n 12 at 481.
15. See 8 CFR 204.11(b).
16. *USCIS to Offer Deferred Action for Special Immigrant Juveniles*, US Citizenship and Immigration Services <https://www.uscis.gov/newsroom/alerts/uscis-to-offer-deferred-action-for-special-immigrant-juveniles> (release date March 7, 2023) (accessed March 23, 2025) ("Deferred action and related employment authorization will help to protect noncitizens with SIJ classification who cannot apply for adjustment of status solely because they are waiting for a visa number to become available."); see also 8 CFR 274a.12(c)(14).
17. *In re Velasquez*, *supra* n 12 at 128-129.
18. *In re LFOC*, *supra* n 12 at 481 (quotation marks and citation omitted).
19. See 8 CFR 204.11.
20. See *In re Velasquez, supra* n 12; see also Jordan, et al., *What Family Court Practitioners Should Know About Special Immigrant Juveniles*, 52 Mich Family L J 10 (December 2022) <https://michiganimmigrant.org/sites/default/files/Michigan-Family-Law-Journal_SIJ_Part-One.pdf>.
21. MCL 712A.2(b) (probate courts have jurisdiction in cases concerning abandoned, abused, and neglected children); MCL 722.23 (best interests standard).
22. See 2015 Cal Stat, ch 694, § 1510.1, p 94, at p 2 para (6) ("many unaccompanied immigrant youth between 18 and 21 years of age face circumstances identical to those faced by their younger counterparts."); see also Minn Stat 257D.02 ("The purpose of the [18 to 21] guardianship under this chapter is to provide an at-risk juvenile with guidance, assistance, financial and emotional support, and referrals to resources necessary to either or both: (1) meet the at-risk juvenile's needs, which include but are not limited to shelter, nutrition, and access to and receipt of psychiatric, psychological, medical, dental, educational, occupational, or other services; or (2) protect the at-risk juvenile from sex or labor trafficking or domestic or sexual violence.").
23. 2015 Cal Stat, ch 694, § 1510.1, p 94, at p 2 para (6).
24. See Minn Stat 257D.01 ("'At-risk juvenile' means an unmarried person who is between the ages of 18 and 21 and is potentially eligible for classification under United States Code, title 8, section 1101(a)(27)(J), as amended through December 31, 2021.").
25. See Cal Prob Code 1510.1.
26. See Me Rev Stat Ann tit 22, § 4099-I ("'At-risk' means there is reasonable cause to suspect that a child's health, safety and welfare is in jeopardy due to abuse, neglect, abandonment or similar circumstances and that return to the child's or the child's parent's country of origin or country of last habitual residence would not be in the best interest of the child.").
27. See 755 Ill Comp Stat 5/11-5.5.
28. See Or Rev Stat 125.005(12) ("'Vulnerable youth' means a person who: (a) Is at least 18 years of age but has not attained 21 years of age; (b) Is eligible for classification under 8 U.S.C. 1101(a)(27)(J); and (c) Cannot be reunified with one or more of the person's parents due to abuse, neglect or abandonment, that occurred when the person was a minor.").
29. See Wash Rev Code 13.90.900 ("This chapter authorizes a court to appoint a guardian for a vulnerable youth from eighteen to twenty-one years old, . . . who is eligible for classification under 8 U.S.C. Sec.1101(a)(27)(J). . . . Opening court doors for the provision of a vulnerable youth guardianship serves the state's interest in eliminating human trafficking, preventing further victimization of youth, decreasing reliance on public resources, reducing youth homelessness, and offering protection for youth who may otherwise be targets for traffickers.").
30. See Colo Rev Stat 15-14-204.
31. See Haw Rev Stat 571-11.
32. See Md Code Ann Fam Law 1-201(a), (b)(10).
33. See NM Stat 40-18-1 *et seq*.
34. See Mass Gen Laws ch 119, § 39m.
35. See Vt Stat Ann tit 14, § 3098.
36. See DC Code L25-0188.
37. *State-by-State Age-Out Database*, Project Lifeline <https://projectlifeline.us/resources/state-by-state-age-out-database/> (accessed March 26, 2025) (providing a resource for researching laws across the country enacted to protect SIJS-eligible youth).

PLAIN LANGUAGE

# Decluttering sentences

**BY** MARK COONEY

*After 40 years, we have published lots of columns that (in my view) are worth revisiting. Here's one, from October 2021. We'll continue to dip into the archive from time to time. —JK*

At the annual seminar of the Kimble Center for Legal Drafting, I offered this tip: "Use words in your sentences." Knowing beforehand that I'd need to support this bold suggestion, I skimmed random cases, looking for cautionary examples. It took me seven minutes to find this:

> In fact, the definition of a compilation in the Act, 17 U.S.C. § 101 ("*selected*, coordinated, or arranged") (emphasis added), the commentators, see, e.g., 1 M. Nimmer, supra, § 2.04[B], at 2-41-2 ("originality involved in the *selection* and/*or* arrangement of such facts" protected literary work) (footnote omitted) (emphasis added); Denicola, supra, at 530 ("originality in plaintiff's *selection* or *choice* of data"; Denicola, however, believes that the labor in compiling facts is protected) (emphasis in original), and the cases, see, e.g., *Roy Export Co. v. Columbia Broadcasting System, Inc.*, 672 F.2d 1095, 1103 (2d Cir.), cert. denied, 459 U.S. 826, 103 S.Ct. 60, 74 L.Ed.2d 63 (1982); *Dow Jones & Co. v. Board of Trade*, 546 F.Supp. 113, 116 (S.D.N.Y.1982), suggest that selectivity in including otherwise nonprotected information can be protected expression.[1]

An easy read? Did the writer connect with you? Make a strong, clear point?

Parsing the sentence reveals a buried compound subject. The three grammatical subjects are bolded below. Also bolded, at the end, is the verb (*suggest*):

> In fact, the **definition** of a compilation in the Act, 17 U.S.C. § 101 ("*selected*, coordinated, or arranged") (emphasis added), the **commentators**, see, e.g., 1 M. Nimmer, supra, § 2.04[B], at 2-41-2 ("originality involved in the *selection* and/*or* arrangement of such facts" protected literary work) (footnote omitted) (emphasis added); Denicola, supra, at 530 ("originality in plaintiff's *selection* or *choice* of data"; Denicola, however, believes that the labor in compiling facts is protected) (emphasis in original), and the **cases**, see, e.g., *Roy Export Co. v. Columbia Broadcasting System, Inc.*, 672 F.2d 1095, 1103 (2d Cir.), cert. denied, 459 U.S. 826, 103 S.Ct. 60, 74 L.Ed.2d 63 (1982); *Dow Jones & Co. v. Board of Trade*, 546 F.Supp. 113, 116 (S.D.N.Y.1982), **suggest** that selectivity in including otherwise nonprotected information can be protected expression.

My word-counting software shows that the first subject, *definition*, is 115 words away from its verb. Experts advise lawyers to average about 20 words per sentence,[2] so this 115-word gap could easily swallow five sentences.

Yet this is misleading. There aren't truly 115 words in that gap, as my software and I would have you believe. In fact, only 11 words — meaning words that make up the core grammatical sentence — appear between the first subject and its verb.

So what's the rest?

Citations. Midsentence citations, that is, complete with parenthetical notes and other hangers-on. More than 100 items of gobbledygook are in the sentence's text, obstructing flow and obscuring

"Plain Language," edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for 41 years. To contribute an article, contact Prof. Kimble at Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at kimblej@cooley.edu. For an index of past columns, visit www.michbar.org/plainlanguage.

the writer's message. Those midsentence citations inflate what's actually a 27-word sentence into a dizzying 131-"word" sentence.

This is a glaring example of a citation-choked sentence. But it's no anomaly. Again, I found it — in a U.S. Court of Appeals opinion, by the way — after just seven minutes of random reading. And legal professionals routinely encounter this sort of midsentence clutter. Even in less extreme passages, the clutter is hard on readers and counterproductive.

How can legal writers avoid the clutter?

The first possible fix is to use words in the sentence and cite after the sentence:

> In fact, the Act, cases, and commentators all suggest that copyright protection can be based on a compiler's selectivity in assembling otherwise unprotected information. [citations]

This was easier to read than the original version, I trust. And it made more of an impact. The idea was out front, accessible. Even readers who aren't fond of postsentence string citations would surely prefer this to the original. You may find this solution obvious, but my readings (and yours, I suspect) reveal that it is not universally obvious.

Another decluttering tactic is to tuck citations into footnotes:

> In fact, the Act,[1] cases,[2] and commentators[3] all suggest that copyright protection can be based on a compiler's selectivity in assembling otherwise unprotected information.

Readers who aren't fans of citational footnotes still forgive their occasional use, especially when they prevent the type of clutter that we saw in the original.

A third fix is to turn the core sentence into a topic sentence. We'd follow with three sentences that support the topic sentence's idea, and we'd cite after — and only after — each of those sentences:

> In fact, the Act, cases, and commentators all suggest that copyright protection can be based on a compiler's selectivity in assembling otherwise unprotected information. For instance, the Act's definition of *compilation* refers to "selected, coordinated, or arranged" information. 17 U.S.C. § 101. Courts have likewise acknowledged that compilers can earn copyright protection for their "skill and creativity in selecting and assembling an original arrangement" of unprotected works. *Roy Exp. Co. v. Columbia Broad. Sys., Inc.*, 672 F.2d 1095, 1103 (2d Cir. 1982), *cert. denied*, 459 U.S. 826 (1982). And a leading treatise observed that copyright protection can arise from "originality involved in the selection and/or arrangement" of information. 1 M. Nimmer, *supra*, § 2.04[B], at 2-41-2.

The fact that legal writing involves complex factual scenarios and sophisticated legal concepts does not excuse dense, cluttered prose. Just the opposite is true: legal writing's inherent complexity demands every possible strategy toward enhanced readability. One of those strategies is to shed citations from our sentences, with only occasional exceptions.

Of course, lawyers do need to make quick, clean midsentence references to cases ("but *Jones* is distinguishable") and statutes ("under § 3135"). But if a formal citation is also necessary, it can wait until after the sentence.

Statutes may pose the highest risk of midsentence clutter. Statute citations — abstract strings of abbreviations, numerals, and parentheses — are rarely easy or informative for busy readers. If you're dealing with a single act or provision, the fix is simple: prefer words. Use the statute's popular name ("the statute of limitations expires"), an act title ("the Clean Water Act prohibits"), or, for later references, a clear shorthand reference ("the Act's broad definition"; "the statute's broad definition"; "the notice provision"). Cite after the sentence if you need to.

The fix becomes more challenging when comparing or contrasting multiple statutes. In this scenario, there's a temptation to revert to midsentence citations, which can leave difficult, noisy text for readers. Here's an example from an appellate opinion:

> We see no inconsistency between Minn. Stat. § 86B.205, subd. 5(3), and Minn. Stat. § 412.221, subd. 12. Minn. Stat. § 86B.205, subd. 5, has no application here, as discussed, and Minn. Stat. § 412.221, subd. 12, unambiguously authorizes a statutory city "by ordinance [to] regulate the location, construction and use of . . . docks."[3]

My possible revision may leave you unsatisfied, but I hope to earn at least a few points for improved readability:

> We see no inconsistency between subdivision 5(3) of the surface-use statute and subdivision 12 of the special-powers statute. The surface-use provision does not apply here, as discussed. And the special-powers statute unambiguously authorizes a statutory city "by ordinance [to] regulate the location, construction and use of . . . docks." § 412.221(12).

Contriving apt shorthand references can be difficult. Check cases to see whether courts have already gravitated to an easy handle. If so, follow their lead.

Finally, try words before reflexively dipping into an "alphabet soup"[4] style. Acronyms and initialisms may seem innocuous at first, but they quickly accumulate, adding clutter to your prose. And they smack of insider jargon. Consider this passage from a litigant's trial brief:

> Because WADOE was working with EPA and the dairy industry to develop a general NPDES permit during this time, WADOE did not require dairies to apply for, nor did WADOE issue, general NPDES permits. . . . WADOE nevertheless had the ability to issue individual NPDES permits to CAFOs and WADOE's hiatus from issuing general NPDES permits did not excuse dischargers from CWA liability.[5]

A possible revision:

> Because the Department was working with the EPA and the dairy industry to develop a general permit during this time, the Department did not require dairies to apply for, nor did it issue, general permits. . . . Still, it was able to issue individual permits to feeding operations, and its hiatus from issuing general permits did not excuse dischargers from liability under the Act.

The legal profession isn't famous for reader-friendly style. That's puzzling because in this business, our reader is, by definition, a person worth impressing. After all, our reader is the judge deciding our case, a judicial clerk recommending a decision, a client paying us to write, or a boss evaluating our performance. We desperately want to connect with, and earn goodwill from, all these people.

