

*Same-Sex  
Marriage:  
A Review of  
Michigan's  
Constitutional  
Provisions  
and Statutes*

*A Special Report  
by the  
Michigan  
Law  
Revision  
Commission*

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# **Analysis of the Michigan Constitution and Statutes Affected by Obergefell v Hodges**

## **INTRODUCTION**

In June 2015, the United States Supreme Court ruled that under the Fourteenth Amendment to the U.S. Constitution, same-sex couples have a constitutionally protected right to marry. *Obergefell v Hodges*, 135 S Ct 2584 (2015). Accordingly, states must issue marriage licenses to same-sex couples and also must recognize marriages of same-sex couples performed in other states.

The Michigan Law Revision Commission has the statutory duty to “Examine the common law and statutes of this state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms”. MCL 4.1403(1)(a). In keeping with this duty, the Commission initiated a review of Michigan laws to identify constitutional provisions and statutes that are implicated by the *Obergefell* decision. This Report contains the results of that review.

This Report was written just after the United States Supreme Court decided *Obergefell*. Since then, some of the statutes cited in the Report have been amended. In preparing the Report for publication, those statutes were identified and, for the reader’s convenience, are noted.

The following keywords were used to identify affected constitutional and statutory provisions:

1. Husband(s)
2. Wife
3. Wives
4. Father
5. Mother
6. Marriage
7. Married

The Report contains three sections:

Section 1, Constitutional Law Provisions and Statutes, identifies provisions in the Constitution and statutes that because of gender-specific terms should be changed to gender-neutral terms to conform to the new constitutional standard. Provisions are identified numerically by section and include both the text of the constitutional or statutory provision and the solution to revise the specific text to conform to *Obergefell*.

Section 2, Policy Issues, identifies statutes affected by the decision that require more than simple language changes to conform to *Obergefell*. Rather, the subject matter of these statutes calls for specific review by the Legislature because the particular issue implicates policy considerations beyond just a simple textual solution.

Section 3 contains the Michigan Law Revision Commission’s recommendation to use a single statute to amend multiple provisions of state laws to efficiently bring state statutes into conformity with *Obergefell*, and the authority and rationale relied on by the Commission to support this approach.

As an advisory body to the Legislature, the Commission has traditionally avoided taking a position on matters that are highly divisive, partisan, or adequately addressed by others. This Report adheres to those principles.

# **SECTION 1. CONSTITUTIONAL LAW PROVISIONS AND STATUTES**

## **CONSTITUTION**

### **Michigan Constitution of 1963**

#### **1. Article I Section 25**

- Text:
  - To secure and preserve the benefits of marriage for our society and for future generations of children, the union of one man and one woman in marriage shall be the only agreement recognized as a marriage or similar union for any purpose.
- Solution:
  - Remove entirely or, at a minimum, annotate to say: This section was held invalid as in conflict with U.S. Const. Am. XIV and *Obergefell v Hodges*, 135 S Ct 2584 (2015).

#### **2. Article X Section 1**

- Text:
  - The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.
- Solution:
  - Annotate section to recognize the conflict with U.S. Const. Am. XIV and *Obergefell v Hodges*, 135 S Ct 2584 (2015).

*The Commission thanks Jacob Coate, a student at the University of Michigan Law School, for his work on this report.*

# **STATUTES**

## **TABLE OF STATUTES IDENTIFIED**

MCL	Keyword Used	Topic
28.632j	“husband”	Benefits
28.722p	“husband”	Criminal
35.21	“wives”	Veterans
35.83	“wife”	Veterans
35.802	“husband”	Veterans
35.803	“wife”	Veterans
35.924a	“father”	Veterans
36.11	“wife”	Veterans
141.641	“husband”	Tax
169.261	“husband”	Campaign
205.221	“father”	Property
206.30	“husband”	Tax
206.311	“husband”	Tax
206.504	“husband”	Tax
206.522	“husband”	Tax
207.505	“husband”	Tax
207.526	“husband”	Property
211.7cc	“husband”	Tax
211.27a	“husband”	Tax
211.762	“husband”	Tax
211.764	“husband”	Property
280.74	“wife”	Misc.
280.381	“wife”	Misc.
290.428	“husband”	Misc.
290.662	“husband”	Misc.
319.104	“wives”	Misc.
324.36109	“husband”	Tax
330.1800	“father”	Parental
333.1073	“father”	Parental
333.2822	“father”	Parental
333.2824	“husband”	Parental
333.2824	“father”	Parental
400.32	“husband”	Benefits
418.118	“wife”	Benefits
418.335	“wife”	Marriage
419.102	“father”	Benefits

419.203	“father”	Benefits
436.1801	“husband”	Licenses
436.1801	“father”	Licenses
449.6	“husband”	Business
450.4504	“husband”	Property
455.208	“husband”	Misc.
493.17	“husband”	Property
500.2207	“husband”	Insurance
500.2209	“husband”	Insurance
500.3110	“husband”	Insurance
500.3402	“husband”	Insurance
551.1	“marriage”	Marriage
551.2	“marriage”	Marriage
551.3	“wife”	Marriage
551.4	“husband”	Marriage
551.9	“husband”	Marriage
551.101	“marriage”	Marriage
551.201	“marriage”	Marriage
551.271	“marriage”	Marriage
551.272	“marriage”	Marriage
552.9f	“husband”	Divorce
552.23	“husband”	Divorce
552.27	“husband”	Divorce
552.34	“husband”	Divorce
552.36	“husband”	Divorce
552.37	“husband”	Divorce
552.101	“husband”	Divorce
552.102	“husband”	Divorce
552.122	“alimony”	Divorce
552.391	“husband”	Divorce
552.1328	“husband”	Parental
554.45	“husband”	Property
557.21	“husband”	Property
557.24	“husband”	Contracts
557.25	“husband”	Contracts
557.26	“husband”	Contracts
557.71	“husband”	Property
557.81	“husband”	Property
557.101	“husband”	Property
557.151	“husband”	Property
557.253	“husband”	Property
557.254	“husband”	Property
558.1	“husband”	Dower

558.2	“husband”	Dower
558.4	“husband”	Dower
558.5	“husband”	Dower
558.6	“husband”	Dower
558.7	“husband”	Dower
558.12	“husband”	Dower
558.13	“husband”	Dower
558.14	“husband”	Dower
558.16	“husband”	Dower
558.21	“husband”	Dower
558.24	“husband”	Dower
558.26	“husband”	Dower
558.27	“husband”	Dower
558.28	“husband”	Dower
558.29	“husband”	Dower
558.52	“husband”	Dower
558.81	“husband”	Dower
558.91	“husband”	Dower
565.602	“husband”	Property
600.1410	“husband”	Marriage
600.2005	“husband”	Court
600.2162	“husband”	Court
600.2807	“husband”	Property
600.2931	“husband”	Dower
600.2933	“husband”	Dower
600.3320	“husband”	Parental
600.3344	“husband”	Property
600.5451	“husband”	Property
600.6023a	“husband”	Property
600.6131	“wife”	Court
700.1303	“wife”	Property
700.2114	“husband”	Parental
700.2801	“husband”	Divorce
700.2806	“husband”	Divorce
710.24	“husband”	Probate
710.36	“husband”	Parental
711.1	“married”	Probate
722.853	“husband”	Parental
722.954a	“father”	Parental
722.1003	“father”	Parental
722.1006	“father”	Parental
722.1010	“father”	Court
722.1309	“husband”	Court

750.9	“husband”	Criminal
750.30	“married”	Criminal
750.162	“wife”	Criminal
750.163	“wife”	Criminal
750.166	“husband”	Court
750.335	“married”	Criminal
780.159a	“husband”	Parental
780.169	“husband”	Court
780.401	“husband”	Court

## STATUTES

### **Public Safety Officers Benefit Act (Act 46 of 2004)**

#### **MCL 28.632 (Definitions)**

- Text:
  - (j) “Surviving spouse” means the husband or wife of the deceased officer at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason.
- Solution:
  - “means the husband or wife” to “means the spouse”

