

STATE BAR OF MICHIGAN
DOMESTIC VIOLENCE COMMITTEE
Tuesday, January 17, 2012 – 2 - 4 PM
Teleconference

MINUTES

Committee Members Present: Leslie A. Hagan, Nancy E. Gallagher, Delores D. Hall, Danielle D. Carter, Ashley E. Lowe, Hon. Amy Ronayne Krause, Bruce E. Petrick, Sarah R. Prout, Rebecca E. Shiemke

Commissioner Liaison: Dana Warnez

SBM Staff: Robert Mathis, Janeice Morrow, Carrie Sharlow

- I. Call to Order and Attendance. A quorum was not met.
- II. Approval of December 6, 2011 Meeting Minutes.

Rebecca Shiemke motioned to submit approval of the minutes and public policy items by e-vote. Ashley Lowe seconded the motion. Approval of the motion was unanimous by the members present. An e-vote will be sent out.

III. Subcommittees: Meeting Updates and Reports

- Training and System Education:
Members: Lori Pourzan (chair); Sarah Prout, Jennifer Lamp, Danielle Jackson

The subcommittee met December 15, 2011 and January 12, 2012 and will meet again February 9, 2012.

A date of October 26, 2012, from 1-5 pm, has been secured at Cooley Law School for a Pro Bono training session on domestic violence and family law. This live session will be take place at the Auburn Hills Campus and will be simultaneously broadcast to the other three Cooley campuses.

- SCAO Family Mediation Best Practices Project:
Members: Mary Lovik (chair); Bruce Petrick, Danielle Jackson, Rebecca Shiemke, Judge Amy RonayneKrause

This subcommittee met on December 19, 2011.

The subcommittee reviewed the Amendments to the Standards of Conduct for Mediators, based on the 11/9/11 Memorandum from Doug Van Epps, Director of the Office of Dispute Resolution, Michigan Supreme Court, requesting comments to the proposed amendments. The subcommittee submitted their Memorandum of suggested changes to the amendments to

the Domestic Violence Committee for consideration (see V. Public Policy, Item 1). The due date for submitting comments is 2/29/12.

- Personal Protection Orders:
Members: Ashley Lowe (chair); Jennifer Lamp; Rebecca Shiemke

The subcommittee is hopeful to schedule their first meeting within the next few weeks. The chair expressed an interest appointing additional members to the subcommittee.

- Legislative Subcommittee:
Members: Rebecca Shiemke (chair); Danielle Jackson; Mary Lovik, Dana Warnez

This subcommittee met on January 9, 2012.

The subcommittee reviewed and submitted a written report to the Domestic Violence Committee on their recommendations. (see V. Public Policy, items 2-10)

IV. *Family Law Journal* Articles

- February 2012 Issue – Confidentiality and Mediation, written by Mary Lovik and Rebecca Shiemke, due to editors S. Prout and B. Petrick by December 21, 2011. Due to Journal Editor by January 8, 2012.
- March 2012 Issue – Barriers to Prosecution of Domestic Violence Cases, written by Jennifer Lamp and Eilisia Schwarz, due to editors S. Prout and A. Lowe by January 24, 2012. Due to Journal Editor by February 8, 2012.
- April 2012 Issue – Bullying, written by Lori Pourzan, due to editors S. Prout and D. Jackson by February 24, 2012. Due to Journal Editor by March 8, 2012.
- May 2012 Issue – Family Court Orders, written by Judge Joseph Oster, due to editors M. Brown and Judge Krause by March 24, 2012. Due to Journal Editor by April 8, 2012.
- June/July 2012 Issue – Batterers in Redemption, written by Lisa Laurence and Sasha Robinson, due to editors D. Jackson and B. Petrick by April 24, 2012. Due to Journal Editor by May 8, 2012.
- August/September 2012 Issue – Domestic Violence in Lesbian, Gay, and Transgender Relationships, written by Sarah Prout, due to editors _____ by June 22, 2012. Due to Journal Editor by July 8, 2012.

V. Public Policy

1. Standards of Conduct for Mediators
Status: Proposed amendments due 2/29/2012
SCAO Family Mediation Best Practices Subcommittee Recommendation:
(Request for Comments attached; Legislative Subcommittee's Memorandum of Proposed Amendments attached).

The members present agreed to approve the memorandum. An e-vote will be sent out. *The members unanimously approved, by e-vote, for the Memorandum of Proposed Amendments to the Standards of Conduct for Mediators be submitted.*

2. Substitute SB 547(Moolenaar)_Family law; child custody; child parenting plan; require in child custody disputes. Amends title and secs. 1, 2, 4 & 11 of [1970 PA 91](#) (MCL [722.21](#) et seq.) & adds sec. 5a.
Status: 06/30/3011 Referred to Senate Judiciary
Keller: Assume it is Keller-permissible since SBM originally opposed.
Recommendation: Oppose the bill as written, but offer to work with the sponsor to develop language for voluntary parenting plans. (Copy of Substitute SB 547 attached).

The members present agreed with the recommendation. An e-vote will be sent out. *The results of the e-vote indicated twelve members approved the recommendation and one member abstained.*

3. SB 545 (Gleason) Family law; marriage and divorce; divorce; require a divorce effects program before entry of judgment of divorce. Amends 1846 RS 84 (MCL [552.1](#) - [552.45](#)) by adding sec. 5.
Status: 06/30/11 Referred Senate Judiciary
Keller: Since this is duplicating an already existing service it may fall under "(C) the availability of legal services to society." Further, it may limit access to the courts by creating new procedures and costs before parties may be divorce.
Recommendation: Oppose.