Something as simple as using words in our sentences — free from citational noise or alphabet soup — can help us make that connection.

**Mark Cooney** is a professor at Cooley Law School, where he chairs the legal-writing department. He is a senior editor of *The Scribes Journal of Legal Writing* and author of the books *The Case for Effective Legal Writing* (with Diana Simon) and *Sketches on Legal Style*. He was co-recipient (with Joseph Kimble) of the 2018 ClearMark Award for legal documents and is a past chair of the SBM Appellate Practice Section.

## ENDNOTES

1. *Eckes v Card Prices Update*, 736 F2d 859, 862–863 (CA 2, 1984).
2. Kimble, *Lifting the Fog of Legalese: Essays on Plain Language* (Durham: Carolina Academic Press, 2006), pp 71, 96.
3. *City of Waconia v Dock*, unpublished opinion of the Carver County District Court, issued June 30, 2020 (Docket No. 10-CV-17-678).
4. Scalia & Garner, *Making Your Case: The Art of Persuading Judges* (St. Paul: Thomson/West, 2008), p 120.
5. *Community Assoc for Restoration of the Environment v Bosma Dairy*, unpublished opinion of the United States District Court for the Eastern District of Washington, issued February 27, 2001 (Docket No. CY-98-3011).

BEST PRACTICES

# Best practices in probate litigation

**BY** DAVID L.J.M. SKIDMORE

Litigants in probate litigation are often lay persons with no probate litigation experience or expertise. When contacted by a potential probate litigation client, a practitioner should assess the merit and value of the case and frankly advise the potential client if the claim lacks merit or if the cost of litigation is disproportionate to the value of the claim.

The practitioner who represents a lay person in probate litigation should educate the client as to the civil litigation process. Early on, it should be determined whether the client seeks to preserve a personal relationship with the adverse party; if yes, then tactics should be adopted with that goal in mind. Probate litigation may be contentious and emotional, and a lay person client should be instructed to refrain from waging war with the adverse party through social media or texting.

A potential client may desire to contest the validity of a certain instrument made by the decedent, yet lack evidence as to decedent's mental capacity on the date of the instrument. In this situation, the potential client may have the right to obtain the decedent's medical records under the Medical Records Access Act (MRAA).[1] If the potential client qualifies as an authorized representative under the MRAA, then the decedent's medical records should be obtained and reviewed for indicia of mental incapacity. Such pre-litigation discovery may support a legal challenge to the validity of the instrument in question.

The probate court recognizes two forms of action: a civil action, commenced by filing a complaint, and a proceeding, commenced by filing a petition.[2] A civil action in probate court is governed by the Michigan Court Rules applicable to civil actions generally. A proceeding in probate court is governed by procedural rules under Chapter 5 of the Michigan Court Rules. When drafting the initial offensive pleading, evidentiary support for factual allegations should be offered by attaching documentary exhibits and/or party/fact witness affidavits.

While a defendant in a civil action must file an answer to the complaint, a respondent in a proceeding need not file a written objection to the petition; instead, a respondent may object to the petition orally at the initial hearing.[3] However, it is best practice for respondent's counsel to prepare, file, and serve a written objection prior to the initial hearing. A written objection gives both the court and the petitioner notice of the existence of, and the grounds for, the objection. Moreover, if the petition hearing has been scheduled for an uncontested time slot, then filing the written objection before the hearing will alert the court that the matter needs to be rescheduled for a contested time slot.

Representing a party who is alleged to be incapacitated (e.g., the proposed ward in a guardianship or conservatorship proceeding) presents the risk that the Court may subsequently determine that the client lacked capacity to retain counsel. To avoid this risk, counsel may petition the probate court for a preliminary finding that the client possesses sufficient capacity to retain counsel. A fiduciary who is a party to probate litigation may also seek a preliminary ruling regarding the reasonableness of its fiduciary fee and/or its counsel's hourly rate.

"Best Practices" is a regular column of the Michigan Bar Journal edited by George Strander of the Michigan Bar Journal Committee. To contribute an article, contact Mr. Strander at gstrander@yahoo.com

In a contested proceeding, the probate court may handle the initial hearing differently depending on what county you are in. Some counties may automatically use the initial hearing as a scheduling conference, while other counties may proceed directly to taking proofs. A practitioner appearing in a new county should ascertain how the probate court handles the initial hearing in order to avoid any surprises. Where the probate court is not in the habit of using the initial hearing as a scheduling conference, then it may be advisable to file a motion for a scheduling conference and entry of a scheduling order, particularly where it is imperative to obtain fact discovery prior to the trial of the matter.

The Legislature has expressly granted special authority to the probate court to enter a preliminary injunction. MCL 700.1309(b) provides that the probate court may "[e]njoin a person subject to the court's jurisdiction from conduct that presents an immediate risk of waste, unnecessary dissipation of an estate's or trust's property, or jeopardy to an interested person's interest." Preliminary injunctions are routinely entered to prohibit expenditure and/or distribution of estate or trust assets pending a final ruling on the merits. This author is of the opinion that the standard for issuance of such a preliminary injunction is as set forth in the statute, and that the four-factor preliminary injunction test used in civil litigation does not apply; however, some probate courts will consider both standards.

Where the respondent is accused of having committed undue influence, it is appropriate for the probate court to enjoin the respondent from expending fiduciary assets on attorney fees to defend the proceeding unless and until the respondent is exonerated.[4] Similarly, a trustee accused of breach of fiduciary duty should generally be enjoined from using trust assets to pay defensive attorney fees from trust assets unless and until the trustee is exonerated.[5]

Under MCR 5.131(B)(3), the scope of discovery in a proceeding is more limited than in a civil action: "Discovery in a probate proceeding is limited to matters raised in any petitions or objections pending before the court." If discovery of topics not raised in the pleadings is sought in written discovery or depositions, objection should be made based on this rule.

Discovery will often raise attorney-client privilege issues. Under Michigan law, such privilege survives the death of the client and is held by the personal representative of the decedent's estate.[6] However, the personal representative may only waive the privilege for the benefit of the estate.[7] In a will or trust contest, the testator or settlor's testamentary intent is always discoverable and the attorney-client privilege is waived as a matter of law.[8] However, in addition to the law of privilege, the ethical rules governing disclosure of client secrets also must be considered.[9] It is advisable to obtain an order from the probate court authorizing disclosure of both privileged material and client secrets in connection with seeking discovery of the testator's legal file held by counsel.

Forensic examination of electronic devices is becoming increasingly common in this area. The client should be instructed to preserve potentially relevant evidence, including email and text messages. Counsel should also give notice that the adverse party must suspend any deletion of electronic data while the probate litigation is pending.

Although probate litigation often involves parties with highly contentious relationships and strong negative emotions, it is the experience of this author that mediation will result in a settlement more often than not and therefore is a worthwhile exercise. Some probate courts routinely order mediation in their scheduling orders. If mediation has not been ordered and the adverse party will not voluntarily agree to participate in mediation, then the probate court may be willing to order mediation on the motion of the party seeking mediation. It may be beneficial to use a mediator with experience in probate litigation who is well qualified to evaluate the merits of the parties' respective positions. In addition to the litigants, all other interested persons should be invited to participate in mediation. If an interested person foregoes the opportunity to participate in mediation but then objects to the merits of a settlement reached at mediation, the probate court may overrule the objection based on the failure to attend.

If a settlement agreement is reached, then the litigants should consider whether probate court approval of the agreement is necessary or advisable, in which case such approval may be made a condition precedent to the agreement's effectiveness. Probate court approval should be included in the settlement if (a) the agreement calls for certain action by the probate court, such as modification of a trust agreement or approval of a fiduciary accounting; (b) any interested persons have not signed on to the agreement; and/or (c) the agreement calls for certain payments from fiduciary assets, such as payment of all litigation-related attorney fees from the estate or trust in dispute.

Where the dispute involves an ongoing fiduciary administration, the settlement agreement should be drafted to minimize the chance of the dispute reigniting upon the occurrence of future administrative developments. If there is bad blood between the personal representative and an estate beneficiary, then the beneficiary could choose to object to and litigate the personal representative's future, post-set-

tlement accountings in order to get another swing at his opponent. This risk may be avoided or minimized by having future accountings waived, or by imposing a heightened standard (e.g., gross negligence) for any beneficiary to object to future accountings.

The appellate rules governing probate litigation are different from those governing civil litigation generally. Under MCR 5.801, more than 30 types of probate court rulings are considered to be final orders that trigger an immediate right to appeal, even though the ruling may not dispose of all issues and the litigation remains pending. If such a final order is rendered but the non-prevailing party waits for the entire litigation to be resolved before filing a notice of appeal, such appeal will be untimely.

Finally, counsel should cultivate a cooperative relationship with *guardians ad litem* (GAL) who are the "eyes and ears" of the probate court, and who will likely be encountered again in future cases. An overly adversarial stance towards a GAL who disagrees with your client's position will be counterproductive. Probate courts often follow the GAL's recommendation, but not always, and the key is to respectfully persuade your judge that the facts and law support an alternate conclusion.

**David L.J.M. Skidmore** is a partner in Warner Norcross + Judd LLP with a statewide probate litigation practice. He is a fellow in the American College of Trust and Estate Counsel, a past chair of the SBM Probate and Estate Planning Council, and recognized by The Best Lawyers in America for probate litigation.

## ENDNOTES

1. MCL 333.26261 *et seq.*
2. MCR 5.101.
3. MCR 5.119(B).
4. See *In re Nestorovski Estate*, 283 Mich App 177, 204; 769 NW2d 720 (2009) (holding that personal representative found to have committed undue influence over decedent was not entitled to have attorney fees paid from estate because occurrence of undue influence negated "good faith" requirement under MCL 700.3720); also see MCL 700.7904(2) (requiring "good faith" in order for trustee to have attorney fees for trust litigation paid from trust).
5. See, e.g., *In re Gerber's Trust*, 117 Mich App 1, 9; 323 NW2d 567 (1982).
6. *Lorimer v Lorimer*, 124 Mich 631, 637; 83 NW 609 (1900).
7. *McKinney v Kalamazoo-City Savings Bank*, 244 Mich 246, 253; 221 NW 156 (1928).
8. *In re Loree's Estate*, 158 Mich 372, 377; 122 NW2d 623 (1909).
9. See MRPC 1.6.
10. See, e.g., Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J Addiction Med 1, 46-52 (2016) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4736291/> [https://perma.cc/Q4L7-EHWE] (website accessed March 12, 2025).

LAW PRACTICE SOLUTIONS

# Legal tech revolution: Practice management and accounting software reimagined (Part II)

**BY** JOANN L. HATHAWAY

## INTRODUCTION

Last month, in Part I of this two-part series, we examined the ways modern practice management and accounting software is transforming legal workflows through intuitive interfaces, customization, automation, seamless integrations, and client portals. In Part II, we will explore additional advanced capabilities, including data-driven insights, profitability and client satisfaction tools, enhanced security and privacy measures, and key considerations for firm-wide implementation.

## DATA ANALYTICS: UNLOCKING INSIGHTS FOR BETTER DECISION-MAKING

### Performance Metrics

Data analytics tools provide valuable insights into a law firm's operations. Metrics, such as billable hours, matter progress, and client satisfaction can be tracked and analyzed to identify areas for improvement. Platforms can generate reports to highlight key trends, enabling firms to make data-driven decisions.

To enhance performance analysis, some platforms include benchmarking tools that compare a firm's metrics to industry averages. This allows firms to identify opportunities for growth and set realistic performance targets.

### Financial health analysis

The accounting component of the platform, or integration, can offer robust financial analytics, including profit and loss statements, cash flow projections, and expense tracking. These insights empower legal professionals to make informed financial decisions. Most platforms provide detailed financial dashboards, helping firms maintain a clear picture of their financial health.

Additionally, some solutions include predictive financial analytics, which can identify trends and anticipate future cash flow challenges. This proactive approach enables firms to address potential issues before they escalate.

### Predictive analytics

Some platforms are leveraging artificial intelligence (AI) to offer predictive analytics. By analyzing historical data, these tools can forecast trends, helping firms anticipate challenges and seize opportunities. For example, AI may use predictive analytics to estimate matter outcomes and inform litigation strategies.

Predictive analytics also extend to client retention, identifying factors that contribute to client satisfaction and loyalty. Firms can use these insights to refine their services and improve client relationships.

### Benchmarking

Data analytics also enable firms to benchmark their performance against industry standards. By comparing metrics like average matter duration or revenue per attorney, firms can identify areas where they excel or lag behind competitors. Benchmarking tools also provide insights into market trends, helping firms stay competitive in a rapidly evolving industry.

