



# FAMILY LAW SECTION NEWSLETTER

APRIL 2015

*In this edition: It's almost that time – Judicial Rotations!*

### Family Law Section contact information

For membership information or information about this newsletter, a Family Law meeting or program from the Maricopa County Bar Association, please contact: Laurie Williams: [lwilliams@maricopabar.org](mailto:lwilliams@maricopabar.org), (602) 257-4200

**EDITOR'S COMMENTS**

The Family Law Section is always looking for new articles from its members. Please contact us with any suggestions for article topics, or better yet – submit an article! It's a great way to get your name out to your fellow family law attorneys.

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**Published by the Board of Directors of the Family Law Section of the Maricopa County Bar Association**  
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**Messages may be sent to: Laurie Williams: [lwilliams@maricopabar.org](mailto:lwilliams@maricopabar.org)**  
**The views in this newsletter are those of the contributors and editors and do not reflect the official policy of either the Maricopa County Bar Association or the Maricopa County Superior Court.**

## ANNOUNCEMENTS



### Judicial Rotation June 30, 2015

Judge Rotating	Dept.	Assuming Calendar Currently Assigned To Judge:	Dept.
Aceto, Mark	CV	McMurdie, Paul	FC
Adleman, Jay	FC	Gentry, Jo Lynn	CR
Astrowsky, Brad	JV	Mullins, Karen	CR
Blakey, Craig	JV	Gordon, Michael	CV
Brain, Mark	CV	Myers, Sam	CR
Brnovich, Susan	FC	Cunanan, David	CV
Brodman, Roger	FC	Brain, Mark	CV
Cohen, Bruce	CR	Sinclair, Joan	JV
Cooper, Katherine	CV	Adleman, Jay	FC
Cunanan, David	CV	Gates, Pam	CR
Ditsworth, John	CR	Astrowsky, Brad	JV
Foster, George	FC	Ditsworth, John	CR
Gass, David	CR	Oberbillig, Bob	CV
Gates, Pam	CR	Kreamer, Joe	CR APJ
Gentry, Jo Lynn	CR	Rea, John	CV
Gordon, Michael	CV	Svoboda, Pamela	CR
Ishikawa, Brian	JV	Brodman, Roger	FC
Kreamer, Joe	CR APJ	Porter, Gerald	FC
Mullins, Karen	CR	Cooper, Katherine	CV
Myers, Sam	CR	Welty, Joseph	CR PJ
Oberbillig, Bob	CV	Aceto, Mark	CV
Porter, Gerald	FC	Brnovich, Susan	FC
Rea, John	CV PJ	Cohen, Bruce	CR

Ryan, Timothy	FC	Ishikawa, Brian	JV
Sinclair, Joan	JV	Gass, David	CR
Svoboda, Pamela	CR	Foster, George	FC
Warner, Randy	CV-X	Warner, Randy	CVPJ CV-X
Welty, Joseph	CR PJ	Blakey, Craig	JV

\* Inter-departmental rotation.

**PJ Rotation June 30, 2015**

Judge Rotating	Dept.	Assuming Calendar Currently Assigned To Judge:	Rotating To
			Dept.
Davis, Norman	PJ	**Ryan, Timothy	FC
Barton, Janet	FCPJ	Davis, Norman	PJ

\*\* SA Commissioner/Judge Pro Temp Coverage from June 22 to June 30.



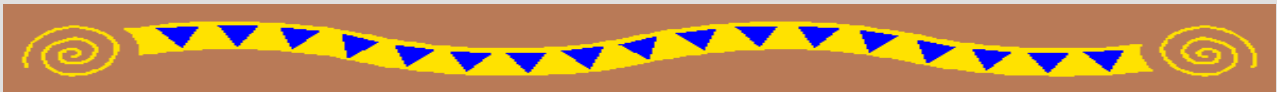
## New Maricopa County Superior Court Judges (and some retirements)

Governor Doug Ducey has announced the appointment of two new Superior Court Judges Dewain Fox and James D. Smith.

Dewain Fox graduated from the University of Arizona School of law. Formerly with Sherman & Howard’s Trial and Litigation Department, Judge Fox has more than 21 years of experience representing companies and individuals in all types of business disputes and creditor’s rights matters.

James D. Smith graduated from the University of Notre Dame. Previously with Bryan Cave, LLP, Judge Smith spent much of his career involved in class action lawsuits, which included such things as consumer fraud, RICO and contract claims.