The members present agreed with the recommendation. An e-vote will be sent out. *The members unanimously approved the recommendation by e-vote.*

4. HB 5163 (Damrow) Family law; child custody; delegation of visitation rights for service members; allow. Amends sec. 7 of [1970 PA 91](#) (MCL [722.27](#)) & adds sec. 7c.
Status: 11/10/11 Referred House Judiciary
Keller: Rather than improving the functioning of the courts, this bill would be detrimental by creating a new legal right with questionable constitutional validity.
Recommendation: Oppose.

The members present agreed with the recommendation. An e-vote will be sent out. *E-vote cancelled as determination was made not to be Keller-permissible.*

5. [SB 845](#) (Jones) Criminal procedure; sentencing; penalties for domestic violence with prior conviction; allow to be enhanced with a deferred and dismissed conviction. Amends sec. 4a, ch. IX of [1927 PA 175](#) (MCL [769.4a](#)). Status: 11/10/11 Referred Senate Judiciary
Keller: Improvement of the functioning of the courts by requiring courts to consider deferred and dismissed DV convictions in subsequent prosecutions.
Recommendation: Support; with revisions proposed by the MDVPTB, it could be better.

The members present agreed with the recommendation. An e-vote will be sent out. *E-vote cancelled as determination was made not to be Keller-permissible.*

6. [SB 846](#) (Rocca) Criminal procedure; sentencing guidelines; sentencing guidelines for crime of domestic violence with prior conviction; enact. Amends sec. 16d, ch. XVII of [1927 PA 175](#) (MCL [777.16d](#)). Status: 11/10/11 Referred Senate Judiciary

[SB 847](#) (Schuitmaker) Criminal procedure; sentencing; penalties for domestic violence with prior offenses; enhance. Amends sec. 81 of [1931 PA 328](#) (MCL [750.81](#)).

Status: 11/10/11 Referred Senate Judiciary

Keller: Improvement of the functioning of the courts. Increased criminal penalties may deter crime and reduce use of prosecution and court resources.
Recommendation: Support; suggest additional amendment noted above.

The members present agreed with the recommendation. An e-vote will be sent out. *E-vote cancelled as determination was made not to be Keller-permissible.*

7. [SB 848](#) (Bieda) Crimes; other; assault by strangulation or suffocation as assault with intent to do great bodily harm less than murder; specify. Amends sec. 84 of [1931 PA 328](#) (MCL [750.84](#)). Status: 11/10/11 Referred Senate Judiciary
Keller: Improvement of the functioning of the courts by clarifying the definition of a crime.
Recommendation: Support.

The members present agreed with the recommendation. An e-vote will be sent out. *E-vote cancelled as determination was made not to be Keller-permissible.*

8. [ADM 2006-04](#) – MCR 3.204; The proposed amendment would remove the requirement to file a new action as a supplemental complaint, which would allow trial courts to consolidate cases in a way that is more compatible with trial court case management systems.
Comment Period Expiration: April 1, 2012

Recommendation: Support with the following amendment to subparagraph (A)(3): “Whenever possible, all actions INVOLVING CHILD SUPPORT, CUSTODY, OR PARENTING TIME involving children of the same parents shall be administered together.” [New language in upper case type]

The members present agreed with the recommendation. An e-vote will be sent out. *The members unanimously approved the recommendation by e-vote.*

9. [ADM 2010-32](#) – MCR 3.210; The proposed amendments of MCR 3.210 were submitted to this Court by the Michigan Judges Association after conclusion of its work and input from its Domestic Relations Committee. The proposal would govern the entry of default and default judgment in domestic relations cases and would cover and clarify related procedural issues. While this proposal adds provisions that may be found in Chapter 2 of the Michigan Court Rules, these proposed amendments of MCR 3.210 attempt to clarify procedures to be used in domestic relations cases. The proposed amendment of MCR 3.210 also would allow parties to reach agreement on issues related to property division, custody, parenting time, and support, and enter a consent judgment on those issues if the court approves it.

Comment Period Expiration: April 1, 2012

Recommendation: Oppose, particularly the provisions in subparagraphs (B)(5)(c) and (d) that permit the court to consider inadmissible evidence.

The members present agreed with the recommendation. An e-vote will be sent out. *The members unanimously approved the recommendation by e-vote.*

10. [ADM 2010-22](#) – MRPC 7.3; This proposal was submitted by the State Bar of Michigan Representative Assembly. The proposed amendment is designed so that it would limit situations in which an attorney soliciting new clients would inform a defendant or respondent that an action has been filed against him or her before the defendant or respondent is served with the papers. The bar argues that allowing attorneys to notify defendants before service leads to greater risk of domestic violence against the filing party or other illegal actions (such as absconding with children or removing assets from a joint bank or other financial account) that may occur before service can be completed.

Comment Period Expiration: March 1, 2012

Recommendation: Support.

The members present agreed with the recommendation. An e-vote will be sent out. *The members unanimously approved the recommendation by e-vote.*

- VI. Next Meeting: February 21, 2012, 2 to 4 PM, via teleconference.
Another in-person meeting will be scheduled for April 2012.

- VII. Adjournment