While this functionality can vary greatly by platform, it is worth exploring when considering your practice management software solution options.

"Law Practice Solutions" is a regular column from the State Bar of Michigan Practice Management Resource Center (PMRC) featuring articles on practice, technology, and risk management for lawyers and staff. For more resources, visit the PMRC website at michbar.org/pmrc/content or call our helpline at 800.341.9715 to speak with a practice management advisor.

## ENHANCING PROFITABILITY AND CLIENT SATISFACTION

### Reducing administrative costs

By automating routine tasks and streamlining workflows, modern practice management software solutions can help reduce the need for extensive administrative support, resulting in significant cost savings for firms.

With automated task assignment functionality built into practice management software, it helps ensure that staff can focus on high-value activities, while routine tasks are handled by technology. This maximizes productivity without increasing overhead.

### Improving the client experience

Practice management software can enhance client satisfaction by providing functions that ensure timely communication, accurate billing, and transparent matter handling. Client portals provide secure platforms for clients to access matter updates and communicate with their legal team at their convenience. This accessibility fosters trust and improves the overall client experience.

Furthermore, automated reminders for appointments, deadlines, and document submissions minimize delays and demonstrate a firm's commitment to providing prompt, professional service.

These functionalities empower firms to deliver personalized, proactive service, to meet and even exceed their clients' expectations.

### Drivingc ompetitive advantage

Firms that adopt the latest technologies position themselves as innovative and client-focused, giving them a competitive edge in the market. Technology adoption demonstrates a commitment to efficiency and excellence.

### Security and privacy

The legal profession's reliance on sensitive client data makes cybersecurity a top priority. Firms must ensure their software complies with data protection regulations. Robust encryption, regular security audits, and secure access controls are non-negotiable features when evaluating software options.

Cloud-based platforms, while offering convenience, also introduce risks. Firms should carefully review the data storage and handling policies of their chosen provider to ensure compliance with ethical obligations and client confidentiality requirements.

### Accounting software: Some key features

Attorneys must stay informed about potential threats and commit to safeguarding sensitive information. Legal accounting software plays a vital role in this area by enhancing efficiency, ensuring compliance, and protecting sensitive information with its powerful security features.

Legal accounting software can be deployed in various ways. Some firms choose an all-in-one solution by utilizing practice management software with integrated accounting functionality, streamlining workflows and allowing attorneys and staff to manage financial transactions, client billing, and compliance on a unified platform. Alternatively, accounting software can be linked separately to practice management systems or operate as a standalone application.

Here are the critical security features legal accounting software offers:

- **Audit trails**
  From user logins to data modifications and financial transactions, audit trails provide a detailed record of every action. Suspicious activities can be traced back to the source, ensuring accountability and maintaining the integrity of financial processes.

- **Automated reconciliation**
  This powerful tool compares recorded transactions with bank statements, flagging any discrepancies for review. By identifying inconsistencies, the likelihood of unnoticed or unreported fraudulent activities is significantly reduced.

- **Dual authorization**
  Requiring multiple authorized users to approve a transaction before processing adds an additional layer of security. This collective oversight reduces the risk of unauthorized or fraudulent actions.

- **Transaction limits**
  Designated administrators can set transaction limits to prevent unauthorized transfers or withdrawals above certain thresholds. These settings act as a deterrent to large-scale fraudulent activities.

- **Multi-factor authentication (MFA)**
  MFA enhances system security by requiring users to provide multiple credentials from different categories during login or other critical transactions. This combination significantly strengthens security against unauthorized access.

- **Advanced user and team permissions**
  Customizing access levels within the software based on specific roles helps maintain confidentiality and reduces the risk of inadvertent data exposure.

- **Time and location locks**
  These locks restrict user logins to specific IP addresses, approved times, or designated geographic locations, reducing the risk of unauthorized access from unexpected sources.

- **One-click user lockout**
  In the event of a security breach or suspicious activity, administrators can swiftly revoke a user's access rights with just one click to prevent potential misuse due to compromised credentials.

- **Encryption**
  Legal accounting software uses strong encryption protocols to safeguard financial transactions and client information. Encrypted data remains indecipherable without the proper decryption key, ensuring it stays secure even if intercepted.

- **Remote and third-party access controls**
  Controlling external access to the system allows regulation over external parties' interactions with the network, ensuring only trusted entities have access.

### Challenges and considerations

- **Implementation and training**
  Adopting new practice management and accounting software requires a significant investment in time and resources. Firms must ensure proper implementation and provide adequate training for their staff to maximize the benefits of the platforms. Without buy-in from all attorneys and support staff, the transition to new software may face resistance, leading to inefficiencies.

  Additionally, firms need to evaluate the scalability of their new chosen platform to ensure it meets their long-term needs. Regular training updates, especially when new features are rolled out, are critical for maintaining a team's proficiency and taking full advantage of the software's capabilities.

- **Cost management**
  While advanced software offers substantial benefits, the costs associated with licensing, implementation, and ongoing maintenance can be a barrier, particularly for smaller firms. It's crucial for firms to perform a cost-benefit analysis to determine whether the software aligns with their budget and operational needs.

- **Staying current with updates**
  The rapid pace of technological advancements means that software providers frequently release updates and new features. While these updates enhance functionality, they may also require firms to adapt workflows, retrain staff, and address compatibility issues with existing systems. Firms must establish processes to stay informed about updates and plan for seamless transitions when adopting new capabilities.

## CONCLUSION

Practice management and accounting software have become indispensable tools for law firms, enabling them to enhance efficiency, improve profitability, and deliver superior client experiences. By leveraging innovations such as automation, seamless integrations, and data analytics, legal professionals can streamline operations and focus on providing high-value services.

However, the adoption of these tools is not without challenges. Firms must carefully consider factors such as implementation, training, data security, and cost management to ensure successful integration into their practice. With a strategic approach, these technologies can transform the way law firms operate, positioning them for success in an increasingly competitive and tech-driven legal landscape.

As the legal industry continues to evolve, staying ahead of technological trends will be critical. Firms that embrace these innovations will be well positioned to navigate the challenges of modern legal practice and deliver meaningful results for their clients.

---

**JoAnn L. Hathaway** is practice management advisor for the State Bar of Michigan Practice Management Resource Center.

---

PRACTICING WELLNESS

# A drink a day does NOT keep the doctor away

**BY** MOLLY RANNS

As we pass from one decade to the next, many of us can look back and see significant variations in the messages we've been given regarding health and safety. During my mother's pregnancies, she was told that nursing wouldn't provide her infants with enough nutrition. This message changed during my own pregnancies when science demonstrated the significant health benefits of breast milk for babies. The same occurred with infant sleep safety, with recommendations switching from a stomach to back position, which dramatically reduced the number of sudden infant deaths. As Maya Angelou once said, "Do the best you can until you know better. Then when you know better, do better."[1] With this in mind, it comes as no surprise that the same holds true as it relates to alcohol consumption. For years, many of us were led to believe that a drink per day was harmless, and some even thought that a glass of red wine a day could be good for your health. With recent research revealing that attorneys experience problematic drinking that is hazardous, harmful, and generally consistent with alcohol use disorders at a rate *much higher* than other populations,[2] it's time to do better when it comes to alcohol.

It turns out we know a lot more than we used to, and a hot-off-the-press advisory from the U.S. Surgeon General should certainly not be ignored. When a Surgeon General Advisory is issued, it serves as a public statement that calls the American people's attention to an urgent public health issue. Advisories are reserved for significant public health challenges that require the nation's immediate awareness and action and have included issues such as the opioid crisis, the nicotine epidemic, and the dire need for suicide prevention.[3] And as of 2025, *the U.S. Surgeon General names alcohol as the third leading cause of preventable cancer,* falling just below tobacco and obesity.[4] With one-quarter of legal professionals being at risk for alcoholism,[5] (compared to just about 6% of the general population), this article provides vital information that may cause one to reassess the cost-benefit analysis of regular alcohol use and provide those looking to reduce or eliminate their use with a strong motivational fulcrum to do so.

The advisory report, which can be found on the U.S. Department of Health and Human services website (www.hhs.gov), notes that in 2019 alone, there were 96,730 cases of alcohol-related cancers.[6] The advisory details the scientific evidence for the causal link between alcohol consumption and cancer, naming at least seven different types — breast (in women), colorectum, esophagus, voice box, liver, mouth and throat.[7] It explains how alcohol damages our DNA, proteins and cells and increases inflammation. It alters multiple levels of hormones and leads to greater absorption of carcinogens.[8] And though it certainly holds true that the more you drink, the greater your risk, shockingly, **just one drink per day increases cancer risk by 19% for women and by 11.4% for men.[9]**

You don't have to have a problematic use of alcohol to stop drinking or to even cut back. For those concerned about having to defend their abstinence, this advisory certainly gives reason for doing so. And for those looking to do just that, check out the following tips:

- **Examine your relationship with alcohol and set clear goals for making change.** Begin by reducing the frequency with which you drink or the amount you drink per occasion. Having a difficult time

"Practicing Wellness" is a regular column of the Michigan Bar Journal presented by the State Bar of Michigan Lawyers and Judges Assistance Program. If you'd like to contribute a guest column, please email contactljap@michbar.org

sticking with the goals set? That may be an indication of a greater problem.

- **Give yourself grace!** Like anything, it's about progress, not perfection. There may be ups and downs! Stay focused on your goals and don't lose sight of your accomplishments. Beating yourself up or falling into a shame spiral, which begins with feelings of guilt or embarrassment and escalates into feelings of inadequacy and self-blame, is unhelpful. Be sure to cultivate self-compassion and take pride in your efforts.
- **Alter your patterns and change your environment.** Don't put yourself in situations where it will be difficult to just say no. Spending time in social situations where the main focus is alcohol (wineries, breweries, or bars) may be setting yourself up for failure. Try engaging in alternate activities and spending time with friends who don't view downing drinks as the main event. Avoid keeping alcohol in excess in the home.
- Lastly, it cannot be overstated that **ceasing use of alcohol cold turkey can be extremely dangerous.** For heavy drinkers, stopping use of alcohol without detoxification and the assistance of medical professionals can be life threatening.[10] Alcohol withdrawal can include sweating, rapid heart rate, high blood pressure, headache, insomnia, nausea and vomiting, anxiety, agitation, tremors or shakes, seizures, delirium tremors and even death.

As an anonymous alcoholic in recovery once said to me, "I've never woken the morning after not drinking and wished that I had, but I've sure woken the morning after drinking and wished that I hadn't." The Lawyers and Judges Assistance Program is a comprehensive, confidential, professional program that is here to help those who are concerned about their alcohol use as well as to assist ordinary drinkers who simply want to drink less. And as I always like to mention, we certainly help those with no concerns about substance use as well. We offer a supportive and non-judgmental space to seek a listening ear, obtain resources or referrals, and attain assistance to thrive both personally and professionally. Call our toll-free helpline today at 800.996.5522 or email us at contactljap@michbar.org.

---

**Molly Ranns** is the director for the State Bar of Michigan's Lawyers and Judges Assistance Program, where she has worked for the past 14 years. She earned her graduate degree in counseling from Michigan State University. Molly is a licensed professional counselor, a nationally board certified counselor and an internationally certified addiction therapist. She is a Commissioner for the American Bar Association's Commission on Lawyer Assistance Programs and a member of the Federation of State Physician Health Programs. Molly co-hosts a podcast produced by Legal Talk Network, "SBM On Balance," which explores the intersection between practice management and lawyer well-being. She serves as vice-chair of the Commission on Well-Being in the Law, a collaboration between the State Bar of Michigan and the Michigan Supreme Court. Molly presents regularly on topics pertaining to law student and lawyer well-being and has extensive experience working with impaired professionals and safety-sensitive professions.

---

## ENDNOTES

1. *Maya Angelou Quotes*, Goodreads <https://www.goodreads.com/quotes/7273813-do-the-best-you-can-until-you-know-better-then> (all websites accessed April 22, 2025).
2. Krill, Johnson & Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J Addict Med 46, 46 (2016).
3. *Alcohol and Cancer Risk*, US Department of Health and Human Services, Office of the Surgeon General <https://www.hhs.gov/surgeongeneral/reports-and-publications/alcohol-cancer/index.html>.
4. Stockwell, *2025 U.S. Surgeon General's Advisory: Alcohol is the 3rd Leading Cause of Preventable Cancer*, 61 Tenn B Ass'n 2 (2025) <https://www.tba.org/?pg=Articles&blAction=showEntry&blogEntry=120921>.
5. *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*, ABA Standing Committee on Professionalism <https://www.americanbar.org/groups/professional_responsibility/committees_commissions/standing-committee-on-professionalism/the-path-to-lawyer-well-being-practical-recommendations-for-pos>.
6. *Alcohol and Cancer Risk*, *supra* n 3.
7. *Id.*
8. *Id.*
9. *Id.*
10. Watkins, *Risks and Dangers of Quitting Alcohol Cold Turkey*, American Addiction Centers <https://americanaddictioncenters.org/alcohol/withdrawal-detox/cold-turkey> (update December 16, 2024).

# FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by August 1, 2025. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

## PROPOSED

The Committee proposes amending M Crim JI 15.14 (Reckless Driving), M Crim JI 15.14a (Reckless Driving Causing Death or Serious Impairment of a Body Function), and M Crim JI 15.15 (Moving Violation Causing Death or Serious Impairment of a Body Function) for improved readability and greater consistency with the statutes defining these offenses. The proposed changes were inspired by Footnote 7 in *People v Fredell*, ___ Mich ___ (December 26, 2024) (Docket No. 164098). Deletions are in ~~strikethrough~~, and new language is underlined.

## [AMENDED] M Crim JI 15.14
### Reckless Driving

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of][1] reckless driving. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant drove a motor vehicle[2] on a highway [or a frozen public lake, stream, or pond] or other place open to the general public ~~or generally accessible to motor vehicles~~ [including but not limited to any designated parking area].[3]

(3) Second, that the defendant drove the motor vehicle in willful or wanton disregard for the safety of persons or property. Willful or wanton disregard means more than simple carelessness but does not require proof of an intent to cause harm. It means knowingly disregarding the possible risks to the safety of people or property.

**Use Notes**

(1) Use when instructing on this crime as a lesser included offense.

(2) The term *motor vehicle* is defined in MCL 257.33.

(3) A *highway* is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729; 540 NW2d 491 (1995). ~~A private driveway is "generally accessible to motor vehicles." *People v Rea*, 500 Mich 422; 902 NW2d 362 (2017).~~ The phrase "open to the general public" is discussed in *People v Nickerson*, 227 Mich App 434; 575 NW2d 804 (1998), and *People v Hawkins*, 181 Mich App 393; 448 NW2d 858 (1989).

## [AMENDED] M Crim JI 15.14a
### Reckless Driving Causing Death or Serious Impairment of a Body Function

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of][1] reckless driving causing [death / serious impairment of body function to another person]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant drove a motor vehicle[2] on a highway [or a frozen public lake, stream, or pond] or other place open to the general public ~~or generally accessible to motor vehicles~~ [including but not limited to any designated parking area].[3]

(3) Second, that the defendant drove the motor vehicle in willful or wanton disregard for the safety of persons or property. Willful or wanton disregard means more than simple carelessness but does not require proof of an intent to cause harm. It means knowingly disregarding the possible risks to the safety of people or property.

~~(4) Third, that the defendant's operation of the vehicle caused [the death of / a serious impairment of a body function[4] to] [*identify decedent or injured person*]. To [cause the death / such injury], the defendant's operation of the vehicle must have been a factual cause of the [death / injury], that is, but for the defendant's operation of the vehicle the [death / injury] would not have occurred. In addition, [death or serious injury / the injury] must have been a direct and natural result of operating the vehicle.[5]~~

(4) Third, that the defendant's operation of the vehicle caused [the death of (*name deceased*) / (*name injured person*) to suffer a serious impairment of a body function[4]]. To cause the [death / injury], the defendant's operation of the vehicle must have been a factual cause of the [death / injury], that is, but for the defendant's operation of the vehicle, the [death / injury] would not have occurred. In addition, the [death / injury] must have been a direct and natural result of operating the vehicle.[5]

**Use Notes**

(1) Use when instructing on this crime as a lesser included offense.

(2) The term *motor vehicle* is defined in MCL 257.33.

(3) A *highway* is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729; 540 NW2d 491 (1995). ~~A private driveway is "generally accessible to motor vehicles." *People v Rea*, 500 Mich 422;~~

~~902 NW2d 362 (2017).~~ The phrase "open to the general public" is discussed in *People v Nickerson*, 227 Mich App 434; 575 NW2d 804 (1998), and *People v Hawkins*, 181 Mich App 393; 448 NW2d 858 (1989).

(4) The statute, MCL 257.58c, provides that serious impairment of a body function includes but is not limited to one or more of the following:

(a) Loss of a limb or loss of use of a limb.

(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.

(c) Loss of an eye or ear or loss of use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of an organ.

(5) If it is claimed that the defendant's operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, the court may wish to review *People v Schaefer*, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a "causes death" case under MCL 257.625(4)). *Schaefer* was modified in part on other grounds by *People v Derror*, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184; 783 NW2d 67 (2010).

## [AMENDED] M Crim JI 15.15
### Moving Violation Causing Death or Serious Impairment of a Body Function

(1) [The defendant is charged with the crime / You may consider the lesser charge][1] of committing a moving traffic violation that caused [death / serious impairment of a body function]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant operated a motor vehicle.[2] To *operate* means to drive or have actual physical control of the vehicle.

(3) Second, that the defendant operated the vehicle on a highway or other place open to the general public ~~or generally accessible to motor vehicles~~ [including but not limited to any designated parking area].[3]

(4) Third, that, while operating the motor vehicle, the defendant committed a moving violation by [*describe the moving violation*].

(5) Fourth, that by committing the moving violation, the defendant caused [the death of (*name deceased*) / (*name injured person*) to suffer a serious impairment of a body function].[4] To cause the [~~the death of (*name deceased*) / such~~ injury ~~to (*name injured person*)~~], the defendant's moving violation must have been a factual cause of the [death / injury], that is, but for committing the moving violation, the [death / injury] would not have occurred. In addition, the [death / injury] must have been a direct and natural result of committing the moving violation.[5]

**Use Notes**

(1) Use when instructing on this crime as a lesser offense.

(2) The term *motor vehicle* is defined in MCL 257.33.

(3) A *highway* is the entire area between the boundary lines of a publicly maintained roadway, any part of which is open for automobile travel. *People v Bartel*, 213 Mich App 726, 728-729; 540 NW2d 491 (1995). ~~A private driveway is "generally accessible to motor vehicles." *People v Rea*, 500 Mich 422; 902 NW2d 362 (2017).~~ The phrase "open to the general public" is discussed in *People v Nickerson*, 227 Mich App 434; 575 NW2d 804 (1998), and *People v Hawkins*, 181 Mich App 393; 448 NW2d 858 (1989).

(4) MCL 257.58c provides that serious impairment of a body function includes but is not limited to one or more of the following:

(a) Loss of a limb or loss of use of a limb.

(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.

(c) Loss of an eye or ear or loss of use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of an organ.

(5) If it is claimed that the defendant's operation of the vehicle was not a proximate cause of serious impairment of a body function because of an intervening, superseding cause, the court may wish to review *People v Schaefer*, 473 Mich 418, 438-439; 703 NW2d 774 (2005) (a "causes death" case under MCL 257.625(4)). *Schaefer* was modified in part on other grounds by *People v Derror*, 475 Mich 316; 715 NW2d 822 (2006), which was overruled in part on other grounds by *People v Feezel*, 486 Mich 184; 783 NW2d 67 (2010).

---

The Committee on Model Criminal Jury Instructions solicits comment

## FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS (CONTINUED)

on the following proposal by August 1, 2025. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

### PROPOSED

The Committee proposes amending M Crim JI 20.24 (Definition of Sufficient Force) in response to *People v Levran*, ___ Mich App ___ (December 3, 2024) (Docket No. 370931). The Court of Appeals held in *Levran* that the fifth paragraph of the current instruction did not accurately reflect how MCL 750.520b(1)(f)(*iv*) defines "force or coercion" for purposes of criminal sexual conduct committed during a medical exam or treatment. The proposed amendment would remedy this defect. Deletions are in ~~strikethrough~~, and new language is underlined.

### [AMENDED] M Crim JI 20.24
Definition of Sufficient Force

[*Choose any of the following that are applicable:*]

(1) It is enough force if the defendant overcame [*name complainant*] by physical force.

(2) It is enough force if the defendant threatened to use physical force on [*name complainant*], and [*name complainant*] believed that the defendant had the ability to carry out those threats.

(3) It is enough force if the defendant threatened to get even with [*name complainant*] in the future, and [*name complainant*] believed that the defendant had the ability to carry out those threats.

(4) It is enough force if the defendant threatened to kidnap [*name complainant*], threatened to force [*name complainant*] to do something against [his / her] will, or threatened to physically punish someone, and [*name complainant*] believed that the defendant had the ability to carry out those threats.

(5) It is enough force if the defendant was giving [*name complainant*] a medical exam or treatment and did so in a way or for a reason that is not recognized as medically acceptable. A medical exam or treatment ~~physical exam by a doctor~~ that includes inserting fingers into the vagina or rectum is not in itself criminal sexual conduct. You must decide whether the defendant did the exam or treatment in a manner or for purposes that are ~~as an excuse for sexual purposes and in a way that is~~ not recognized as medically ethical or acceptable.[1]

(6) It is enough force if the defendant, through concealment or by the element of surprise, [was able to overcome / achieve sexual contact with]*[2] [*name complainant*].

(7) It is enough force if the defendant used force to induce the victim to submit to the sexual act or to seize control of the victim in a manner facilitating commission of the sexual act without regard to the victim's wishes.

**Use Notes**

(1) See *People v Levran*, ___ Mich App ___; ___ NW3d ___ (December 3, 2024) (Docket No. 370931).

*(2) Use the bracketed expression "achieve sexual contact" when criminal sexual contact in the fourth degree is charged. *See* MCL 750.520e(1)(b)(*v*).

---

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by August 1, 2025. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

### PROPOSED

The Committee proposes amending M Crim JI 37.11 (Removing, Destroying or Tampering with Evidence) to add a missing *mens rea* element. MCL 750.483a(5)(a) makes it a crime to "[k]nowingly and intentionally remove, alter, conceal, destroy, or otherwise tamper with evidence to be offered in a present or future official proceeding." While the current instruction addresses the requirement that the defendant act "intentionally," it does not address the requirement that the defendant act "knowingly." The Court of Appeals has indicated that "the word 'knowingly' in the statute likely includes knowledge of an official proceeding." *People v Walker*, 330 Mich App 378, 388 (2019). The proposed amendment would add that element and make other stylistic changes. Deletions are in ~~strikethrough~~, and new language is underlined.

### [AMENDED] M Crim JI 37.11
Removing, Destroying, or Tampering with Evidence

(1) [The defendant is charged with / You may also consider the less serious offense of1] intentionally removing, altering, concealing, destroying, or tampering with evidence to be offered at an official proceeding [not involving a criminal case where (*identify crime where the punishment was more than 10 years*) was charged1]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that there was some evidence to be offered in a present or future official proceeding.

An official proceeding is a hearing held before a legislative, judicial, administrative, or other governmental agency or a hearing before an official authorized to hear evidence under oath, including a referee, a prosecuting attorney, a hearing

examiner, a commissioner, a notary, or another person taking testimony in a proceeding.

(3) Second, that the defendant removed, altered, concealed, destroyed, or otherwise tampered with that evidence.

(4) Third, that when the defendant removed, altered, concealed, destroyed, or otherwise tampered with that evidence, [he / she] did so on purpose and not by accident.

(5) Fourth, that the defendant knew that the evidence would be offered in a present or future official proceeding at the time [he / she] removed, altered, concealed, destroyed, or otherwise tampered with it.[2]

[(56) ~~Fourth~~ Fifth, that the evidence ~~that the defendant removed, altered, concealed, destroyed, or otherwise tampered with~~ would be offered ~~was used or intended to be used~~ in a criminal case where (*identify crime where the punishment was more than 10 years*) was charged.][23]

**Use Notes**

(1) Use this language when there is a dispute whether the charge involved the aggravating factor found in MCL 750.483a(6)(b) and the court is instructing the jury on the necessarily lesser included offense that does not require proof of the aggravating factor.

(2) The Michigan Court of Appeals has assumed without deciding "that the word 'knowingly' in the statute likely includes knowledge of an official proceeding." *People v Walker*, 330 Mich App 378, 388; 948 NW2d 122 (2019). The Michigan Court of Appeals has also indicated that this element "may be proved with '[m]inimal circumstantial evidence.'" *Id.* (quoting *People v Ortiz*, 249 Mich App 297, 301; 642 NW2d 417 (2001)).

(~~2~~3) Use this paragraph where the aggravating element has been charged.