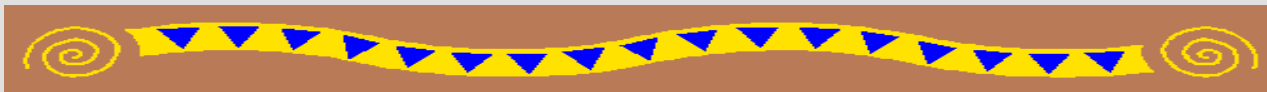
Judges Carey Hyatt, Brian Ishikawa and Robert Gottsfeld have all retired from the Maricopa County Superior Court bench. The MCBA thanks them for their years of hard work.



**MARICOPA COUNTY BAR ASSOCIATION**  
**The directors of the Family Law Section for 2015:**

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<p>Kristi M. Morley          The Morley Law Firm, PLC          800 North 1st Avenue          Phoenix, Arizona 85003          602.826.8327          k.morley@themorleylawfirm.com</p>	<p>Andrea E. Mouser          Mouser Law Firm, PLLC          Plaza Executive Center          6424 E. Greenway Pkwy, Suite 100          Scottsdale, AZ 85254          480.422.3043          andrea@mouserlawaz.com</p>
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<p>Amy Dohrendorf          Stewart &amp; Lane, PLC          777 E. Thomas Road, Suite 210          Phoenix, AZ 85014          480.705.9830          amy@stewartandlane.com</p>	

## MCBA FAMILY LAW CLE



### **Parental Alienation – April 22, 2015 1:00 p.m. – 4:00 p.m.**

Panelists: Marlene Joy, PhD  
John Moran, PhD  
Diana Vigil, PhD  
David Weinstock, PhD, JD

The panel will discuss:

- The history behind the term "alienation"
- Current research regarding alienation dynamics
- Ways the system can respond (what attorneys and judges can do in the face of alienation)
- Interventions

### **Family Law Speed Networking with the Judges – April 29, 2015 5:30 p.m. – 7:30 p.m.**

Drinks and light appetizers will be served This is a fun and casual way for the bench and bar to exchange information and engage in conversation outside of the courtroom. Using the speed-networking model, the judges will rotate to the organized small groups of practicing family law attorneys.

Joining us will be:

Hon. Suzanne Cohen  
Hon. Geoffrey Fish  
Hon. Jennifer Green  
Hon. Michael Herrod  
Hon. Bethany Hicks  
Hon. Paul McMurdie  
Hon. Joseph Mikitish  
Hon. Frank Moskowitz  
Hon. Wendy Morton  
Plus More!

### **Five Ethical Tips Every Family Lawyer Should Know – September 24, 2015 12:00 p.m. – 1:00p.m.**

Presenter: Lynda Shely, The Shely Firm, PC

This seminar will provide five (maybe even more!) practical ethical tips including how to deal with *pro pers* (ethically), what lawyers must consider before entering an “avowal” of their clients position, and a provision that should be in every fee agreement.



## News from the clerk of the Maricopa County Superior Court

Michael K. Jeanes, Clerk of the Superior Court for Maricopa County



# THE BRIEF

An electronic update for the legal community providing a brief look at news in the Clerk of the Superior Court's Office

### Filing under seal

Requests and orders to file a document under seal are few and far between, compared to the millions of filings the Clerk receives each year. Some basics to keep in mind if the need arises in your practice:

Bring your original petition and the relevant documents on paper directly to your assigned judicial officer for review and determination. This prevents the information from inadvertently being scanned-in to the public record during review. Division staff will work with the courtroom clerk to get the originals filed.

Any documents ordered to be filed under seal must be filed on paper. Putting these documents in an envelope and attaching a copy of the order to seal to the outside of the envelope alerts Clerk staff of the special handling required.

Filers are responsible for their filings. Clerk staff file documents as they are received. Sensitive or restricted information contained within documents will be accessible by the public if the filing party overlooks a filing requirement. Clerk staff do not alter, modify or redact the content of records without a court order.

For more detailed information on sealed documents and sensitive information contained within records, see the Clerk's Corner article in the April 2015 edition of the Maricopa Lawyer. Past Clerk's Corner articles are posted on the Clerk's website at [http://www.clerkofcourt.maricopa.gov/clerks\\_corner.asp](http://www.clerkofcourt.maricopa.gov/clerks_corner.asp).