*(This section was amended by 2016 PA 284.)*

### **Sex Offenders Registration Act (Act 295 of 1994)**

#### **MCL 28.722 (Definitions)**

- Text:
  - (p) “Residence”, as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. If a person is homeless or otherwise lacks a fixed or temporary residence, residence means the village, city, or township where the person spends a majority of his or her time. This section shall not be construed to affect existing judicial interpretation of the term residence for purposes other than the purposes of this act.
- Solution:
  - “or if a wife has a residence separate from that of the husband” to “or if a person has a residence separate from that of his or her spouse”

### **Veterans' Relief Fund (Act 214 of 1899)**

#### **MCL 35.21 (Veterans' relief fund; levy and collection of annual tax; emergency appropriations; disposition)**

- Text:
  - The county board of commissioners of each county shall annually levy, a tax not exceeding 1/10 of a mill on each dollar, to be levied and collected as provided by law, upon the taxable property of each township and city, for their respective counties, for the purpose of creating a fund for the relief of honorably discharged indigent members of the army, navy, air force, marine corps, coast guard, and women's auxiliaries of all wars or military expeditions in which the United States of America has been, is, or may hereafter be, a participant as prescribed in section 1 of Act No. 190 of the Public Acts of 1965, being section 35.61 of the Michigan Compiled Laws, and the indigent spouses, minor children, and parents of each such indigent or deceased member. Funds raised in accordance with the provisions of this section may be expended for the relief of **indigent wives** and children of active duty soldiers, sailors, marines, airmen, coast guardsmen, nurses, and members of the women's auxiliaries during the continuance of present hostilities and prior to their discharge. However, in any year which, in the opinion of the board, an emergency justifying the same exists, the board may appropriate a sum not to exceed 2/10 of a mill on each dollar for said purpose. The sums, when collected, shall be paid to the county treasurer of the county where such tax is levied in each of the counties in this state, to be paid out by the treasurer upon the order of the soldiers' relief commission duly signed by the chairperson and secretary of the commission. If any money in the fund is not necessary for the purpose for which it was raised, the money shall remain in the treasury of the county as a soldiers' relief fund, and shall be considered in raising future sums therefor.
- Solution:
  - “relief of indigent wives” to “relief of indigent spouses”

*(This section was amended by 2016 PA 218.)*

### **Uniform Veterans' Guardianship Act (Act 321 of 1937)**

#### **MCL 35.83 (Maintenance and support of ward)**

- Text:
  - Maintenance and support. A guardian shall not apply any portion of the estate of **his** ward for the support and maintenance of any person other than said ward, **his** minor children **and his wife (if she and the ward be living together)** except upon petition to and order of the court after a hearing, notice of which has been given the proper office of the veterans administration in the manner and within the time provided in section 9 of this act.
- Solution:
  - “his ward” to “his or her ward”
    - Note: not strictly required but seemingly appropriate.
  - “his minor children” to “his or her minor children”
    - Note: not strictly required but seemingly appropriate
  - “wife” to “spouse”



### **Funeral Expenses of Veterans (Act 235 of 1911)**

#### **MCL 35.802 (Soldiers' relief commission; investigation of application for reimbursement, compensation)**

- Text:
  - It shall be the duty of the members of the soldiers' relief commission of each county, whenever application is made for reimbursement by the county for such funeral expenses paid or advanced, or incurred for the burial of such deceased person, to make an investigation of such claim and report their action to the clerk of the board of supervisors of the county, or to the clerk of the board of county auditors as the case may be, in all cases setting forth all the facts, together with the name, rank and command to which such soldier, sailor, marine, nurse or member of the women's auxiliary belonged, and in case of such wife or widow, the rank and command to which her husband or deceased husband belonged, the name and service rendered as such army nurse, the date of his or her death, place where buried, and his or her residence and occupation while living. They shall require such person or persons who paid, advanced or incurred such burial expenses for such deceased person to furnish the board of supervisors, or board of county auditors in counties having a board of county auditors, with a sworn itemized statement of the expense incurred in the burial of the deceased person mentioned in the application. The members of the commission, except where they are paid a salary, shall receive from the county the sum of \$2.00 per day for the time actually and necessarily employed by them in the performance of their duties.
- Solution:
  - “in case of such wife or widow, the rank and command to which her husband or deceased husband belonged” to “in case of such spouse, the rank and command to which his or her spouse or deceased spouse belonged”

#### **MCL 35.803 (Duties of county clerk; record of application and reimbursement; headstones)**

- Text:
  - It shall be the duty of the clerk of the board of supervisors or board of county auditors as the case may be upon receiving the report and statement of expenses provided for in the preceding section, to transcribe in a book kept for that purpose all the facts contained in said report respecting such deceased soldier, sailor or marine, or the deceased wife or widow of the same, or such deceased army nurse, and to report such application and statement to the board of supervisors or the board of county auditors, as the case may be, at the next meeting thereof. It shall be the further duty of said clerk upon the death and burial of any such soldier, sailor or marine, and upon request therefor, to make application to the proper authorities under the government of the United States for a suitable headstone as is now or may hereafter be provided by act of congress, and to cause the same to be placed at the head of the grave of such deceased soldier, sailor or marine. And also, to cause a suitable headstone to be placed at the head of the grave of the deceased wife or widow of such soldier, sailor or marine or army nurse if the same shall now or hereafter be provided by act of congress.
- Solution:
  - Change both references of “wife or widow” to “spouse or surviving spouse”

### **Veterans' Military Pay Act (Act 12 of 1947)**

#### **MCL 35.924a (Payment to parents of deceased veteran; maximum, appropriation)**

- Text:
  - (4a) There shall be paid **on application of the mother and father**, or the surviving parent, of each veteran heretofore or hereafter deceased from service connected causes arising during the period of service a sum equal to the difference between any payments received by the veteran or his beneficiary under section 3 and the sum of \$500.00. In the event the veteran or his beneficiary has not received payment under section 3, the entire sum of \$500.00 shall be **paid to the mother and father**, or the surviving parent. Any person or persons claiming payment under this section shall not be required to prove dependency. There is hereby appropriated from the general fund of the state the sum of \$200,000.00, to be credited to the veterans' military pay fund, to pay benefits under the provisions of this section.
- Solution:
  - “application of the mother and father” to “application of the parents”
  - “paid to the mother and father” to “paid to the parents”

### **Michigan Veterans' Facility (Act 152 of 1885)**

#### **MCL 36.11 (Veterans' facility; eligibility for admission; maintenance charges; dismissal; creation of veterans' facilities operation fund; credit of money to fund; expenditures; assignment of money to board of managers as condition of admission; expenditure of assigned money; creation of posthumous fund; expenditures)**

- Text:
  - (3) The board of managers of the facilities may make a condition for admission to a facility that all applicants shall assign to the board of managers any balance of money accumulated while a member of the facility, or due to the applicant or on deposit with any bank, trust company, corporation, or with any individual, at the time of the death of the applicant. All such sums shall first be expended to **pay for all residual maintenance costs attributable to the deceased individual and shall then be paid to the wife**, minor children, or dependent mother or father, in the order named. If no such relative shall be found within a period of 2 years, or if no claim for the sums has been made within a period of 2 years, the balance of the money shall be paid into the posthumous fund, which is hereby created by this subsection. The posthumous fund shall be expended as prescribed by 1905 PA 313, MCL 36.61.
- Solution:
  - “paid to the wife” to “paid to the surviving spouse”.

### **City Income Tax Act (Act 284 of 1964)**

#### **MCL 141.641 (Annual return; joint return)**

- Text:
  - (2) **A husband and wife may file** a joint return and, in such case, the tax liability is joint and several.