# FROM THE MICHIGAN SUPREME COURT

## ADM File No. 2024-11
## Amendments of Rules 3.101, 6.412, 7.204, 7.302, 7.305, 7.306, 7.311, 7.312, and 9.114 of the Michigan Court Rules

On order of the Court, the following amendments are adopted, effective immediately.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

### Rule 3.101 Garnishment After Judgment

(A) (A)-(Q) [Unchanged.]
(R) Costs and Fees.
(1) [Unchanged.]
(2) Within 28 days after receipt of the disclosure filed pursuant to subrule (H) by a garnishee of a periodic garnishment disclosing that it does not employ the defendant and is not otherwise liable for periodic payments, or from a garnishee of a nonperiodic garnishment disclosing that it does not hold property subject to garnishment and the defendant is not indebted to the garnishee, the plaintiff shall deduct any costs associated with that garnishment that may have been added to the judgment balance pursuant to MCR 2.625(LK), unless the court otherwise directs.
(S)-(T) [Unchanged.]

### Rule 6.412 Selection of the Jury

(A)-(C) [Unchanged.]
(D) Challenges for Cause.
(1) Grounds. A prospective juror is subject to challenge for cause on any ground set forth in MCR 2.511(ED) or for any other reason recognized by law.
(2) [Unchanged.(E)-(F) [Unchanged.]

### Rule 7.204 Filing Appeal of Right; Appearance

(A) Time Requirements. The time limit for an appeal of right is jurisdictional. See MCR 7.203(A). The provisions of MCR 1.108 regarding computation of time apply. For purposes of subrules (A)(1) and (A)(2), "entry" means the date a judgment or order is signed or the date that data entry of the judgment or order is accomplished in the issuing tribunal's register of actions.
(1) [Unchanged.]
(2) An appeal of right in a criminal case must be taken (a)-(d) [Unchanged.]
A motion for rehearing or reconsideration of a motion mentioned in subrules (A)(1)(db) or (A)(2)(d) does not extend the time for filing a claim of appeal, unless the motion for rehearing or reconsideration was itself filed within the 21- or 42-day period.
(3) [Unchanged.] (B)-(H) [Unchanged.]

### ~~Rule 7.302 Electronic Filing, Service, and Notification~~

~~(A) Electronic Filing. Documents may be filed electronically in lieu of submitting paper copies unless specifically required by court order.~~
~~(B) Electronic Service. A document that is electronically filed may be served electronically on registered users of the e-filing system at their registered email addresses.~~
~~(C) Electronic Notification. The clerk may electronically transmit or provide electronic access to Court notices, orders, opinions, and other communications to the parties, attorneys, the Court of Appeals, and the trial court or tribunal.~~

### Rule 7.305 Application for Leave to Appeal

(A) What to File. To apply for leave to appeal, a party must file:
(1)-(3) [Unchanged.]
(4) the fee provided by MCR 7.319(DC)(1).
(B) [Unchanged.]
(C) When to File.
(1)-(5) [Unchanged.]
(6) Effect of Appeal on Decision Remanding Case. If a party appeals a decision that remands for further proceedings as provided in subrule (C)(56)(a), the following provisions apply:
(a)-(b) [Unchanged.]
(7) [Unchanged.] (D)-(I) [Unchanged.]

### Rule 7.306 Original Proceedings

(A)-(C) [Unchanged.]
(D) What to File. Service provided under this subrule must be verified by the clerk. To initiate an original proceeding, a plaintiff must file with the clerk all of the following:
(1)-(3)[Unchanged.]
(4) The fees provided by MCR 7.319(DC)(1) and MCL 600.1986(1)(a). Copies of relevant documents, record evidence, or supporting affidavits may be attached as exhibits to the complaint.
(E)-(L) [Unchanged.]

**Rule 7.311 Motions in Supreme Court**

(A) What to File. To have a motion heard, a party must file with the clerk:
(1)-(2) [Unchanged.]
(3) the fee provided by MCR 7.319(D~~C~~)(2) or (3).
(B)-(H) [Unchanged.]

---

**Rule 7.312 Briefs and Appendixes in Calendar Cases and Cases Argued on the Application**

(A)-(G) [Unchanged.]
(H) Amicus Curiae Briefs and Argument. (1)-(2) [Unchanged.]
(3) An amicus curiae brief must conform to subrules (A), (B), (C) and (F).~~, and,~~
(4) (4)-(6) [Unchanged.]
(I)-(K) [Unchanged.]

---

**Rule 9.114 Action by Administrator or Commission After Answer**

(A)-(B) [Unchanged.]
(C) Contractual Probation. For purposes of this subrule, "contractual probation" means the placement of a consenting respondent on probation by the commission, without the filing of formal charges. Contractual probation does not constitute discipline, and shall be confidential under MCR 9.126 except as provided by MCR 9.115(J)(3).
(1)-(4) [Unchanged.]
(5) The placing of a respondent on contractual probation shall constitute a final disposition that entitles the complainant to notice in accordance with MCR 9.114(F~~D~~), and to file an action in accordance with MCR 9.122(A)(2).
(D)-(G) [Unchanged.]

*Staff Comment (ADM File No. 2024-11):* These amendments update cross-references and make other nonsubstantive revisions to clarify the rules.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

---

## ADM File No. 2019-40
## Proposed Adoption of Administrative Order No. 2025-X, Proposed Rescission of Administrative Order No. 2012-7, and Proposed Amendment of Rule2.407 of the Michigan Court Rules

On order of the Court, this is to advise that the Court is considering adoption of an administrative order regarding a judicial officer's ability to appear remotely. The proposal also includes a proposed rescission of Administrative Order No. 2012-7 and a related proposed amendment of Rule 2.407 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Administrative Order No. 2025-X – Adoption of Administrative Order Regarding a Judicial Officer's Remote Appearance

In accordance with this administrative order, judicial officers may preside remotely, in accordance with the applicable court rules governing the use of videoconferencing, in any proceeding that does not require the judicial officer's in-person presence.

The judicial officer who presides remotely must
(1) be physically present in a location required or authorized by statute or court rule,
(2) preside from a location that is free of personal distractions,
(3) have a stable internet connection,
(4) have their videoconferencing camera on at all times during the proceeding,
(5) display the flags of the United States and Michigan as provided in MCR 8.115(A), and
(6) wear a black robe.

For purposes of this administrative order, the judge may display digital representations of the United States and Michigan flags adjacent to the judge.

A judicial officer's remote participation is subject to the court's ability to produce a suitable recording of the proceeding for purposes of preparing a verbatim transcript in accordance with the Michigan court rules.

Before appearing remotely from a location other than their courthouse, a judicial officer must receive approval from their chief judge.

The State Court Administrative Office must report periodically to this Court regarding its assessment of judicial officers presiding remotely. Courts must cooperate with the State Court Administrative Office in monitoring the remote participation of judicial officers in court proceedings.

## FROM THE MICHIGAN SUPREME COURT (CONTINUED)

For purposes of this order:

- "Videoconferencing" means that term as defined in MCR 2.407.
- A "judicial officer" includes judges, district court magistrates, and referees.

### Rule 2.407 Videoconferencing

(A)-(D) [Unchanged.]

~~(E) Notwithstanding any other provision in this rule, until further order of the Court, AO No. 2012-7 is suspended.~~

~~Administrative Order No. 2012-7 – Adoption of Administrative Order to Allow State Court Administrative Office to Authorize a Judicial Officer's Appearance by Video Communication Equipment~~

~~The State Court Administrative Office is authorized, until further order of this Court, to approve the use of two-way interactive video technology in the trial courts to allow judicial officers to preside remotely in any proceeding that may be conducted by two-way interactive technology or communication equipment without the consent of the parties under the Michigan Court Rules and statutes. Remote participation by judicial officers shall be limited to the following specific situations:~~

~~(1) judicial assignments;~~
~~(2) circuits and districts that are comprised of more than one county and would require a judicial officer to travel to a different courthouse within the circuit or district;~~
~~(3) district court districts that have multiple court locations in which a judicial officer would have to travel to a different courthouse within the district;~~
~~(4) a multiple district plan in which a district court magistrate would have to travel to a different district.~~

~~The judicial officer who presides remotely must be physically present in a courthouse located within his or her judicial circuit, district, or multiple district area~~

~~For circuits or districts that are comprised of more than one county, each court that seeks permission to allow its judicial officers to preside by video communication equipment must submit a proposed local administrative order for approval by the State Court Administrator pursuant to MCR 8.112(B). The local administrative order must describe how the program will be implemented and the administrative procedures for each type of hearing for which two-way interactive video technology will be used. The State Court Administrative Office shall either approve the proposed local administrative order or return it to the chief judge for amendment in accordance with requirements and guidelines provided by the State Court Administrative Office.~~

~~For judicial assignments, the assignment order will allow remote participation by judges as long as the assigned judge is physically present in a courthouse located within the judge's judicial circuit or district. A local administrative order is not required for assignments.~~

~~For multiple district plans, the plan will allow remote participation by district court magistrates as long as the magistrate is physically present in a courthouse located within the multiple district area. No separate local administrative order is required.~~

~~The State Court Administrative Office shall assist courts in implementing the technology, and shall report periodically to this Court regarding its assessment of the program. Those courts using the technology shall provide statistics and otherwise cooperate with the State Court Administrative Office in monitoring the use of video communication equipment~~.

*Staff Comment (ADM File No. 2019-40):* The proposed administrative order would clarify when, from where, and how a judicial officer may participate remotely, subject to their chief judge's approval. If adopted, a related amendment of MCR 2.407 would strike a reference to AO 2012-7 being suspended and that administrative order would be rescinded.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by July 1, 2025 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2019-40. Your comments and the comments of others will be posted under the chapter affected by this proposal.

## ADM File No. 2022-51 and ADM File No. 2022-57 Amendments of Rules 6.508 and 6.509 of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 6.508 and 6.509 of the Michigan Court Rules are adopted, effective May 1, 2025.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

### Rule 6.508 Procedure; Evidentiary Hearing; Determination

(D) (A)-(E) [Unchanged.]

(E) (F) Reissue Order. If, while considering a motion filed under MCR 6.502, the court initially issues an order deciding the motion in part, within 7 days of entering an order deciding the remaining issue(s), the court must reissue the order so that all decisions on the motion are reflected in a single order.

### Rule 6.509 Appeal

(F) (A) Availability of Appeal. Appeals from decisions under this subchapter are by application for leave to appeal to the Court of Appeals pursuant to MCR 7.205(A)(1). The 6-month time limit provided by MCR 7.205(A)(4)(a), runs from the decision under this subchapter. For purposes of this subrule, a "decision under this subchapter" includes a decision on a motion filed under MCR 6.502, a decision on a timely-filed motion for reconsideration, and a reissued order under MCR 6.508(F). Nothing in this subchapter shall be construed as extending the time to appeal from the original judgment.

(G) (B)-(D) [Unchanged.]

*Staff Comment (ADM File Nos. 2022-51 and 2022-57):* The amendments of MCR 6.508 and 6.509: (1) require trial courts that make a partial decision on a postjudgment motion for relief to reissue the order in its entirety after it decides the remaining issues, (2) clarify that a reissued order constitutes a decision under subchapter 6.500 of the Michigan Court Rules, and (3) clarify that a trial court's decision on a motion for relief from judgment and a timely-filed motion to reconsider an order deciding a motion for relief from judgment constitute a decision under subchapter 6.500 of the Michigan Court Rules.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

## ADM File No. 2023-04
## Amendments of Rules 7.212, 7.305, and 7.312 of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 7.212, 7.305, and 7.312 of the Michigan Court Rules are adopted, effective May 1, 2025.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

### Rule 7.212 Briefs

(A) (A)-(G) [Unchanged.]

(B) Amicus Curiae.

(1) Except as otherwise provided in this subrule or as directed by the Court of Appeals, aAn amicus curiae brief may be filed in response to an application for leave to appeal or in response to the parties' principal briefs only on motion granted by the Court of Appeals. The motion must be filed within 21 days after the appellee's brief is filed, and there is no fee for filing the motion. If the motion seeks to file an amicus curiae brief in response to an application for leave to appeal and the application is granted, the amicus curiae may file an amicus curiae brief in response to the parties' principal briefs on appeal without further leave of the Court of Appeals. If the motion is granted, the order will state the date by which the brief must be filed.

(2) A motion for leave to file an amicus curiae brief is not required if the brief is presented:

(a) by the Attorney General on behalf of the people of the state of Michigan, the state of Michigan, or an agency or official of the state of Michigan;

(b) on behalf of any political subdivision of the state or a tribal government when submitted by its authorized legal officer, its authorized agent, or an association representing a political subdivision or a tribal government;

(c) by the State Bar of Michigan Board of Commissioners or a recognized practice area section or committee of the State Bar of Michigan;

(d) on behalf of the Michigan State Planning Body;

(e) on behalf of the State Appellate Defender Office as permitted by law; or

(f) on behalf of an organization that is tax exempt under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 USC 501. Amicus curiae briefs filed under this subrule must include an attestation at the end of the brief that the organization is tax exempt as provided in this subrule.