### Be the first to know about Clerk news

In addition to The Brief, the Clerk's office has a Twitter feed for convenient access to Clerk news. If you have a Twitter account, follow the Clerk's office at @MaricopaClerk, where news and information are posted about office closures, upcoming changes and more. For information about Twitter or creating an account, visit [www.Twitter.com](http://www.Twitter.com).

### Fonts, Filings and Fixes

When converting your word processor documents into PDF format for filing, remember to check the final PDF for accuracy. During the conversion process, some software products create symbols in place of words or were originally typed in a font that is not supported in the PDF product. By opening the converted PDF before filing you should see any error messages or variant fonts that need to be corrected. Converted PDFs with symbols instead of words could be rejected or filed-in to the official case record. Periodically checking converted PDFs or checking the final PDF after you've used a new version of software will limit the chance of these problems.



## LAW PRACTICE TIPS



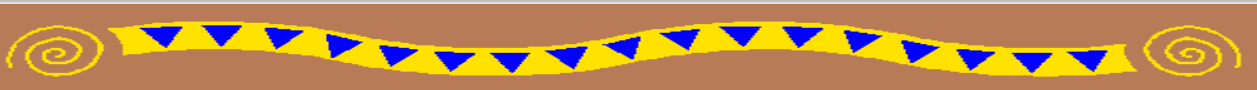
The MCBA is approaching the newly appointed judges to find out their likes and dislikes for all of us that regularly appear before them.



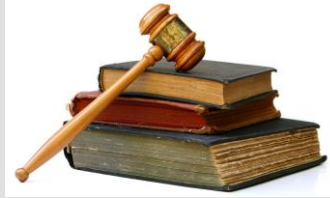
If you have a law practice tip you would be willing to share, please send it to the Family Law Section newsletter, c/o Laurie Williams (MCBA Representative) at:  
[lwilliams@maricopabar.org](mailto:lwilliams@maricopabar.org)

**When submitting a law practice tip, please let us know if you would like your name included or not.**

Remember to READ every minute entry, even the standard issued ones. Judges customize their minute entries to suit their particular style. For example, not every judge wants a bench copy of exhibits for evidentiary hearings.



## ARTICLES & CONTRIBUTIONS



### **Do you have an idea for an article? Please contact the Newsletter Committee**

#### **Child Support and the Servicemembers Civil Relief Act**

By Mark E. Sullivan\*

\*Mr. Sullivan is a retired Army Reserve JAG colonel. He practices family law in Raleigh, North Carolina and is the author of THE MILITARY DIVORCE HANDBOOK (Am. Bar Assn., 2<sup>nd</sup> Ed. 2011) and many internet resources on military family law issues. A Fellow of the American Academy of Matrimonial Lawyers, Mr. Sullivan has been a board-certified specialist in family law since 1989. He works with attorneys and judges nationwide as a consultant and an expert witness on military divorce issues in drafting military pension division orders. He can be reached at 919-832-8507 and [mark.sullivan@ncfamilylaw.com](mailto:mark.sullivan@ncfamilylaw.com).

#### **Introduction**

In a military child support case, the attorney needs to be familiar with the Servicemembers Civil Relief Act.<sup>1</sup> The SCRA will often be a part of a nonsupport case when the servicemember (SM) hasn't filed an answer or asks for more time, perhaps due to a bona fide reason for requesting a stay of proceedings under the Act, such as the conflicts of military duties, or perhaps as a pretext for dodging the "day of reckoning."

#### **Default and Delay**

The SCRA can thwart the hearing process. Section 521 of the Act prohibits the court from taking a default against the SM when he has not entered an appearance. The court is required to appoint an attorney for the servicemember, and this will expand the time it takes to get a decision on how much support is to be paid.

An example of a default situation is found in *Smith v. Davis*.<sup>2</sup> The mother served the child's father, a servicemember, with a complaint that charged him with nonsupport. In response, the servicemember sent a letter to plaintiff's attorney asking that the attorney recognize his rights under the Soldiers' and Sailors' Civil Relief Act (SSCRA), the forerunner to the SCRA. The defendant failed to appear at the hearing and the court, without appointing an attorney to represent him, entered an order requiring him to pay child support.

The defendant then filed a motion to set aside the decree under the SSCRA. The affidavit attached to the motion stated that the defendant was on active duty in the Marine Corps in California,

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<sup>1</sup> 50 U.S.C. App. § 501 et seq.