- Solution:
  - “A husband and wife may file” to “Spouses may file”

### **Michigan Campaign Finance Act (Act 388 of 1976)**

**MCL 169.261 (State campaign fund; creation; administration; tax designation; appropriation; distribution of money; transfer to general fund)**

- Text:
  - (2) An individual whose tax liability under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, for a taxable year is \$3.00 or more may designate that \$3.00 be credited to the state campaign fund. In the case of a joint return of husband and wife having an income tax liability of \$6.00 or more, each spouse may designate that \$3.00 be credited to the state campaign fund.
- Solution:
  - “joint return of husband and wife” to “joint return of spouses”

### **Michigan Estate Tax Act (Act 188 of 1899)**

**MCL 205.221 (Definitions)**

- Text:
  - (g) “Qualified heir” means an individual entitled to any beneficial interest in property who is the grandfather, grandmother, father, mother, husband, wife, child, legally adopted child, stepchild, brother, sister, wife or widow of a son, or husband or widower of a daughter of the decedent grantor, donor, or vendor, or for the use of a person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a parent, if the relationship began at or before the child's seventeenth birthday and continued until the death of the decedent grantor, donor, or vendor, or to or for the use of a lineal descendant of or a lineal descendant of a stepchild of the decedent grantor, donor, or vendor, or farm business partner, or to or for the use of any person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a farm business partner.
- Solution:
  - “wife or widow of a son” to “spouse or surviving spouse of a son”
  - “husband or widower of a daughter” to “spouse or surviving spouse of a daughter”

### **Income Tax of 1967 (Act 281 of 1967)**

**MCL 206.30 (“Taxable income” defined; personal exemption; single additional exemption; deduction not considered allowable federal exemption for purposes of subsection (2); allowable exemption or deduction for non-resident or part-year resident; subtraction of prizes under MCL 432.1 to 432.47 from adjusted gross income prohibited; adjusted personal exemption; adjustment on and after January 1, 2013; “retirement or pension benefits” defined; limitations and restrictions; “oil and gas” defined)**

- Text:
  - (9)(c) Beginning January 1, 2013, for a person born in 1946 through 1952 who receives retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 531, 49 Stat. 620, the sum of the

deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$35,000.00 for a single return and, except as otherwise provided under this subdivision, \$55,000.00 for a joint return. **If both the husband and wife filing a joint return** receive retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 531, 49 Stat. 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$70,000.00 for a joint return. After that person reaches the age of 67, the deductions under subsection (1)(f)(i), (ii), and (iv) do not apply and that person is eligible for a deduction of \$35,000.00 for a single return and \$55,000.00 for a joint return, or \$70,000.00 for a joint return if applicable, which deduction is available against all types of income and is not restricted to income from retirement or pension benefits. A person who takes the deduction under subsection (1)(e) is not eligible for the unrestricted deduction of \$35,000.00 for a single return and \$55,000.00 for a joint return, or \$70,000.00 for a joint return if applicable, under this subdivision.

- Solution:
  - “If both the husband and wife filing a joint return” to “If both spouses filing a joint return”
- Text:
  - (9)(d) For a person born after 1952 who has reached the age of 62 through 66 years of age and who receives retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 532, 49 Stat. 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$15,000.00 for a single return and, except as otherwise provided under this subdivision, \$15,000.00 for a joint return. **If both the husband and the wife filing a joint** return receive retirement or pension benefits from employment with a governmental agency that was not covered by the federal social security act, chapter 532, 49 Stat. 620, the sum of the deductions under subsection (1)(f)(i), (ii), and (iv) is limited to \$30,000.00 for a joint return.
- Solution:
  - “If both the husband and the wife filing a joint return” to “If both spouses filing a joint return”

**MCL 206.311 (Tax return; form; content; verification; transmittal; remittance; extension, computation, and remittance of estimated tax due; interest; penalties; tentative return; payment of estimated tax; joint return; effect of filing copy of federal extension; automatic extension based on service in combat zone)**

- Text:
  - (3) **Taxpayers who are husband and wife** and who file a joint federal income tax return pursuant to the internal revenue code shall file a joint return.
- Solution:
  - “Taxpayers who are husband and wife” to “Taxpayers who are married”

#### **MCL 206.504 (“Blind” and “claimant” defined)**

- Text:
  - (2) “Claimant” means an individual natural person who filed a claim under this chapter and who was domiciled in this state during at least 6 months of the calendar year immediately preceding the year in which the claim is filed under this chapter **and includes a husband and wife** if they are required to file a joint state income tax return. The 6-month residency requirement does not apply to a claimant who files for the home heating credit under section 527a.
- Solution:
  - “and includes a husband and wife” to “and includes spouses”

#### **MCL 206.522 (Determination of amount of claim; election of classification in which to make claims; single claimant per household entitled to credit; "totally and permanently disabled" defined; computation of credit by senior citizen; reduction of claim; tables; maximum credit; total credit allowable)**

- Text:
  - (3) Only 1 claimant per household for a tax year is entitled to the credit, **unless both the husband and wife filing a joint return are blind**, then each shall be considered a claimant.
- Solution:
  - “unless both the husband and wife filing a joint return are blind” to “unless both spouses filing a joint return are blind”

#### **Real Estate Transfer Tax (Act 134 of 1966)**

#### **MCL 207.505 (Exemptions)**

- Text:
  - (i) Conveyances from a husband or wife **or husband and wife** creating or disjoining a tenancy by the entireties in the grantors or the grantor and his or her spouse.
- Solution:
  - “or husband and wife” to “or both spouses”

#### **MCL 207.526 (Written instruments and transfers of property exempt from tax)**

- Text:
  - (i) A conveyance from a husband or wife or **husband and wife** creating or disjoining a tenancy by the entireties in the grantors or the grantor and his or her spouse.
- Solution:
  - “husband and wife” to “both spouses”

*(This section was amended by 2015 PA 217.)*

**MCL 211.7cc (principal residence; exemption from tax levied by local school district for school operating purposes; procedures; definitions)**

- Text:
  - (3) Except as otherwise provided in subsection (5), a husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur.
- Solution:
  - “a husband and wife who are required to file” to “spouses who are required to file”

*(This section was amended by 2016 PA 144.)*

**MCL 211.27a (Property tax assessment; determining taxable value; adjustment; exception; "transfer of ownership" defined; qualified agricultural property; notice of transfer of property; applicability of subsection (10); definitions.)**

- Text:
  - (7)(b) Transfer of ownership does not include the following: a transfer from a husband, a wife, or a husband and wife creating or disjoining a tenancy by the entireties in grantors or the grantor and his or her spouse.
- Solution:
  - “or a husband and wife” to “or both spouses”

*(This section was amended by 2015 PA 243.)*

**Deferment of Special Assessments on Homesteads (Act 225 of 1976)**

**MCL 211.762 (Deferment of special assessments on homesteads; conveyance or transfer of or contract to sell homestead; termination of deferment; interest charge; notice)**

- Text:
  - (1) The payment of special assessments assessed and due and payable on a homestead in any year in which the owner meets all of the terms and conditions of this act shall be deferred until 1 year after the owner's death, subject to further order by the probate court or until the homestead or any part of the homestead is conveyed or transferred to another or a contract to sell is entered into. The death of a spouse shall not terminate the deferment of special assessments for a homestead owned by husband and wife under tenancy by the entireties as long as the surviving spouse does not remarry. Special assessments deferred under this act may be paid in full at any time.
- Solution:
  - “owned by husband and wife under tenancy by the entireties” to “owned by spouses under tenancy by the entireties” (note: the change presupposes that tenancy by the entireties has already been extended to same sex couples.)