(2)-(3) [Renumbered (3)-(4) but otherwise unchanged.]

(i)-(j) [Unchanged.]

### Rule 7.305 Application for Leave to Appeal

(A)-(E) [Unchanged.]

(F) An amicus curiae brief in response to an application for leave to appeal may be filed on motion granted by the Court except as provided in MCR 7.312(H)(2) or as directed by the Court. The brief must be submitted within 21 days after the timely filing of the answer or within 21 days after the time for filing the answer under subrule (D) has passed. Except as otherwise provided in this subrule, a brief filed under this subrule must conform to MCR 7.312(H).

(F) [Relettered as (G) but otherwise unchanged.]

## FROM THE MICHIGAN SUPREME COURT (CONTINUED)

(HG) Submission and Argument. Applications for leave to appeal may be submitted for a decision after the reply brief has been filed or the time for filing such has expired, whichever occurs first. There is no oral argument on an application for leave to appeal unless ordered by the Court under subrule (IH)(1).

(H)-(I) [Relettered as (I)-(J) but otherwise unchanged.]

### Rule 7.312 Briefs, Responses to Adverse Amicus Briefs, and Appendixes in Calendar Cases and Cases Argued on the Application

(A) Form and Length.

(1) Briefs in calendar cases and cases to be argued on the application must be prepared in conformity with subrule (B), MCR 7.212(B), (C), (D), and (G) as to form and length. If filed in hard copy, briefs shall be printed on only the front side of the page of good quality, white unglazed paper by any printing, duplicating, or copying process that provides a clear image. Typewritten, handwritten, or carbon copy pages may be used so long as the printing is legible.

(2) A party may file 1 signed copy of a response to an adverse amicus curiae brief filed under subrule (H), along with proof of its service on all other parties and amicus curiae. The response must:

(a) contain only a rebuttal of the arguments in the adverse amicus curiae brief;

(b) include a table of contents and an index of authorities; and

(c) be no longer than 3,200 words or, for self-represented litigants without access to a word-processing system, 10 pages, exclusive of tables, indexes, and appendixes.

An adverse amicus brief is one that advocates for a ruling on an issue or a result in the case that is contrary to the position of a party to the litigation.

(B)-(D) [Unchanged.]

(E) Time for Filing. Unless the Court directs a different time for filing, (1)-(3) [Unchanged.]

(4) a response to an adverse amicus curiae brief, if any, is due

(a) within 21 days after service of the adverse amicus curiae brief in a calendar case, or

(b) within 14 days after service of the adverse amicus curiae brief in a case being argued on the application.

(F)-(G) [Unchanged.]

(H) Amicus Curiae Briefs and Argument.

(1) An amicus curiae brief may be filed only on motion granted by the Court except as provided in subrulesection (2) or as directed by the Court. There is no fee for filing a motion under this subrule.

(2) A motion for leave to file an amicus curiae brief ~~(in both calendar cases and cases being argued on the application)~~ is not required in calendar cases or cases being argued on the application if the brief is presented:

(a) by the Attorney General on behalf of the people of the state of Michigan, the state of Michigan, or an agency or official of the state of Michigan;

(b) on behalf of any political subdivision of the state or a tribal government when submitted by its authorized legal officer, its authorized agent, or an association representing a political subdivision or a tribal government;

(c) ~~or on behalf of the Prosecuting Attorneys Association of Michigan or the Criminal Defense Attorneys of Michigan~~by the State Bar of Michigan Board of Commissioners or a recognized practice area section or committee of the State Bar of Michigan;

(d) on behalf of the Michigan State Planning Body;

(e) on behalf of the State Appellate Defender Office as permitted by law; or

(f) on behalf of an organization that is tax exempt under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 USC 501. Amicus curiae briefs filed under this subrule must include an attestation at the end of the brief that the organization is tax exempt as provided in this subrule.

(3) (3)-(6) [Unchanged.]

(I) [Unchanged.]

(J) Extending or Shortening Time; Failure to File; Forfeiture of Oral Argument.

(1) The time provided for filing and serving the briefs, responses to adverse amicus curiae briefs, and appendixes may be shortened or extended by order of the Court on its own initiative or on motion of a party.

(2) (2)-(3) [Unchanged.]

(K) [Unchanged.]

*Staff Comment (ADM File No. 2023-04):* The amendments of MCR 7.212, 7.305, and 7.312 address the filing and timing of amicus curiae briefs. For both appellate courts, the amendments: allow amicus curiae briefs in response to an application for leave to appeal; eliminate the motion filing fee; and expand the groups that may file a brief without a motion or invitation. For the Supreme Court, the amendments also allow parties to file a response to an adverse amicus curiae brief, subject to certain timing and content requirements.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

## ADM File No. 2022-59
## Amendment of Rule 6.302 of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having

been provided, and consideration having been given to the comments received, the following amendment of Rule 6.302 of the Michigan Court Rules is adopted, effective May 1, 2025.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

**Rule 6.302 Pleas of Guilty and Nolo Contendere**

(A)-(D) [Unchanged.]

(E) Additional Inquiries. On completing the colloquy with the defendant, the court must:

(1) Aask the prosecutor and the defendant's lawyer whether either is aware of any promises, threats, or inducements other than those already disclosed on the record, and whether the court has complied with subrules (B)-(D). If it appears to the court that it has failed to comply with subrules (B)-(D), the court may not accept the defendant's plea until the deficiency is corrected.

(2) Advise the defendant on the record and in writing on the form approved by the state court administrator that if the plea is accepted and the defendant engages in misconduct, as that term is defined in MCR 6.310, before sentencing, the court will not be bound by any sentencing agreement or evaluation.

(F) [Unchanged.]

*Staff Comment (ADM File No. 2022-59):* The amendment of MCR 6.302(E) requires courts, upon completing the colloquy in subrules (B)-(D) but before accepting a plea, to advise defendants of the consequences of misconduct in between plea acceptance and sentencing.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

# ORDERS OF DISCIPLINE & DISABILITY

## SUSPENSION (BY CONSENT)

**Eric Allan Buikema, P58379**, Farmington Hills. 3-year suspension effective August 4, 2025[1]

Respondent and the Grievance Administrator filed an Amended Stipulation for Consent Order, in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Tri-County Hearing Panel #52. The stipulation contained respondent's admission that he was convicted of one count of operating while intoxicated 3rd offense, a felony, in violation of MCL/PACC 257.625(1)(a), in a matter titled *People v Eric Allan Buikema,* Lapeer County Circuit Court, Case No. 23-014499-FH.

Based on respondent's admission and the stipulation of the parties, the panel found that respondent engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5); and was conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b).

The panel ordered that respondent's license to practice law in Michigan be suspended for three years, effective August 4, 2025, which is the date respondent is scheduled to be released from incarceration. Costs were assessed in the amount of $1,131.19.

1. Respondent has been continuously suspended from the practice of law in Michigan since June 20, 2019. See Notice of Suspension (By Consent), Case Nos. 19-15-MZ; 19-25-JC, issued July 2, 2019.

## AUTOMATIC INTERIM SUSPENSION

**Robert M. Craig, P35139**, Dearborn. Effective October 15, 2024

On October 15, 2024, respondent was convicted by guilty plea of Operating While Intoxicated 3rd Offense, a felony under MCL 257.625, in *State of Michigan v Robert Michael Craig,* Wayne County Circuit Court Case No. 24-003774-01-FH. Upon respondent's conviction and in accordance with MCR 9.120(B)(1), respondent's license to practice law in Michigan was automatically suspended.

Upon the filing of a judgment of conviction, this matter will be assigned to a hearing panel for further proceedings. The interim suspension will remain in effect until the effective

date of an order filed by a hearing panel under MCR 9.115(J).

## HEARING ON PETITION FOR REINSTATEMENT

Notice is given that **Craig E. Hilborn (P43661),** has filed a petition in the Michigan Supreme Court, the Attorney Discipline Board, and the Attorney Grievance Commission seeking reinstatement as a member of the State Bar and restoration of his license to practice law in accordance with MCR 9.124(A). *In the Matter of the Reinstatement Petition of Craig E. Hilborn (P43661),* ADB Case No. 25-20-RP.

Effective April 3, 2018, Petitioner was disbarred, per the stipulation for consent order of discipline filed by Petitioner and Grievance Administrator, in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by the hearing panel. The stipulation contained Petitioner's admission that he was convicted of two counts of wire fraud (felonies), in violation of 18 USC 1343, in the matter titled *United States of America v Craig E. Hilborn,* United States District Court for the Eastern District of Wisconsin, Case No. 18-cr-44-2. Based on Petitioner's conviction and his admission in the stipulation, the hearing panel found that Petitioner engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5)

The Attorney Discipline Board has assigned the reinstatement petition to Tri- County Hearing Panel #66. A virtual hearing is scheduled for Tuesday, June 17, 2025, commencing at 9:30 a.m.

In the interest of maintaining the high standards imposed upon the legal profession as conditions for the privilege to practice law in this state, and of protecting the public, the judiciary, and the legal profession against conduct contrary to such standards, Petitioner will be required to establish his eligibility for reinstatement by clear and convincing evidence.

Any interested person may appear at the hearing and request to be heard in support of or in opposition to the petition for reinstatement.

Any person having information bearing on Petitioner's eligibility for reinstatement should contact:

Austin D. Blessing-Nelson
Associate Counsel
Attorney Grievance Commission
755 W. Big Beaver Road, Suite 2100
Troy, MI 48084
(313) 961-6585

**Requirements of the Petitioner**

The Petitioner is required to establish by clear and convincing evidence the following:

1. He desires in good faith to be restored to the privilege to practice law in this state;
2. The term of the suspension or revocation of his license, whichever is applicable, has elapsed;
3. He has not practiced or attempted to practice law contrary to the requirement of his suspension or revocation;
4. He has complied fully with the terms of the order of discipline;
5. His conduct since the order of discipline has been exemplary and above reproach;
6. He has a proper understanding of and attitude toward the standards that are imposed on members of the Bar and will conduct himself in conformity with those standards;
7. He can safely be recommended to the public, the courts, and the legal profession as a person fit to be consulted by others and to represent them and otherwise act in matters of trust and confidence, and, in general, to aid in the administration of justice as a member of the Bar and as an officer of the court;
8. That if he has been out of the practice of law for three years or more, he has been recertified by the Board of Law Examiners; and,
9. He has reimbursed or has agreed to reimburse the Client Protection Fund any money paid from the fund as a result of his conduct. Failure to fully reimburse as agreed is grounds for revocation of a reinstatement.

## REINSTATEMENT

**John A. Janiszewski, P74400.** Effective March 17, 2025

On October 31, 2024, Tri-County Hearing Panel #18 entered an Order of Suspension with Condition (By Consent) in this matter suspending respondent from the practice of law in Michigan for 90 days, effective December 15, 2024, and ordering him to comply with a condition, and pay costs in the amount of $1,174.84. On November 22, 2024, respondent paid his costs, and on March 12, 2025, he filed an amended affidavit pursuant to MCR 9.123(A), attesting that he has fully complied with all requirements of the panel's order and will continue to comply with the order until and unless reinstated. The Grievance Administrator did not file an objection to respondent's affidavit

## ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

pursuant to MCR 9.123(A); and the Board being otherwise advised;

**Now therefore,**

**IT IS ORDERED** that respondent, **John A. Janiszewski,** P74400, is **REINSTATED** to the practice of law in Michigan, effective **March 17, 2025.**

### ORDER OF REINSTATEMENT

**Frederick D. Johnson, P36283.** Effective March 13, 2025

On December 4, 2024, Kent County Hearing Panel #4 entered an Order of Suspension in this matter suspending respondent from the practice of law in Michigan for 75 days, effective December 26, 2024. On March 5, 2025, respondent filed an affidavit pursuant to MCR 9.123(A), attesting that he has fully complied with all requirements of the panel's order and will continue to comply with the order until and unless reinstated. The Board was advised that the Grievance Administrator has no objection to the affidavit; and the Board being otherwise advised;

**Now therefore,**

**IT IS ORDERED** that respondent, **Frederick D. Johnson,** P 36283, is **REINSTATED** to the practice of law in Michigan, effective **March 13, 2025.**

### SUSPENSION AND RESTITUTION WITH CONDITION (BY CONSENT)

**John O. Knappman, P42983**, Taylor. 30-day suspension effective March 21, 2025

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Discipline pursuant to MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Hearing Panel #7. The stipulation contained respondent's admission to being retained by a client to represent him in a civil matter and then later neglecting the case, which resulted in the case being dismissed for lack of progress. Respondent also pled no contest to misconduct in a separate client's probate matter, where the court ultimately found deficiencies in the filings and dismissed his petitions for probate.