<sup>2</sup> *Smith v. Davis*, 88 N.C. App. 557, 364 S.E. 2d at 156 (1988).



that his military obligations prevented his attendance at the hearing, and that he was having “pay problems” – he had not been paid in four months.

On appeal, the order was set aside because “[d]efendant has alleged facts which at the time of the child support hearing were sufficient to constitute a legal defense to plaintiff’s petition.”<sup>3</sup> As a general rule, “[a]bsence when one’s rights or liabilities are being adjudged is usually *prima facie* prejudicial.”<sup>4</sup> In *Smith v. Davis*, the appellate court held that it was reversible error to proceed with the trial without the defendant, and that his military service did prejudice his ability to defend the child-support action.

### **Stay of Proceedings**

The Act can also be used by the SM to cause delay, through a motion for a stay of proceedings. When the SM has notice of the lawsuit or the pending motion, he or she can ask for a stay under Section 522. In this sense, the SCRA is all about *delay*. The party or attorney seeking to put off the inevitable – to postpone indefinitely the “day of reckoning” – may put it to use for that purpose, or for a perfectly legitimate reason, such as a six-week training mission, to get ready for an overseas deployment.

Putting off a hearing on child support through a motion for stay may have some consequences for the SM, however. In *Harrison v. Lyman*, a 2012 Alaska case,<sup>5</sup> the father received orders for deployment with the National Guard. When the mother filed for an increase in child support, the father requested and received a stay of proceedings under the SCRA. The court ruled that any increase in support would be back-dated to the filing of mother’s motion.

The father was gone for about 18 months and, by the time that he was brought back into court for a determination of support due during deployment (about \$1,650) and after return (about \$1,400), he owed almost \$30,000 in back support. The judge ordered him to make monthly payments to catch up the back support.

When the mother moved for reduction of the arrears to judgment, by now \$35,000, the judge refused, saying that the back support was accrued through no fault of the father, that it would be “utterly inequitable” to grant a judgment against him, that she might be doing this to harm the father’s finances and/or impair his relationship with the children, and that the entry of a judgment would be “punitive.” The court ordered the father to continue making monthly payments, and he was actually paying more than court had ordered for catch-up when the mother filed an appeal.

The Alaska Supreme Court reversed stating that the judge had no discretion in the requested entry of judgment for child support arrears, it was a ministerial act, and the judge could not take into account motives, good/bad faith or the circumstances of either party. The Supreme Court went on to note that the service of the motion for a child support increase gave fair warning to the father of a possible increase so that he could adjust his consumption pattern, put away money to cover a possible increase, and perhaps reassess the amount of money that he was paying for child support.

### **Putting Off the Hearing**

The SCRA may be used by the SM who legitimately wants to participate in the hearing, and who has legitimate claims and defenses. The military member’s assigned duties or location may prevent his appearing in court, even though he wants to get into court to ask for a reduction in child support

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<sup>3</sup> *Id.*, 364 S.E.2d at 159.

<sup>4</sup> *Boone v. Lightner*, 319 U.S. at 575; see also *Chenausky v. Chenausky*, 128 N.H. 116, 509 A.2d 156 (1986).

<sup>5</sup> *Harrison v. Lyman*, 2012 Alas. LEXIS 108.

or a modification of the medical expense reimbursement requirements of a prior order.

The party seeking to move forward promptly must know the rules under the SCRA, the facts of the case, and the decisions that favor moving forward. The same injunction applies to opposing counsel in regard to delaying the day of court. Pay primary attention to whether the presence of the SM is necessary for the hearing, whether the evidence can be presented effectively in his or her absence, and whether the court should make an interim ruling on support pending a full hearing to avoid financial hardship and to avoid rewarding inequitable conduct by a party who is withholding needed child support.

### **Temporary Hearing, Bad Faith**

Do not be afraid to ask for a temporary order of support. To avoid the unfair and financially devastating result of “no support,” the court may consider granting an interim support award. In 1989 the Georgia Supreme Court ruled that an order that granted a temporary change in child support did not significantly affect the rights of the SM since it was an interlocutory decree and was subject to modification in the future.<sup>6</sup> Although the SCRA now states that the Act applies to any order, whether final or temporary,<sup>7</sup> the bad faith refusal of the non-custodial to pay support may convince the judge to refuse to hear the objections of that parent as a matter of “clean hands” and equity.

