

Legislation; Court Rules and Case Law

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Pending Legislation

- Lots of legislation pending but we are at the end of a two year legislative cycle.
- If legislation does not pass by the end of the year it will need to be reintroduced.

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Legislation that impacts paternity.

- SB 506 seeks to amend the definition of “out of wedlock”
- Would permit a putative father or a husband to bring a paternity action and permit an out of wedlock determination to be made in the context of the case in lieu of a “prior determination.”

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- SB 4147 would terminate a payer’s child support obligation if DNA evidence shows the payer is not the biological father.
- HB 4566 Would require repayment of child support under certain circumstances.

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Legislation on Service of Process

- SB 522 would allow the FOC pamphlet be served electronically.
- SB 645 would permit alternate service under the Family Support Act.

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Legislation on Custody and Divorce

- HB 4564 mandates joint custody in most cases – unless parent is unfit or moves out of the school district.
- HB 4818 would add a new best interest factor, (I) the extent to which the existing or proposed custodial environment provides substantially equal time with both parents.

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- HB 4174 Permits electronic parenting time.
- HB 5761 eliminates “no fault divorces” when children are involved.

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Miscellaneous

- HB 4522 no identifying information in an Order of Filiation.
- HB 4523 no identifying information in an Order of Support.
- HB 5418 no smoking in a motor vehicle with a child under four.

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Court Rule Changes

- 2.107 Service and Filing of Pleadings – email SOP began January 1, 2008. Additional updates added to clarify – effective January 1, 2009.
- 2.504 Dismissal of Actions – If a Plaintiff fails to comply with the court rules or a court order the Court may on its own dismiss.

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- 3.204 and 3.212 Proceedings Affecting Minors and Post Judgment Transfers of Domestic Relations Cases
- Calls for the filing of a motion or supplemental complaint when you are dealing with a child of the same parties. Requires the filing of an action in the same jurisdiction as a prior action or the transfer of cases to keep children and families before the same judge.

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CASE LAW

- Malone v. Malone – Cannot use MCR 2.612 to circumvent the statutory prohibition against retroactive modification of support.
- Bay County Prosecutor v. Nugent – Presentation of unchallenged DNA evidence was sufficient to show mistake of fact for purposes of the Acknowledgment of Parentage Act.

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- Daniels v. Bowman – The presumption that a child is the issue of a marriage can only be rebutted by conducting a judicial hearing in which a court finds by clear and convincing evidence that the child is not an issue of the marriage. The presumption cannot be rebutted by an AOP executed by the mother and biological father.

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- *Sinicropi v. Mazurek* - COA found that although neither statute or case law defines the equities as that term appears in MCL 722.1011(3), when determining whether or not to permit the revocation of an AOP, the court can draw on traditional equitable principles in family law cases: the best interests of the child; fitness of the parents; past relationship of the parties; expert opinions and family dynamics.

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