Based on respondent's admissions, plea of no contest, and the stipulation of the parties, the panel found that respondent handled a legal matter which he knew or should have known that he was not competent to handle, without associating with a lawyer who is competent to handle it, in violation of MRPC 1.1(a) [Count Two]; handled a legal matter without preparation adequate in the circumstances, in violation of MRPC 1.1(b) [Count Two]; neglected a legal matter, in violation of MRPC 1.1(c) [Counts One and Two]; failed to act with reasonable diligence and promptness in representing a client, in violation of MRPC 1.3 [Counts One and Two]; failed to keep the client reasonably informed about the status of her matter and comply promptly with reasonable requests for information, in violation of MRPC 1.4(a) [Count One]; failed to take reasonable steps to protect a client's interests by surrendering papers and property to which the client is entitled and refunding any advance payment of the fee that has not been earned, in violation of MRPC 1.16(d) [Count One]; and failed to make reasonable efforts to expedite litigation consistent with the interests of the client, in violation of MRPC 3.2 [Count One]. The panel also found respondent's conduct to have violated MRPC 8.4(a) and (c); and MCR 9.104(1)-(4) [Counts One and Two].

In accordance with the stipulation of the parties, the hearing panel ordered that respondent's license to practice law in Michigan be suspended for 30 days, effective March 21, 2025, that he pay restitution totaling $4,500.00, and that he be subject to a condition relevant to the established misconduct. Total costs were assessed in the amount of $1,494.05.

## AUTOMATIC INTERIM SUSPENSION

**Joseph Anthony Paparella, P64848**, Grand Rapids. Effective August 30, 2024

On August 30, 2024, respondent was convicted by guilty verdict of felonious assault, a felony under MCL 750.82; and reckless driving, a misdemeanor under MCL 257.626, in *State of Michigan v Joseph Anthony Paparella,* Kent County Circuit Court, Case No. 23-03822-FH. Upon respondent's felony conviction and in accordance with MCR 9.120(B)(1), respondent's license to practice law in Michigan was automatically suspended.

Upon the filing of a judgment of conviction, this matter will be assigned to a hearing panel for further proceedings. The interim suspension will remain in effect until the effective date of an order filed by a hearing panel under MCR 9.115(J).

## DISBARMENT

**David Chipman Venie, P 68087**, Blacksburg, Virginia. Disbarment effective March 20, 2025[1]

After proceedings conducted pursuant to MCR 9.115, Tri-County Hearing Panel #9 found, by default, that respondent submitted a falsified document to the Attorney Grievance Commission with the intent to conceal his creation of a business entity under a false name, that he intentionally deceived the Commission as to ownership of a Capital One bank account, and that he presented false "income reconciliation" spreadsheets regarding his Bank of America business checking account.

Based on respondent's default and the evidence presented by the Grievance Administrator, the panel found that respondent knowingly made false statements of material fact in connection with a disciplinary proceeding, in violation of MRPC 8.1(a)(1); and engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b). The

## ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

panel also found respondent's conduct violated MRPC 8.4(c) and MCR 9.104(1)-(3).

The panel ordered that respondent be disbarred. Costs were assessed in the amount of $1,822.52.

1. Respondent has been disbarred since August 18, 2017. See Notice of Disbarment, issued August 18, 2017, in *Grievance Administrator v David Chipman Venie*, 17-49-RD.

### SUSPENSION

**Michael J. Zayed, P53518**, White Lake. One-year suspension effective March 19, 2025[1]

The Grievance Administrator filed a combined Notice of Filing of Judgment of Conviction and Formal Complaint against respondent. The notice, filed in accordance with MCR 9.120(B)(3), stated that respondent was convicted by guilty plea of operating a motor vehicle while intoxicated 2nd offense, a misdemeanor, in violation of MCL/PACC Code 257.6256B. The Formal Complaint alleged that respondent committed professional misconduct by failing to provide notice of his conviction to the Attorney Discipline Board and Attorney Grievance Commission as required by MCR 9.120(A) and (B), and by failing to answer a request for investigation from the Grievance Administrator.

After proceedings conducted pursuant to MCR 9.115 and 9.120, Tri-County Hearing Panel #66 found that respondent committed professional misconduct as alleged in the Notice of Filing of Judgment of Conviction, and that by virtue of his default for failure to answer the formal complaint or appear at the hearing, respondent committed professional misconduct as alleged in the formal complaint, in its entirety.

Specifically, the panel found, based on respondent's conviction, that respondent engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5); and engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b). Based on respondent's default and evidence presented at the hearing, the panel also found that respondent engaged in conduct prejudicial to the administration of justice, in violation of MCR 9.104(1) and MRPC 8.4(c); engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in the violation of MCR 9.104(2); engaged in conduct that is contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(3); engaged in conduct that violates the standards or rules of professional conduct adopted by the Supreme Court, in violation of MCR 9.104(4); failed to notify the Grievance Administrator and the Board of the conviction within 14 days after the conviction, in violation of MCR 9.120(A)(1); and failed to answer a request for investigation in conformity with MCR 9.113(A)(B)(2), in violation of MCR 9.104(7) and MRPC 8.1(a)(2).

The panel ordered that respondent's license to practice law be suspended for one year.

Costs were assessed in the amount of $1,915.23.

1. Respondent has been continuously suspended from the practice of law in Michigan since September 19, 2024. See Notice of Suspension, *Grievance Administrator v Michael J. Zayed*, Case Nos. 24-41-JC; 24-42-GA, issued September 25, 2024.

# PUBLIC POLICY REPORT

## 2025-2026 LEGISLATION

**HB 4174** (Wegela) **Juveniles: other; Law enforcement: investigations.** Juveniles: other; presumption of admissibility for a juvenile's self-incriminating responses obtained through deceptive police practices; modify. Amends sec. 1, ch. XIIA of 1939 PA 288 (MCL 712A.1) & adds sec. 17e to ch. XIIA.

**POSITION: Support.**

**(Position adopted via roll-call vote. Commissioners voting in support: Anderson, Bryant, Burrell, Christenson, Clay, Cripps-Serra, Crowley, Detzler, Easterly, Eccleston, Evans, Hamameh, Holloman, Howlett, Kitchen-Troop, Larsen, Lerner, Liggins, Low, Lowe, Mansoor, Mantese, Mason, McGill, Perkins, Reiser, Shapiro, Simmons; Commissioners voting in opposition: Clark, Walton.)**

## IN THE HALL OF JUSTICE

**Proposed Amendments of Rule 3.602 of the Michigan Court Rules (ADM File No. 2023-12)** – Arbitration (See *Michigan Bar Journal* February 2025, p 42).

**STATUS:** Comment Period Expires 05/01/25; Public Hearing to be Scheduled.

**POSITION: Support.**

**Proposed Amendments of Rule 3.991 of the Michigan Court Rules (ADM File No. 2022-34)** – Review of Referee Recommendations (See *Michigan Bar Journal* February 2025, p 43).

**STATUS:** Comment Period Expires 05/01/25; Public Hearing to be Scheduled.

**POSITION: Support with amendments recommended by the Children's Law Section. The full text of the amendments is available on the Public Policy Resource Center on the SBM website.**

**Proposed Amendments of Rule 6.1 of the Michigan (ADM File No. 2023-22)** – Pro Bono Publico Service (See *Michigan Bar Journal* March 2025, p 56).

**STATUS:** Comment Period Expires 05/01/25; Public Hearing to be Scheduled.

**POSITION: Support with amendments recommended by the Justice Initiatives Committee and the Access to Justice Policy Committee. The full text of the amendments is available on the Public Policy Resource Center on the SBM website.**

# YOU BECAME A PUBLIC DEFENDER TO FIGHT AGAINST THE HARMS OF THE CRIMINAL LEGAL SYSTEM.

## JOIN THE FUTURE OF PUBLIC DEFENSE.

**At the King County Dept. of Public Defense (DPD), we're implementing new caseload standards that are long overdue.**

Starting in July 2024, DPD began implementing groundbreaking new caseload standards from the ABA/RAND Study, weighting cases from 1 to 8 based on seriousness and significantly lowering caseloads. For example, a murder case is worth 7 credits.

### WSBA's New Caseload Standards

- In 2025, a maximum of 110 weighted felony credits
- In 2026, the limit reduces to 90 weighted felony credits
- In 2027, weighted felony credits limited to 47

### Be the lawyer you always wanted to be

**At King County DPD, you'll have:**

- Felony and misdemeanor caseload limits
- Robust funding for expert witnesses
- Support from skilled, in-house investigators and mitigation specialists
- Supportive and inclusive workplace

### We value your passion and experience

- Salary range: $103,272 - $163,621
- Comprehensive medical benefits
- Strong union workplace
- Well-funded and secure pension
- Ongoing training opportunities

If you have 3+ years as a criminal defense attorney or civil litigator and trial experience, join us.

### READY TO LEARN MORE?

Visit **kingcounty.gov/dpd/jobs** or email **dpd-hr@kingcounty.gov**
Equal opportunity employer

King County
Department of PUBLIC DEFENSE

# CLASSIFIED

INTERESTED IN ADVERTISING IN THE *MICHIGAN BAR JOURNAL*? CONTACT **ADVERTISING@MICHBAR.ORG**

## ACCOUNTING EXPERT

**Experienced** in providing litigation support services, expert witness testimony, forensic accounting services, fraud examinations, contract damage calculations, business valuations for divorce proceedings, lost wages valuations for wrongful discharges, and estate tax preparation for decedents and bankruptcies (see http://www.chapski.com). Contact Steve Chapski, CPA, CFE, CSM, at schapski@chapski.com or 734.459.6480.

## FINE ART APPRAISALS

**Need an expert witness?** Whether it is for fine art, jewelry, furnishings, or collectibles, obtaining a current appraisal is an essential step towards the successful management of art as an asset. Detroit Fine Art Appraisals specializes in confidential certified appraisals, compliant with both Internal Revenue Service guidelines and Uniform Standards of Professional Appraisal Practice (USPAP) for all purposes, including estate tax & estate planning, insurance appraisals, damage or loss, divorce, donation, or art as collateral. 3325 Orchard Lake Rd, Keego Harbor, MI 48320, 248.481.8888, www.detroitfaa.com, detroitfineartappraisals@gmail.com.

## BUILDING & PREMISES EXPERT

**Mr. Tyson** reviews litigation matters, performs onsite inspections, interviews litigants, both plaintiff and defendant. He researches, makes drawings, and provides evidence for courts including correct building code and life safety statutes and standards as they may affect personal injury claims, construction, contracts, etc. and causation. Specializing in theories of OSHA and MIOSHA claims. Member of numerous building code and standard authorities, including but not limited to IBC [BOCA, UBC] NFPA, IAEI, NAHB, etc. A licensed builder with many years of tradesman, subcontractor, general contractor (hands-on) experience and construction expertise. Never disqualified in court. Contact Ronald Tyson at 248.230.9561, tyson1rk@mac.com, www.tysonenterprises.com.

## CHIROPRACTIC EXPERT

**Active certified chiropractic expert.** Plaintiff and defense work, malpractice, disability, fraud, administrative law, etc. Clinical experience over 35 years. Served on physician advisory board for four major insurance companies. Honored as 2011 Distinguished Alumni of New York Chiropractic College. Licensed in Michigan. Dr. Andrew M. Rodgers, chiropractic physician, 201.592.6200, cell 201.394.6662, www.chiropracticexpertwitness.net, chiroexcel@verizon.net, www.fortleechiropractic.com. No charge for viability of case.

## EMPLOYMENT AVAILABLE

**Associate(s) and/or new owner(s)** to take over the firm established in 1971 with Houghton Lake and Traverse City presence. Excellent opportunity for ambitious, experienced attorney in non-smoking offices. Total truth, honesty, and high ethical and competence standards required. Within days, you will have far more work than you can handle and get paid accordingly. Mentor available. The firm handles general practice, personal injury, workers' compensation, Social Security, etc. Send résumé and transcripts to mbauchan@bauchan.com or call 989.366.5361 to discuss Up North work in the Lower Peninsula.