The SM’s attempt to slow down the case with an SCRA stay request may be defeated by his actions taken in bad faith. When a SM does not show good faith in his or her dealings with the court, a stay of proceedings should be denied. In *Riley v. White*,<sup>8</sup> a soldier failed to submit to blood tests in a paternity action before going overseas and was aware of the court proceedings, had an attorney to represent him, and was previously granted an extension by the court to take the tests required. The court’s denial of his stay request was upheld.

Counsel for the non-military party should request that the court examine whether the member has acted in good faith. Most courts hold that a member must exercise due diligence and good faith in trying to arrange to appear in court.<sup>9</sup> When a servicemember demonstrates bad faith in his dealings with the court, no stay will be granted. This rule has been upheld in cases involving paternity,<sup>10</sup> contempt<sup>11</sup> and discovery noncompliance.<sup>12</sup>

### **Navigating the Maze**

This area of the law can be a fascinating and confusing maze. Whenever possible, ask questions,

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<sup>6</sup> *Shelor v. Shelor*, 259 Ga. 462, 383 S.E.2d 895 (Ga. 1989). See also *Gilmore v. Gilmore*, 185 Misc. 535, 536, 58 N.Y.S.2d 556, 557 (1945), *Jelks v. Jelks*, 207 Ark. 475, 181 S.W.2d 235 (1944), *Kelley v. Kelley*, 38 N.Y.S.2d 344, 348–50 (1942), and *Cherubini v. Cherubini*, 2003 NY slip op. 50569U, 2003 N.Y. Misc. LEXIS 114 (N.Y. Sup. Ct. Feb. 13, 2003) (unpublished) for examples of cases involving the entry of temporary support orders despite stay requests under the Soldiers’ and Sailors’ Civil Relief Act. Courts are reluctant to stay a case when it means no support.

<sup>7</sup> 50 U.S.C. App. § 511.

<sup>8</sup> *Riley v. White*, 563 So. 2d 1039 (Ala. Civ. App. 1990).

<sup>9</sup> See e.g., *Boone v. Lightner*, 320 U.S. 809, 64 S. Ct. 26, 88 L. Ed. (1943), *Plesniak v. Wiegand*, 31 Ill. App. 3d 923, 927–30, 335 N.E. 2d 131 (1975), *Underhill v. Barnes*, 161 Ga. App. 776, 288 S.E. 2d 905 (1982), *Palo v. Palo*, 299 N.W. 2d 577 (SD S. Ct. 1980), and *Judkins v. Judkins*, 113 N.C.App. 734, 441 S.E.2d 139 (1994).

<sup>10</sup> *Riley v. White*, 563 So. 2d 1039 (Ala. App. 1990) (soldier failed to submit to blood tests in a paternity action before going overseas and was aware of the court proceedings, had an attorney to represent him and was previously given a delay by the court to take the tests required; the court’s denial of his stay request was upheld).

<sup>11</sup> *Hibbard v. Hibbard*, 230 Neb. 364, 431 N.W. 2d 637 (1988) (soldier who had been in contempt for three years for refusing to comply with visitation orders was denied a stay in the ex-spouse’s change of custody action).

<sup>12</sup> *Judkins v. Judkins*, 113 N.C.App. 734, 441 S.E.2d 139 (1994) (soldier received several continuances because of military duty during the Persian Gulf War, had an attorney, failed to comply with court discovery orders and sought additional stays or continuances after discovery order disobedience; the court denied his stay requests).

request help, and associate with competent co-counsel. Sometimes the assistance will come from your fellow attorneys, retired JAG officers, Guard or Reserve judge advocates or Child Support Enforcement Agency personnel. Be courteous, be respectful, and do not wait until the last minute to ask for help.

Recognize that there are times when the SM cannot respond quickly to a petition, motion, complaint, notice of hearing, or discovery request. Field exercises, ship schedules and sea duty, deployments, and classified missions might make impossible the kind of prompt and timely response that attorneys routinely expect from civilian parties and opposing counsel.

Whenever possible, use the military command structure to assist your client. If the lowest unit commander cannot help you or does not respond, take your request to the superior of that officer. Document your requests, keep records, and use fax or e-mail transmissions whenever possible to speed your requests and communications. Asking for support from the military is a way to help the client receive urgently needed financial assistance from the other parent. Each of the services, except the Air Force, has monetary guidelines to use for the support of dependents.