**MCL 211.764 (Application for deferment; affidavit form; signature; contents; consent of mortgagee or land contract vendor; filing)**

- Text:
  - An owner may apply to the local assessing officer for deferment of the payment of special assessments on the owner's homestead. The application shall be made upon an affidavit form to be furnished and made available by the department at convenient locations throughout the state. The affidavit form shall contain the following statement in 10-point boldface type located immediately above the affiant's signature: "If this deferment is authorized the state will place a lien on your property." A person making a false affidavit for the purpose of obtaining deferment of special assessments under this act is guilty of perjury. **If the homestead is owned jointly by husband and wife,** each spouse shall sign and file the affidavit. If the homestead is encumbered by a mortgage or an unpaid balance on a land contract, a deferment of special assessments shall not be made without the written consent of the mortgagee or the land contract vendor, which shall be filed with the affidavit. The affidavit shall be filed with the local assessing officer at least 30 days after the due date of a special assessment or installment of a special assessment for which deferment is requested.
- Solution:
  - "If the homestead is owned jointly by husband and wife" to "If the homestead is owned jointly by both spouses"

**The Drain Code of 1956 (Act 40 of 1956)**

**MCL 280.74 (Release of right of way; acknowledgments; oaths, form, area, signature of wife, resolution covering street or public place; open drain)**

- Text:
  - Commissioners may take acknowledgments of releases of right of way and administer oaths in all proceedings in any way pertaining to drains under this act. A simple form of release of right of way and damages that shall set forth by reference to the survey of the drain, or by other convenient description, the particular land to be conveyed and signed and acknowledged by the person having the right to convey, shall be deemed a sufficient conveyance under the provisions of this act. All releases for rights of way shall be deemed to include sufficient ground on each side of the center line of such drain for the deposit of the excavations therefrom. **It shall not be necessary for the wife to sign the release of right of way unless she has an interest in the land other than her inchoate right of dower.** Whenever a portion of a drain shall be located within any street, highway or public place, then a resolution adopted by a majority vote of the governing body having jurisdiction over such street, highway or public place granting leave to construct such drain therein, designating the place to be traversed by said drain, shall be a sufficient release of the right of way, and shall be deemed a sufficient conveyance under this act, and said governing body may permit the construction of an open drain if such consent be set forth in such resolution.
- Solution:
  - "wife" to "spouse"
  - "she has an interest" to "he or she has an interest"

#### **MCL 280.381 (Disqualification of commissioner; petition filed with probate judge)**

- Text:
  - Whenever the commissioner of any county shall receive a petition asking for the laying out, construction, cleaning out, deepening or widening of any drain, or a petition asking proceedings by virtue of which any assessment upon lands for benefits received would result, wherein such commissioner shall be interested by reason of **himself, wife** or child, owning lands that would be liable to an assessment for benefits upon the work or proceeding proposed to be done or had, and in cases where such commissioner may be otherwise disqualified to act in the making of apportionment of benefits, such commissioner shall file a copy of such petition with the judge of probate of the county, together with a statement signed by him, showing that he is disqualified to act in making such apportionment of benefits.
- Solution:
  - “himself” to “himself or herself”
    - Note: not strictly required but seemingly appropriate
  - “wife” to “spouse”

#### **State Potato Industry Commission (Act 29 of 1970)**

#### **MCL 290.428 (Referendum; votes; rules; petition to terminate shipper assessments; referendum by mail; conditions for termination of shipper assessments; adoption of assessment increase; public hearing; findings and recommendations; assent to proposal)**

- Text:
  - (6) For the purpose of referenda under this act, a grower is entitled to 1 vote representing a single firm, individual proprietorship, corporation, company, association, partnership, **or husband-wife** or family ownership.
- Solution:
  - “or husband-wife” to “or spousal”

#### **Agricultural Commodities Marketing Act (Act 232 of 1965)**

#### **MCL 290.662 (Referendum; director to establish procedures for determination of volume)**

- Text:
  - “The director shall establish procedures for determination of volume for the conduct of referendums and other necessary procedures. For the purpose of referendums under this act, a producer is entitled to 1 vote representing a single firm, individual proprietorship, corporation, company, association, partnership, **husband-wife** or family ownership.”
- Solution:
  - “husband-wife” to “spousal”



### Oil and Gas Mining (Act 178 of 1941)

#### **MCL 319.104 (Fiduciaries; right to prosecute and defend suits; parties)**

- Text:
  - Executors, administrators and administrators with will annexed, receivers and trustees, may institute or defend such suits on behalf of their respective estates and trusts and the heirs, devisees, legatees, successors and assigns thereof. Infants and persons under legal disability may institute or defend suits by guardian or next of friend. Every person, **including wives of owners**, having any interest in such lands, whether in possession or otherwise, who is not a party plaintiff, shall be made a party defendant to such suit. In case of persons interested in such lands whose names are unknown, the bill of complaint shall so state, and such persons may be made parties to such suits by the name and description of “unknown owners.”
- Solution:
  - Technically there is no issue; “every person” is an inclusive phrase that would include same-sex couples.
  - If a change is still desired: “including wives of owners” to “including spouses of owners”

### Natural Resources and Environmental Protection Act (Act 451 of 1994)

#### **MCL 324.36109 (Credit against state income tax or state single business tax.)**

- Text:
  - (3) If the farmland and related buildings covered by a development rights agreement under section 36104 or an agricultural conservation easement or purchase of development rights under section 36111b or 36206 are owned by more than 1 owner, each owner is allowed to claim a credit under this section based upon that owner's share of the property tax payable on the farmland and related buildings. The department of treasury shall consider the property tax equally apportioned among the owners unless a written agreement signed by all the owners is filed with the return, which agreement apportions the property taxes in the same manner as all other items of revenue and expense. **If the property taxes are considered equally apportioned, a husband and wife shall be considered 1 owner**, and a person with respect to whom a deduction under section 151 of the internal revenue code of 1986, 26 USC 151, is allowable to another owner of the property shall not be considered an owner.
- Solution:
  - “a husband and wife shall be considered 1 owner” to “spouses shall be considered 1 owner”

### Mental Health Code (Act 258 of 1974)

#### **MCL 330.1800 (Definitions)**

- Text:
  - (h) “Parents” means **the legal father and mother** of an unmarried individual who is less than 18 years of age.
- Solution:
  - “the legal father and mother” to “the legal parents”

### **Social Welfare Act (Act 280 of 1939)**

**MCL 400.32 (Continuation of assistance if person moves or is taken to another county; transfer of records; “resident of state” defined; continued absence from state as abandonment of residence; inapplicability of certain rules; requirements applicable to medical assistance eligibility; residence of husband and wife living separate and apart)**

- Text:
  - (4) The residence of a husband shall not be considered to be the residence of the wife if they are living separate and apart. If a husband and wife are living separate and apart, each may have a separate residence dependent upon proof of the fact and not upon legal presumption. This subsection shall not be construed to prohibit a person from acquiring or retaining a legal residence.
- Solution:
  - “The residence of a husband shall not be considered to be the residence of the wife” to “The residence of one spouse shall not be considered to be the residence of the other spouse”
  - “If a husband and wife are living separate and apart” to “If spouses are living separate and apart”

### **Worker’s Disability Compensation Act of 1969 (Act 317 of 1969)**

**MCL 418.118 (Domestic Servants)**

- Text:
  - (1) No household domestic servant shall be considered an employee if the person is a wife, child or other member of the employer's family residing in the home, and no householder shall be deemed a statutory principal within the meaning of section 171 for the purposes of this section.
- Solution:
  - “wife” should be “spouse”
    - Note: because of the clause: “other member of the employer’s family” this change is not strictly necessary.

**MCL 418.335 (Cessation of payments upon remarriage of dependent wife or upon dependent person reaching certain age; reinstatement of dependency; persons to whom section applicable)**

- Text:
  - (1) Upon the remarriage of a dependent wife receiving compensation, such payments shall cease upon the payment to her of the balance of the compensation to which she would otherwise have been entitled but not to exceed the sum of \$500.00, and further compensation, if any, shall be payable to the person either wholly or partially dependent upon deceased for support at his death as provided in section 331(b). A worker's compensation magistrate shall determine the amount of compensation or portion thereof that shall be payable weekly to such wholly or partially dependent person for the remaining weeks of compensation. Where, at the expiration of the 500-week period, any such wholly or partially dependent person is less than 18 years of age, a worker's compensation magistrate may order the employer to continue to pay the weekly compensation, or some

portion thereof, until such wholly or partially dependent person reaches the age of 18. The payment of compensation to any dependent child shall cease when the child reaches the age of 18 years, if at the age of 18 years he or she is neither physically nor mentally incapacitated from earning, or when the child reaches the age of 16 years and thereafter is self-supporting for 6 months. If the child ceases to be self-supporting thereafter, the dependency shall be reinstated. Such remaining compensation, if any, shall be payable to the person either wholly or partially dependent upon the deceased employee for support at the time of the employee's death, as provided in the case of the remarriage of a dependent wife.