**Career Center.** The State Bar of Michigan has partnered with an industry leader in job board development to create a unique SBM employment marketplace with features different from generalist job boards in including a highly targeted focus on employment opportunities in a certain sector, location, or demographic; anonymous résumé posting and job application enabling job candidates to stay connected to the employment market while maintaining full control over their confidential information; An advanced "job alert" system that notifies candidates of new opportunities matching their preselected criteria; and access to industry-specific jobs and top-quality candidates. Employer access to a large number of job seekers. The career center is free for job seekers. Employers pay a fee to post jobs. For more information visit the Career Center at https://jobs.michbar.org/.

**Defense Litigation Attorney.** Kaufman, Payton & Chapa is seeking an experienced defense litigation attorney with 5-10 years of experience for its practice located in Farmington Hills, Michigan. We are seeking an attorney to argue motions, contest hearings, arbitrations, and trials. Draft, review, and approve pleadings including complaints, motions, discovery, and post judgment supplemental proceedings. Must have strong communication, negotiation, writing, and listening skills. Attention to details and a strong commitment to client service. Candidates must be highly organized, self-motivated, have a strong work ethic, and be a team player. Competitive salary and benefits package will be offered. Benefits offered include health, dental, vision, and retirement plan. Please submit your ré-

## CLASSIFIED (CONTINUED)

sumé to Daniel S. Schell, Office Manager, DSSchell@kaufmanlaw.com.

**Lakeshore Legal Aid** serves low-income people, seniors, and survivors of domestic violence and sexual assault in a holistic manner to address clients' legal issues and improve our communities. Lakeshore provides free direct legal representation in southeast Michigan and the thumb and client intake, advice, and brief legal services throughout Michigan via our attorney-staffed hotline. Our practice areas include housing, family, consumer, elder, education, and public benefits law. Search the open positions with Lakeshore at https://lakeshorelegalaid.org/positions/ and apply today.

### ENGINEERING EXPERTS

**Engineering design, accident analysis, and forensics.** Miller Engineering has over 40 years of consulting experience and engineering professorships. We provide services to attorneys, insurance, and industry through expert testimony, research, and publications. Miller Engineering is based in Ann Arbor, Michigan and has a full-time staff of engineers, researchers, and technical writers. Call our office at 734.662.6822 or visit https://www.millerengineering.com.

### EVENTS, PRESENTATIONS, PUBLICATIONS

**Attorney's Resource Conference**—Attention personal injury, medical malpractice, and any attorney who works on cases involving medical records! Join The Attorney's Resource Conference, August 12–14, 2025, in Garden Theater, Detroit, Michigan. This conference provides a dynamic and relaxing platform to build networks for case support while enhancing your skills and staying informed. Learn from top doctors, nurses, and attorneys. Enhance your expertise of medical issues, learn how they can impact your case, and be in the know so you are prepared and confident to present medical evidence. Whether you are an attorney concentrating in healthcare, personal injury, and medical malpractice, a nurse attorney, or a legal nurse consultant, you will be equipped with the knowledge and connections necessary to excel in your practice and provide the best possible representation for your clients all while offering an opportunity to relax and attend to your own self-care. To register or to learn more visit Attorney's Resource Conference (https://attorneysconference.com/home).

### IMMIGRATION MENTAL HEALTH EVALUATIONS

**Sand River Therapy** specializes in providing objective immigration mental health evaluations for various waivers including Asylum, VAWA, Hardship & Cancellation of Removal. Immediate openings available! Providing virtual, confidential services across Michigan! Call 734.707.1020 or visit my website www.sandrivertherapy.com for more information!

### IMMIGRATION LAW

**All Things Immigration Lead to Ray Law International, PC.** With over 20 years of immigration experience, we successfully assist H.R., senior managers, and individuals overcome immigration barriers to bring key employees and family members to the U.S. Servicing businesses and individuals throughout the U.S. and the world through our three offices: Novi, MI; Chicago, IL; and Fort Lee, NJ. Find out more about our services, service and increase your immigration knowledge on YouTube or our Website. Referral fees are promptly paid in accordance with MRPC 1.5(e). (248) 735-8800/(888) 401-1016/ E-mail.

**Antone, Casagrande & Adwers,** a Martindale-Hubbell AV-Rated law firm, has been assisting attorneys and their clients with immigration matters since 1993. As a firm, we focus exclusively on immigration law with expertise in employment and family immigration

for individuals, small businesses, and multinational corporations ranging from business visas to permanent residency. 248.406.4100 or email us at law@antone.com, 31555 W. 14 Mile Road, Ste 100, Farmington Hills, MI 48334, www.antone.com

## LET'S DISCUSS YOUR ADVERTISING NEEDS

**We'll work with you** to create an advertising plan that is within your budget and gets your message in front of the right audience. Contact the State Bar of Michigan advertising department to discuss the best option. Email advertising@michbar.org, or call 517.346.6315 or 800.968.1442, ext. 6315.

## OFFICE SPACE OR VIRTUAL SPACE AVAILABLE

**Bingham Farms.** Class A legal space available in existing legal suite. Offices in various sizes. Packages include lobby and receptionist, multiple conference rooms, high-speed internet and wi-fi, e-fax, phone (local and long distance included), copy and scan center, and shredding service. Excellent opportunity to gain case referrals and be part of a professional suite. Call 248.645.1700 for details and to view space.

**Birmingham – Downtown.** Executive corner office, 16 x 16 with picture windows and natural light, in Class "A" building, Old Woodward at Brown Street. Amenities include a shared conference room, spacious kitchen, and staff workstation. Available secured parking in garage under building. Sublease $1,975 /month. Contact Allan Nachman@WillowGP.com or 248.821.3730.

**Farmington Hills.** Attorney offices and administrative spaces available in a large, fully furnished, all attorney suite on Northwestern Highway in Farmington Hills ranging from $350 to $1,600 per month. The suite has full-time receptionist; three conference rooms; copier with scanning, high-speed internet; Wi-Fi and VoIP phone system in a building with 24-hour access. Ideal for small firm or sole practitioner. Call Jerry at 248.932.3510 to tour the suite and see available offices.

**Farmington Hills.** Located in the award-winning Kaufman Financial Center. One to five private office spaces, with staff cubicles, are available for immediate occupancy. The lease includes the use of several different sized conference rooms, including a conference room with dedicated internet, camera, soundbar and a large monitor for videoconferencing; reception area and receptionist; separate kitchen and dining area; copy and scan area; and shredding services. Please contact Daniel S. Schell, Office Manager, DSSchell@kaufmanlaw.com.

## RETIRING?

We will buy your practice. Looking to purchase estate planning practices of retiring attorneys in Detroit Metro area. Possible association opportunity. Reply to Accettura & Hurwitz, 32305 Grand River Ave., Farmington, MI 48336 or maccettura@elderlawmi.com.

## SEXUAL ASSAULT & SEXUAL ABUSE REFERRALS

**Buckfire & Buckfire, PC,** trial attorney Robert J. Lantzy represents victims of sexual abuse in civil lawsuits throughout Michigan. Lantzy's sexual assault and abuse lawsuit experience includes the high-profile cases of Larry Nassar/Michigan State University, Ohio State University and other confidential lawsuits. Referral fees are guaranteed and promptly paid in accordance with MRPC 1.5(e). For more information, visit: https://buckfirelaw.com/case-types/sexual-abuse/ or call us at 313.800.8386. Founded in 1969, Buckfire Law is a Michigan-based personal injury law firm and is AV Rated.

# LAWYERS & JUDGES ASSISTANCE
## MEETING DIRECTORY

The following list reflects the latest information about lawyers and judges AA and NA meetings. Meetings marked with "*" have been designated for lawyers, judges, and law students only. All other meetings are attended primarily by lawyers, judges, and law students, but also are attended by others seeking recovery. In addition, we have listed "Other Meetings," which others in recovery have recommended as being good meetings for those in the legal profession.

For questions about any of the meetings listed, please contact the Lawyers and Judges Assistance Program at 800.996.5522 or jclark@michbar.org.

**PLEASE DO NOT HESITATE TO CONTACT LJAP DIRECTLY WITH QUESTIONS PERTAINING TO VIRTUAL 12-STEP MEETINGS. FOR MEETING LOGIN INFORMATION, CONTACT LJAP VOLUNTEERS ARVIN P. AT 248.310.6360 OR MIKE M. AT 517.242.4792.**

## ALCOHOLICS ANONYMOUS & OTHER SUPPORT GROUPS

Bloomfield Hills
**WEDNESDAY 6 PM***
Virtual meeting
Kirk in the Hills Presbyterian Church
1340 W. Long Lake Rd.
1/2 mile west of Telegraph

Detroit
**MONDAY 7 PM***
Lawyers and Judges AA
St. Paul of the Cross
23333 Schoolcraft Rd.
Just east of I-96 and Telegraph
*(This is both an AA and NA meeting.)*

East Lansing
**WEDNESDAY 8 PM**
Sense of Humor AA Meeting
Michigan State University Union
49 Abbott Rd.
Lake Michigan Room

Houghton Lake
**SECOND SATURDAY OF THE MONTH 1 PM**
Lawyers and Judges AA Meeting
Houghton Lake Alano Club
2410 N. Markey Rd.
Contact Scott at 989.246.1200 with questions.

Royal Oak
**TUESDAY 7 PM***
Lawyers and Judges AA
St. John's Episcopal Church
26998 Woodward Ave.

Stevensville
**THURSDAY 4 PM***
Al-Anon of Berrien County
4162 Red Arrow Highway

Virtual
**MONDAY 8 PM**
Join using this link https://ilaa.org/meetings-and-events/

Virtual
**TUESDAY 8 PM**
WOMEN ONLY
Join using this link https://ilaa.org/meetings-and-events/

Virtual
**THURSDAY 7 PM***
Contact Mike M. at 517.242.4792 for information.

Virtual
**THURSDAY 7:30 PM**
Zoom
Contact Arvin P. at 248.310.6360 for login information

Virtual
**SUNDAY 7 PM***
Virtual meeting
Contact Mike M. at 517.242.4792 for information.

---

## GAMBLERS ANONYMOUS

For a list of meetings, visit
**gamblersanonymous.org/mtgdirMI.html.**

*Please note that these meetings are not specifically for lawyers and judges.*

---

## OTHER MEETINGS

Detroit
**TUESDAY 6 PM**
St. Aloysius Church Office
1232 Washington Blvd.

Detroit
**FRIDAY 12 PM**
Detroit Metropolitan Bar Association
645 Griswold
3550 Penobscot Bldg., 13th Floor
Smart Detroit Global Board Room 2

Farmington Hills
**TUESDAY 7 AM**
Antioch Lutheran Church
33360 W. 13 Mile
Corner of 13 Mile and Farmington Rd., use back entrance, basement

Monroe
**TUESDAY 12:05 PM**
Professionals in Recovery
Human Potential Center
22 W. 2nd St.
Closed meeting; restricted to professionals who are addicted to drugs and/or alcohol

Rochester
**FRIDAY 8 PM**
Rochester Presbyterian Church
1385 S. Adams
South of Avon Rd.
Closed meeting; men's group

Troy
**FRIDAY 6 PM**
The Business & Professional (STAG)
Closed Meeting of Narcotics Anonymous
Pilgrim Congregational Church
3061 N. Adams
2 blocks north of Big Beaver (16 Mile Rd.)

Virtual
**SUNDAY 7 PM***
WOMEN ONLY
Contact Lynn C. at 269.396.7056 for login information.

# YOU BECAME A PUBLIC DEFENDER TO FIGHT AGAINST THE HARMS OF THE CRIMINAL LEGAL SYSTEM.

## JOIN THE FUTURE OF PUBLIC DEFENSE.

**At the King County Dept. of Public Defense (DPD), we're implementing new caseload standards that are long overdue.**

Starting in July 2024, DPD began implementing groundbreaking new caseload standards from the ABA/RAND Study, weighting cases from 1 to 8 based on seriousness and significantly lowering caseloads. For example, a murder case is worth 7 credits.

### WSBA's New Caseload Standards

- In 2025, a maximum of 110 weighted felony credits
- In 2026, the limit reduces to 90 weighted felony credits
- In 2027, weighted felony credits limited to 47

### Be the lawyer you always wanted to be

**At King County DPD, you'll have:**

- Felony and misdemeanor caseload limits
- Robust funding for expert witnesses
- Support from skilled, in-house investigators and mitigation specialists
- Supportive and inclusive workplace

### We value your passion and experience

- Salary range: $103,272 - $163,621
- Comprehensive medical benefits
- Strong union workplace
- Well-funded and secure pension
- Ongoing training opportunities

If you have 3+ years as a criminal defense attorney or civil litigator and trial experience, join us.

### READY TO LEARN MORE?

Visit **kingcounty.gov/dpd/jobs** or email **dpd-hr@kingcounty.gov**
Equal opportunity employer

King County
Department of PUBLIC DEFENSE