Remember that you can obtain help for your client at a military legal assistance office, regardless of the branch of service, if your client is eligible for legal assistance in his or her own name (i.e., holds a valid military ID card) or in the name of minor children who are military dependents of the SM. A JAG officer or civilian legal assistance attorney might be the best kind of co-counsel you can get, and you can't beat the price—the help is free. JAGs frequently “know the ropes” much better than civilian counsel, and they have many resources and contact lists available to them.

\* \* \*



## **Proposed Changes to Family Law Rules of Procedure**

### **PETITION TO AMEND RULE 74, ARIZONA RULES OF FAMILY LAW PROCEDURE**

Would address issues relating to parenting coordinators

Petitioner: The Honorable Janet Barton, Chair  
Ad Hoc Parenting Coordinator Workgroup  
1501 W. Washington St., Ste. 410  
Phoenix, AZ 85007  
(602) 452-3252  
[SPickard@courts.az.gov](mailto:SPickard@courts.az.gov)

Filed January 8, 2015.

Modified comment period granted:

April 27, 2015 - First round of comments due  
May 20, 2015 - Amended Petition due  
June 15, 2015 - Second round of comments due  
July 13, 2015 - Petitioner's reply to comments due

**PETITION TO AMEND ARIZONA RULES OF FAMILY LAW PROCEDURE**

Would add new Rule 67.1 to implement the Uniform Collaborative Law Rules, a voluntary, client-driven form of alternative dispute resolution

Petitioner: Timothy Berg  
Uniform Law Commission  
2394 E. Camelback Road  
Suite 600  
Phoenix, AZ 85016  
602-916-5421  
602-916-5621  
Bar No. 004170

Filed on January 9, 2015.

Comments due on or before May 20, 2015.

**PETITION TO AMEND ARIZONA RULE OF FAMILY LAW PROCEDURE 2(B)(2)**

Would restyle the rule for consistency with restyled Arizona Rule of Evidence 403.

Petitioner: Mark W. Armstrong  
Co-Chair, Advisory Committee on Rules of Evidence  
Staff Attorney, Arizona Supreme Court  
Superior Court Judge (Ret.)  
1501 W. Washington, Suite 415  
Phoenix, AZ 85007-3231  
Telephone: (602) 452-3387  
Bar No. 004945

Petitioner: Samuel A. Thumma  
Co-Chair, Advisory Committee on Rules of Evidence  
Judge, Arizona Court of Appeals  
Division One  
State Courts Building  
1501 West Washington  
Phoenix, Arizona 85007  
Telephone: (602) 542-3492  
Bar No. 014679

Filed January 5, 2015

Comments due on or before May 20, 2015.

**For more information visit:**

<http://azdnn.dnnmax.com/AZSupremeCourtMain/AZCourtRulesMain/CourtRulesForumMain/CourtRulesForum/tabid/91/view/topics/forumid/41/Default.aspx>



## Proposed Legislative Changes

### [HB2047: CHILD REMOVAL; SUPERVISOR REVIEW; APPROVAL](#)

Requires that a child safety worker submit reasons for removal and supporting information, as well as gaining a supervisor's approval, before removing a child from the child's parents or guardians.

ARS Title Affected: 8

First sponsor: Rep. Townsend

\* Referred to Senate Health & Human Services, March 3

### [HB2629: SUPREME COURT; ATTORNEY LICENSING](#)

This bill requires the Arizona Supreme Court to license an attorney for the practice of law in Arizona, and does not require the attorney to be a member of any organization to become or remain licensed. It passed the House Rules Committee on Monday, March 2. The House Rules attorney told lawmakers there are concerns about its constitutionality. It has not yet been put on any other agendas.

### [SB1048: VEXATIOUS LITIGANTS; FEES; COSTS; DESIGNATION](#)

Permits a party, under certain conditions, to request that a superior court designate a pro se litigant a vexatious litigant; prohibits court from waiving court fees or costs for civil actions by someone declared a vexatious litigant; amended to allow pro se litigants to request fee waiver in family court cases.

ARS Title Affected: 12

First sponsor: Sen. Kavanagh

\* Passed House Judiciary, March 3

### [HB2296: ADOPTION PETITION; COUNTY ATTORNEY](#)

Permits, rather than requires, a county attorney to prepare an adoption petition and act as attorney without expense to a prospective adoptive parent on application of the person seeking adoption; permits, rather than requires, an adoption agency to submit the prepared adoption petition to the county attorney.