- Solution:
  - “dependent wife” to “dependent spouse”
  - “payment to her” to “payment to him or her”
  - “to which she would” to “to which he or she would”
  - “of a dependent wife” to “of a dependent spouse”

#### **Compensation of Injured Peace Officers (Act 329 of 1937)**

#### **MCL 419.102 (Peace officers; surviving spouse or dependents; compensation; last sickness and burial expenses)**

- Text:
  - The surviving spouse or dependents of a peace officer of this state or of a political subdivision of this state who is killed as the result of active duty in enforcing the laws of this state or the laws of an adjoining state shall receive the sum of \$1,000.00 for defraying the expense of last sickness and burial and \$18.00 a week until a total sum of \$5,000.00 is paid. As used in this section, (a) “surviving spouse” means the spouse of the peace officer, if living, and until remarriage (b) “dependent” means the children of the peace officer, if dependent; the mother, father, or both, of the peace officer, if dependent; and the brothers and sisters of the peace officer, if dependent; in the order named. If the peace officer does not leave a surviving spouse or any dependents as defined in this section, the estate of the peace officer shall receive the sum of \$1,000.00 for the expense of the peace officer's last sickness and burial.
- Solution:
  - “the mother, father, or both” to “the parent or parents”

#### **Compensation of Injured Fire Fighters (Act 9 of 1942)**

#### **MCL 419.203 (Death benefits equivalent to amount provided under worker's disability compensation act; compensation of dependents.)**

- Text:
  - The surviving spouse and dependents of a fire fighter who is killed in safeguarding life or property outside his or her jurisdiction from damage due to an explosion, fire, or other disaster, however caused, or in transportation to or from a fire, explosion, or other disaster, however caused, outside his or her jurisdiction, shall receive the sum of \$500.00 for defraying the expense of burial, and compensation equivalent to the amount provided at the time of death of the fire fighter under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws. Compensation shall be payable to the spouse of the fire fighter, if living,

and until remarriage; the children of the fire fighter, while dependent; **the mother, father, or both**, of the fire fighter, while dependent; and the brothers and sisters of the fire fighter, while dependent; in the order named. If the fire fighter does not leave a surviving spouse or any dependents as defined in this section, the estate of the fire fighter shall receive the sum of \$500.00 for the expense of the fire fighter's burial.

- Solution:
  - “The mother, father, or both” to “the parent or parents”

**Michigan Liquor Control Code of 1998**  
**Act 58 of 1998**

**MCL 436.1801 (Granting or renewing license; surety; selling, furnishing, or giving alcoholic liquor to minor or to person visibly intoxicated; right of action for damage or personal injury; actual damages; institution of action; notice; survival of action; general reputation as evidence of relation; separate actions by parents; commencement of action against retail licensee; indemnification; defenses available to licensee; rebuttable presumption; prohibited causes of action; section as exclusive remedy for money damages against licensee; civil action subject to revised judicature act)**

- Text:
  - (4) An action under this section shall be instituted within 2 years after the injury or death. A plaintiff seeking damages under this section shall give written notice to all defendants within 120 days after entering an attorney-client relationship for the purpose of pursuing a claim under this section. Failure to give written notice within the time specified shall be grounds for dismissal of a claim as to any defendants that did not receive that notice unless sufficient information for determining that a retail licensee might be liable under this section was not known and could not reasonably have been known within the 120 days. In the event of the death of either party, the right of action under this section shall survive to or against his or her personal representative. In each action by a husband, wife, child, or parent, **the general reputation of the relation of husband and wife** or parent and child shall be prima facie evidence of the relation, and the amount recovered by either the **husband**, wife, parent, or child shall be his or her sole and separate property. The damages, together with the costs of the action, shall be recovered in an action under this section. If the parents of the individual who suffered damage or who was personally injured are entitled to damages under this section, the father and mother may sue separately, but recovery by 1 is a bar to action by the other.
- Solution:
  - “the general reputation of the relation of husband and wife” to “the general reputation of the relation of spouses”

**Uniform Partnership Act**  
**Act 72 of 1917**

**MCL 449.6 (Partnership; definition; effect of act as to prior and limited partnerships)**

- Text:
  - (1) A partnership is an association of **2 or more persons, which may consist of husband and wife**, to carry on as co-owners a business for profit; any partnership heretofore established **consisting of husband and wife only**, formed since January 10, 1942 shall constitute a valid partnership.

- Solution:
  - “which may consist of husband and wife” to “which may consist of spouses”
    - Note: This change is primarily semantic, “may consist” is not exclusive, so a change is not technically required.
  - “consisting of husband and wife only” to “consisting of spouses only”

**Act 23 of 1993**  
**Michigan Limited Liability Company Act**

**MCL 450.4504 (Membership interest as personal property)**

- Text:
  - (1) A membership interest is personal property and may be held in any manner in which personal property may be held. A husband and wife may hold a membership interest in joint tenancy in the same manner and subject to the same restrictions, consequences, and conditions that apply to the ownership of real estate held jointly by a husband and wife under the laws of this state, with full right of ownership by survivorship in case of the death of either.
- Solution:
  - “A husband and wife may hold a membership interest in joint tenancy” to “Spouses may hold a membership interest in joint tenancy”
  - “ownership of real estate held jointly by a husband and wife under the laws of this state” to “ownership of real estate held jointly by spouses under the laws of this state”

**Incorporation of Summer Resort Owners**  
**Act 137 of 1929**

**MCL 455.208 (Annual meeting; trustees, election, report)**

- Text:
  - The annual meeting of such association shall be held in its own county between June first and August thirty-first of each year, at such time and place as may be fixed by the board of trustees and such meeting may adjourn from day to day as may be necessary for the transaction of its business. At each annual meeting there shall be elected such number of trustees as shall be necessary to fill the places of trustees whose terms of office then expire, and all vacancies on such board. Such election shall be by ballot and choice of trustees shall be by a majority of all votes cast. Members may vote in person or by proxy filed with the secretary. Each member shall be entitled to 1 vote. Husbands and wives, owning property by entireties, shall each be entitled to 1 vote. Membership shall terminate upon the alienation of the property of a member. At each annual meeting the trustees shall make a report, in writing, of the management of the business of the corporation, the condition of its property, its assets and liabilities, and upon such other matters as may be proper and of general interest to the members.
- Solution:
  - “Husbands and wives” to “Spouses”
    - Note: this change presupposes that same-sex couples can own property by the entireties, which is likely the case.

**Act 21 of 1939**  
**Regulatory Loan Act**

**MCL 493.17 (Assignment or order for payment of compensation to secure loan invalid; validity of chattel mortgage or lien in household goods; married borrower; signatures; written assent of spouse)**

- Text:
  - (2) If the borrower is married, a chattel mortgage or other lien on household goods shall not be valid unless it is signed in person by both husband and wife. The written assent of a spouse under this section shall not be required when husband and wife have been living separate and apart for a period of not less than 5 months before the making of the chattel mortgage or other lien.
- Solution:
  - “signed in person by both husband and wife” to “signed in person by both spouses”
  - “section shall not be required when husband and wife have been living separate” to “section shall not be required when spouses have been living separate”

**Act 218 of 1956**  
**The Insurance Code of 1956**

**MCL 500.2207 (Insurable interest; personal insurance; rights of beneficiaries, creditors)**

- Text:
  - (1) It shall be lawful for any husband to insure his life for the benefit of his wife, and for any father to insure his life for the benefit of his children, or of any one or more of them; and in case that any money shall become payable under the insurance, the same shall be payable to the person or persons for whose benefit the insurance was procured, his, her or their representatives or assigns, for his, her or their own use and benefit, free from all claims of the representatives of such husband or father, or of any of his creditors; and any married woman, either in her own name or in the name of any third person as her trustee, may cause to be insured the life of her husband, or of any other person, for any definite period, or for the term of life, and the moneys that may become payable on the contract of insurance, shall be payable to her, her representatives or assigns, free from the claims of the representatives of the husband, or of such other person insured, or of any of his creditors; and in any contract of insurance, it shall be lawful to provide that on the decease of the person or persons for whose benefit it is obtained, before the sum insured shall become payable, the benefit thereof shall accrue to any other person or persons designated; and such other person or persons shall, on the happening of such contingency, succeed to all the rights and benefits of the deceased beneficiary or beneficiaries of the policy of insurance, notwithstanding he, she or they may not at the time have any such insurable interest as would have enabled him, her or them to obtain a new insurance; and the proceeds of any policy of life or endowment insurance, which is payable to the wife, husband or children of the insured or to a trustee for the benefit of the wife, husband or children of the insured, including the cash value thereof, shall be exempt from execution or liability to any creditor of the insured; and said exemption shall apply to insurance heretofore or hereafter issued; and shall apply to insurance payable to the above enumerated persons or classes of persons, whether they shall have become entitled thereto as originally designated beneficiaries, by beneficiary designation subsequent to the issuance of the policy, or by assignment (except in case of transfer with intent to defraud creditors).

- Solution:
  - “benefit of his wife” to “benefit of his spouse”
  - “life of her husband” to “life of her spouse”
    - Note: While a change to the statute may not necessarily be required, language that authorizes benefits regardless of gender is preferable.

**MCL 500.2209 (Insurable interest; married woman; right to proceeds, devise.)**

- Text:
  - (1) It shall be lawful for any married woman, by herself, and in her name or in the name of any third person, with his assent, as her trustee, to cause to be insured for her sole use, **the life of her husband** or the life of any other person, in any life insurance company of any nature whatever, located in either of the states of the United States of America or in Great Britain, for any definite period, or for the term of his natural life; **and in case of her surviving her husband,** or such other person insured in her behalf, the sum or net amount of the policy of insurance due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of her **husband**, or of such other person insured, or of any of his creditors, but such exemption shall not apply where the amount of premium annually paid shall exceed the sum of \$300.00.
- Solution:
  - “the life of her husband” to “the life of her spouse”
    - Note: this is not strictly required given the inclusive clause: “or the life of any other person”.
  - “in case of her surviving her husband” to “in case of her surviving her spouse”
    - Note: this is not strictly required given the inclusive clause: “or such other person”.
- Text:
  - (2) In case of the death of the wife before the **decease of her husband, or of such other person insured**, the amount of the insurance may be made payable after her death to her children, for their use, and to their guardian, if under age, or the amount of the policy may be disposed of by such married woman by a last will and testament.
- Solution:
  - “decease of her husband” to “decease of her spouse”
    - Note: not strictly required given the inclusive clause: “of such other person insured”.

**MCL 500.3110 (dependents of deceased person; termination of dependency; accrual of personal protection benefits)**

- Text:
  - (1)(a) **a wife is dependent on a husband** with whom she lives at the time of his death.
- Solution:
  - “a wife is dependent on a husband” to “a wife is dependent on a spouse”
- Text:
  - **(1)(b) A husband is dependent on a wife** with whom he lives at the time of her death.



- Solution:
  - “a husband is dependent on a wife” to “a husband is dependent on a spouse”

**MCL 500.3402 (Disability insurance policy; provisions required.)**

- Text:
  - (3) It purports to insure only 1 person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any 2 or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years and any other person dependent upon the policyholder;
- Solution:
  - “including husband, wife, dependent children” to “including spouses, dependent children”

**Revised Statutes of 1846**  
**Of Marriage and the Solemnization Thereof**

**MCL 551.1 (Marriage between individuals of same sex an invalid contract)**

- Text:
  - Marriage is inherently a unique relationship between a man and a woman. As a matter of public policy, this state has a special interest in encouraging, supporting, and protecting that unique relationship in order to promote, among other goals, the stability and welfare of society and its children. A marriage contracted between individuals of the same sex is invalid in this state.
- Solution:
  - Repeal entire section.
  - At a minimum, annotate section to say: “This section was held invalid as in conflict with U.S. Const. Am. XIV.”

**MCL 551.2 (Marriage as civil contract; consent; license; solemnization)**

- Text:
  - So far as its validity in law is concerned, marriage is a civil contract between a man and a woman, to which the consent of parties capable in law of contracting is essential. Consent alone is not enough to effectuate a legal marriage on and after January 1, 1957. Consent shall be followed by obtaining a license as required by section 1 of Act No. 128 of the Public Acts of 1887, being section 551.101 of the Michigan Compiled Laws, or as provided for by section 1 of Act No. 180 of the Public Acts of 1897, being section 551.201 of the Michigan Compiled Laws, and solemnization as authorized by sections 7 to 18 of this chapter.
- Solution:
  - “between a man and a woman” to “between two parties”



### **MCL 551.3 (Incapacity; persons man prohibited from marrying)**

- Text:
  - A man shall not marry his mother, sister, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, mother's sister, or cousin of the first degree, or another man.
- Solution:
  - “or another man”- remove entirely
  - The following reflect changes that are not technically required by *Obergefell* but are necessary to maintain the intent of the statute in light of *Obergefell*:
    - “grandfather’s wife” to “grandfather’s spouse”
    - “son’s wife” to “son’s spouse”
    - “grandson’s wife” to “grandson’s spouse”
    - “wife’s mother” to “spouse’s mother”
    - “wife’s grandmother” to “spouse’s grandmother”
    - “wife’s daughter” to “spouse’s daughter”
    - “wife’s granddaughter” to “spouse’s granddaughter”

### **MCL 551.4 (Incapacity; persons woman prohibited from marrying)**

- Text:
  - A woman shall not marry her father, brother, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, mother's brother, or cousin of the first degree, or another woman.
- Solution:
  - Change to “A woman shall not marry her father, brother, grandfather, son, grandson, stepfather, grandmother’s spouse, daughter’s spouse, granddaughter’s spouse, spouse’s father, spouse’s grandfather, spouse’s son, spouse’s grandson, brother’s son, sister’s son, father’s brother, mother’s brother, or cousin of the first degree.”

### **MCL 551.9 (Solemnization of marriage; form; declaration by parties; witnesses)**

- Text:
  - In the solemnization of marriage, no particular form shall be required, except that the parties shall solemnly declare, in the presence of the person solemnizing the marriage and the attending witnesses, that they take each other as husband and wife; and in every case, there shall be at least 2 witnesses, besides the person solemnizing the marriage, present at the ceremony.
- Solution:
  - “that they take each other as husband and wife” to “that they take each other as spouses”

### **Marriage License (Act 128 of 1887)**

#### **551.101 (Marriage license; requirements; place to obtain, delivery to person officiating)**

- Text:
  - It shall be necessary for all parties intending to be married to obtain a marriage license from the county clerk of the county in which either the man or woman resides, and to deliver the said license to the clergyman or magistrate who is to officiate, before the marriage can be performed. If both parties to be married are non-residents of the state it shall be necessary to obtain such license from the county clerk of the county in which the marriage is to be performed.
- Solution:
  - “which either the man or woman resides” to “which either party desiring to be married resides”

### **Issuance of Marriage License without Publicity (Act 180 of 1897)**

#### **MCL 551.201 (Issuance of marriage license without publicity; conditions; application; notice; consent; exceptions; order)**

- Text:
  - (1) When a person desires to keep the exact date of his or her marriage to a person of the opposite sex a secret, the judge of probate may issue, without publicity, a marriage license to any person making application, under oath, if there is good reason expressed in the application and determined to be sufficient by the judge of probate.
- Solution:
  - Remove words “to a person of the opposite sex”

### **Foreign Marriages (Act 168 of 1939)**

#### **MCL 551.271 (Marriages solemnized in another state validated)**

- Text:
  - (1) Except as otherwise provided in this act, a marriage contracted between a man and a woman who are residents of this state and who were, at the time of the marriage, legally competent to contract marriage according to the laws of this state, which marriage is solemnized in another state within the United States by a clergyman, magistrate, or other person legally authorized to solemnize marriages within that state, is a valid and binding marriage under the laws of this state to the same effect and extent as if solemnized within this state and according to its laws.
- Solution:
  - “between a man and a woman” to “between two parties”
- Text:
  - (2) This section does not apply to a marriage contracted between individuals of the same sex, which marriage is invalid in this state under section 1 of chapter 83 of the revised statutes of 1846, being section 551.1 of the Michigan Compiled Laws.