ARS Title Affected: 8

First sponsor: Rep. E. Farnsworth

\* Passed Senate Health & Human Services, March 4

### [HB2519: RELOCATION OF CHILD; PARENTING PLANS](#)

Reduces from 100 miles to 30 miles the distance that requires 21 day's advance written notice before a parent may relocate a child.

ARS Title Affected: 25

First sponsor: Rep. Coleman

\* Passed House Rules, March 3

\* Up for signature currently

### [SB1226: PARENT-CHILD RELATIONSHIP; TERMINATION; PETITION](#)

Authorizes the county attorney of the county in which a prospective adoptive parent resides to prepare a petition to terminate the parent-child relationship without expense to the prospective adoptive parent.

ARS Title Affected: 8

First sponsor: Sen. Pancrazi

\* Unanimously passed Senate, March 4

### [SB1035: DOMESTIC VIOLENCE TREATMENT PROGRAMS; PROVIDERS](#)

Adds the court to a list of approved entities that may approve a domestic violence offender treatment program.

ARS Title Affected: 13

First sponsor: Sen. Ward

\* Passed House Judiciary, March 18

\* Passed House Rules, March 19

### [SB1478: CRIMINAL JUSTICE; BUDGET RECONCILIATION, FY2015-16](#)

Makes policy changes that affect the budget; prohibits committing a child to the Department of Juvenile Corrections if the child is an adjudicated delinquent for a non-felony offense unless it is a repeat offense or the child is seriously mentally ill, is under 14 years of age; or is a dependent or incorrigible child.

ARS Titles Affected: 8., 35, 41

First sponsor: Sen. Biggs

Signed by the governor; March 12

### [SB1064: SERVICE OF PROCESS; REGULATION](#)

Limits the number of times a service of process can be attempted on the same person for the matter to one time daily; specifies how and where alternative notices may be posted.

ARS Titles Affected: 11, 12

First sponsor: Sen. Kavanagh

\* Passed House, March 25; ready for governors

## **SB 1439: Mental Health Providers Complaint Process**

### **OVERVIEW**

SB 1439 removes the requirement that the Board of Psychology (Board) shall not consider a complaint against a judicially appointed psychologist for unprofessional conduct unless the court has found a substantial basis to refer the complaint for consideration by the board.

### **HISTORY**

Arizona Revised Statutes § 32-2081 was added by Laws 1991, Chapter 119, § 3. Current law allows the Board, on its own motion, to investigate evidence that appears to show that a psychologist is psychologically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely engage in the practice of psychology. Additionally, a health care institution is required to, along with any other person who may, report to the Board information that appears to show that a psychologist is psychologically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely engage in the practice of psychology. This section also excludes the Board from considering a complaint against a psychologist arising out of a judicially ordered evaluation, treatment or psychoeducation of a person charged with violating any provision in Title 13, Chapter 14 to present a charge of unprofessional conduct unless the court ordering the evaluation has found a substantial basis to refer the complaint for consideration by the Board.

### **PROVISIONS**

1. Removes the provision that the Board shall not consider a complaint against a judicially appointed psychologist arising out of a court ordered evaluation, treatment or psychoeducation of a person to present a charge of unprofessional conduct unless the court ordering the evaluation, treatment or psychoeducation has found a substantial basis to refer the complaint for consideration by the board.

2. Specifies that a claim of unprofessional conduct brought on or after the effective date of this section against a psychologist arising out of court-ordered services shall be independently reviewed by three members of the Board.
3. If one or more members believe there is merit to open an investigation, an investigation shall be opened.
4. Prohibits the Board from considering a complaint for administrative action if the complaint is against a member, staff, agent or consultant of the Board if the complaint relates to the person's performance of Board duties.

**As you can see from the bill pertaining to complaint-related matters for mental health professionals, the legislative process is moving forward without our input. Please contact Andrea Mouser at [andrea@mouserlawaz.com](mailto:andrea@mouserlawaz.com) if you are interested in taking part in the legislative process. We are working to reestablish the Family Law Legislative Advisory Board within the legislature (the group used to exist and disbanded).**

**We need volunteers who are willing to attend open sessions and work with the committee to represent the viewpoints of the family law bar. This group WILL NOT be a part of the Maricopa County Bar Association but an independent volunteer group comprised of a variety of professionals who can properly advise the legislature on the needs of families from the perspective of the bar members practicing or working in this area.**