- Solution:
  - Subsection (2) needs to be removed entirely.
  - At a minimum, annotate section to say: “This section was held invalid as in conflict with U.S. Const. Am. XIV.”

### **Foreign Marriages (Act 168 of 1939)**

#### **MCL 551.272 (Marriage not between man and woman invalidated)**

- Text:
  - This state recognizes marriage as inherently a unique relationship between a man and a woman, as prescribed by section 1 of chapter 83 of the Revised Statutes of 1846, being section 551.1 of the Michigan Compiled Laws, and therefore a marriage that is not between a man and a woman is invalid in this state regardless of whether the marriage is contracted according to the laws of another jurisdiction.
- Solution:
  - This section should be repealed.
    - At a minimum, annotate section to say: “This section was held invalid as in conflict with U.S. Const. Am. XIV. *Obergefell v Hodges*, 135 S Ct 2584 (2015).”

### **Revised Statutes of 1846, Chapter 84** **Of Divorce**

#### **MCL 552.9f (Divorce; taking of testimony; minor children; perpetuating testimony; nonresident defendant, residence of plaintiff)**

- Text:
  - No proofs or testimony shall be taken in any case for divorce until the expiration of 60 days from the time of filing the bill of complaint, except where the cause for divorce is desertion, or when the testimony is taken conditionally for the purpose of perpetuating such testimony. In every case where there are dependent minor children under the age of 18 years, no proofs or testimony shall be taken in such cases for divorce until the expiration of 6 months from the day the bill of complaint is filed. In cases of unusual hardship or such compelling necessity as shall appeal to the conscience of the court, upon petition and proper showing, it may take testimony at any time after the expiration of 60 days from the time of filing the bill of complaint. Testimony may be taken conditionally at any time for the purpose of perpetuating such testimony. When the defendant in any case for divorce is not domiciled in this state at the time of commencing the suit or shall not have been domiciled herein at the time the cause for divorce arose, before any decree of divorce shall be granted the complainant must prove that the parties have **actually lived and cohabited together as husband and wife within this state**, or that the complainant has in good faith resided in this state for 1 year immediately preceding the filing of the bill of complaint for divorce.
- Solution:
  - “actually lived and cohabited together as husband and wife within this state” to “actually lived and cohabited together as spouses within this state”

**MCL 552.23 (judgment of divorce or separate maintenance; further award of real and personal estate; transmittal of payments to department of human services; service fee; failure or refusal to pay service fee; contempt; “state disbursement unit or “SDU” defined.)**

- Text:
  - (3) If the court appoints the friend of the court custodian, receiver, trustee, or escrow agent of **assets owned by a husband and wife**, or either of them, the court may fix the amount of the fee for such service, to be turned over to the county treasurer and credited to the general fund of the county. The court may hold in contempt a person who fails or refuses to pay a fee ordered under this subsection.
- Solution:
  - “assets owned by a husband and wife” to “assets owned by spouses”

**MCL 552.27 (Alimony or allowance for support and education of children as lien; default; powers of court.)**

- Text:
  - (d) Award **a division between the husband and wife** of the real and personal estate of either party or **of the husband and wife by joint ownership** or right as the court considers equitable and just.
- Solution:
  - “division between the husband and wife” to “division between the spouses”
  - “of the husband and wife by joint ownership” to “of the spouses by joint ownership”

**MCL 552.34 (action to annul marriage of a minor)**

- Text:
  - “An action to annul a marriage on the ground that 1 of the parties was under the age of legal consent, as provided in section 3 of Act No. 128 of the Public Acts of 1887, being section 551.103 of the Michigan Compiled Laws, may be brought by the parent or guardian entitled to the custody of the minor or by the next friend of the minor, but the marriage shall not be annulled on the application of a party who was of the age of legal consent at the time of the marriage, or when it appears that the parties, after they had attained the age of consent, **had freely cohabited as husband and wife.”**
- Solution:
  - “had freely cohabited as husband and wife” to “had freely cohabited as spouses”

**MCL 552.36 (Marriage annulment; action by party to marriage)**

- Text:
  - A party to a marriage who, at the time of the marriage, was not capable in law of contracting and who later becomes capable in law of contracting may bring an action to annul the marriage. The court shall not, however, annul the marriage if the court finds that the **parties cohabited as husband and wife** after the party became capable in law of contracting.
- Solution:
  - “parties cohabited as husband and wife” to “parties cohabited as spouses”

### **MCL 552.37 (Marriage annulment; ground of force or fraud; effect of voluntary cohabitation)**

- Text:
  - No marriage shall be annulled on the ground of force or fraud, if it shall appear that, at any time before the commencement of the suit, there was a voluntary cohabitation of the parties as husband and wife.
- Solution:
  - “of the parties as husband and wife” to “of the parties as spouses”

### **Judgments of Divorce or Separate Maintenance (Act 259 of 1909)**

### **MCL 552.101 (Judgment of divorce or separate maintenance; provision in lieu of dower; determining rights of wife or husband in and to policy of life insurance, endowment, or annuity; discharge of liability on policy; determination of rights; assignment of rights)**

- Text:
  - (2) Each judgment of divorce or judgment of separate maintenance shall determine all rights of the wife in and to the proceeds of any policy or contract of life insurance, endowment, or annuity upon the life of the husband in which the wife was named or designated as beneficiary, or to which the wife became entitled by assignment or change of beneficiary during the marriage or in anticipation of marriage. If the judgment of divorce or judgment of separate maintenance does not determine the rights of the wife in and to a policy of life insurance, endowment, or annuity, the policy shall be payable to the estate of the husband or to the named beneficiary if the husband so designates. However, the company issuing the policy shall be discharged of all liability on the policy by payment of its proceeds in accordance with the terms of the policy unless before the payment the company receives written notice, by or on behalf of the insured or the estate of the insured, 1 of the heirs of the insured, or any other person having an interest in the policy, of a claim under the policy and the divorce.
- Solutions:
  - “all rights of the wife” to “all rights of the spouse”
  - “upon the life of the husband in which the wife” to “upon the life of his or her spouse in which the spouse”
  - “or to which the wife became entitled” to “or to which the spouse became entitled”
  - “determine the rights of the wife” to “determine the rights of the spouse”
  - “the policy shall be payable to the estate of the husband or to the named beneficiary if the husband so designates” to “the policy shall be payable to the estate of his or her husband or to the named beneficiary if his or her spouse so designates”
- Text:
  - (3) Each judgment of divorce or judgment of separate maintenance shall determine all rights of the husband in and to the proceeds of any policy or contract of life insurance, endowment, or annuity upon the life of the wife in which the husband was named or designated as beneficiary, or to which he became entitled by assignment or change of beneficiary during the marriage or in anticipation of marriage. If the judgment of divorce or judgment of separate maintenance does not determine the rights of the husband in and to the policy of life insurance, endowment, or annuity, the policy shall be payable to the estate of the wife, or to the named beneficiary if the wife so designates. However, the company issuing the policy shall be discharged of all liability on the policy by payment of

the proceeds in accordance with the terms of the policy unless before the payment the company receives written notice, by or on behalf of the insured or the estate of the insured, 1 of the heirs of the insured, or any other person having an interest in the policy, of a claim under the policy and the divorce.

- Solution:
  - In light of the changes to the preceding section, this section should likely be removed entirely.
- Text:
  - (4) Each judgment of divorce or judgment of separate maintenance shall determine all rights, including any contingent rights, of the husband and wife in and to all of the following:
- Solution:
  - “including any contingent rights, of the husband and wife” to “including any contingent rights, of the spouses”

**MCL 552.102 (Realty owned jointly or by entireties; effect of divorce without determination of ownership in decree)**

*(This section was amended by 2016 PA 378.)*

- Text:
  - Every husband and wife owning real estate as joint tenants or as tenants by entireties shall, upon being divorced, become tenants in common of such real estate, unless the ownership thereof is otherwise determined by the decree of divorce.
- Solution:
  - “Every husband and wife” to “Spouses”

**Alimony Awarded by Court of Another State (Act 52 of 1911)**

**MCL 552.122 (Stay of proceedings)**

- Text:
  - If the defendant in this state shows that he has made proper application in the court of the other state for a reduction or any further order in relation to the alimony in the courts of the other state, the court in this state may stay the proceedings in this state on such terms as it desires to impose.
- Solution:
  - “that he has” to “that he or she has”

### **Change of Name of Divorced Woman (Act 299 of 1905)**

#### **MCL 552.391 (Divorced woman; change of name)**

- Text:
  - The circuit courts of this state, whenever a decree of divorce is granted, may, at the instance of the woman, whether complainant or defendant, decree to restore to her her birth name, or the surname she legally bore prior to her marriage to the husband in the divorce action, or allow her to adopt another surname if the change is not sought with any fraudulent or evil intent.
- Solution:
  - “or the surname she legally bore prior to her marriage to the husband in the divorce action” to “or the surname she legally bore prior to her marriage to the spouse in the divorce action”

### **Uniform Interstate Family Support Act (Act 310 of 1996)**

#### **MCL 552.1328 (physical presence of petitioner not required; documents admissible as evidence; testimony)**

- Text:
  - (8) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this act.
- Solution:
  - “based on the relationship of husband and wife” to “based on the relationship as spouses”

### **Revised Statutes of 1846, Chapter 62**

#### **Of the Nature and Qualities of Estates in Real and Personal Property, and the Alienation Thereof**

#### **MCL 554.45 (Land conveyance; exceptions to preceding section.)**

- Text:
  - The preceding section shall not apply to mortgages, nor to devises or grants made in trust, or made to executors, or to husband and wife.
- Solution:
  - “or to husband and wife” to “or to spouses”

### **Rights and Liabilities of Married Women (Act 216 of 1981)**

#### **MCL 557.21 (Status of property acquired by woman before or after marriage; earnings of married woman)**

- Text:
  - (1) If a woman acquires real or personal property before marriage or becomes entitled to or acquires, after marriage, real or personal property through gift, grant, inheritance, devise, or other manner, that property is and shall remain the property of the woman and be a part of the woman's estate. She may contract with respect to the property, sell, transfer, mortgage, convey, devise, or bequeath the property in the same manner and with the same effect as if she were unmarried. The property shall not be liable for the debts, obligations,

or engagements of any other person, including the woman's husband, except as provided in this act.

- Solution:
  - “including the woman’s husband” to “including the woman’s spouse”
    - Note: Because of the inclusive clause “any other person,” this change is primarily semantic and not strictly required.

#### **MCL 557.24 (Contract by married woman; liability of husband for breach of contract)**

- Text:
  - (2) The husband of a married woman shall not be liable for breach of a contract which was entered into by the married woman and which relates to the separate property of the married woman as provided in subsection (1) unless the husband acted as a surety, co-signor, or guarantor on the contract.
- Solutions:
  - “The husband of a married woman” to “The spouse of a married woman”
  - “unless the husband” to “unless the spouse”

#### **MCL 557.25 (Married woman as surety for debt or obligation of other person; judgment against married woman; satisfaction)**

- Text:
  - A married woman may act as a surety for the debt or obligation of another person, including the debt of her husband, by signing a written instrument providing for the suretyship. A judgment entered against the married woman as a surety may be satisfied out of her separate property as described in section 1, whether or not the contract of suretyship benefits or concerns that separate property.
- Solution:
  - “including the debt of her husband” to “including the debt of her spouse”
    - Note: Because “of another person” is inclusive the change is primarily semantic and not strictly necessary.

#### **MCL 557.26 (Pledge or assignment by married woman of interest in separate property as security for debt of other person; contract by married woman giving general guarantee; satisfaction of judgment)**

- Text:
  - (1) A married woman may enter into a written contract pledging or assigning her interest in her separate property, as described in section 1, as security for the debt of another person, including the debt of her husband. If a married woman signs a written contract pledging or assigning an interest in her separate property as security for the debt of another person or her husband, a judgment rendered for payment of the debt may be satisfied out of that separate property whether or not the separate property derives a benefit from the pledge or assignment.
- Solutions:
  - “including the debt of her husband” to “including the debt of her spouse”
  - “of another person or her husband” to “of another person or her spouse”



- Text:
  - (2) A married woman may enter into a written contract giving a general guarantee obligating her personally for the debt of another person, **including the debt of her husband**. If the married woman signs such a written contract, a judgment rendered for payment of the debt may be satisfied out of any of the separate property of the married woman described in section 1, whether or not the separate property derives a benefit from the general guarantee.
- Solution:
  - “including the debt of her husband” to “including the debt of her spouse”

#### **Income Rights of Husband and Wife as Tenants in Entirety (Act 288 of 1975)**

#### **MCL 557.71 (Equal rights of husband and wife holding property as tenants by entirety).**

- Text:
  - **A husband and wife shall** be equally entitled to the rents, products, income, or profits, and to the control and management of real or personal property held by them as tenants by the entirety.
- Solution:
  - “A husband and wife” to “Spouses”

#### **Land Held at Tenancy by Entirety (Act 126 of 1925)**

#### **MCL 557.81 (Sale of land held by entirety; survivorship of rights of vendor)**

- Text:
  - In all cases **where a husband and wife shall** sell land held as a tenancy by the entirety and accept in part payment for the purchase price the note or other obligation of said **purchaser payable to said husband and wife**, secured by a mortgage **on said land payable to husband and wife**, the said debt together with all interest thereon, unless otherwise expressly stated in said mortgage, after the death of either shall be payable to the survivor, and the title to said mortgage shall vest in the survivor, and in case a contract for the sale of **property owned by the husband and wife as tenants** by the entirety, is entered into by them as vendors, the same provisions herein applying to the rights of the survivor in mortgages as above set forth, shall apply to the survivor of the contract.”
- Solutions:
  - “where a husband wife shall” to “where spouses shall”
  - “purchaser payable to said husband and wife” to “purchaser payable to said spouses”
  - “on said land payable to husband and wife” to “on said land payable to the spouses”
  - “property owned by the husband and wife” to “property owned by the spouses”

### **Termination of Tenancies by Entirety (Act 210 of 1927)**

#### **MCL 557.101 (Tenancy by entirety; termination)**

- Text:
  - In all cases **where husband and wife** own any interest in land as tenants by the entirety, such tenancy by the entirety may be terminated by a conveyance from either one to the other of his or her interest in the land so held.
- Solution:
  - “where husband and wife” to “where spouses”

### **Joint Ownership of Personal Property in Joint Tenancy (Act 212 of 1927)**

#### **MCL 557.151 (Evidence of indebtedness payable to husband and wife; ownership in joint tenancy)**

- Text:
  - All bonds, certificates of stock, mortgages, promissory notes, debentures, or other evidences of indebtedness hereafter made payable **to persons who are husband and wife**, or made payable to them as endorsees or assignees, or otherwise, **shall be held by such husband and wife in joint tenancy** unless otherwise therein expressly provided, in the same manner and subject to the same restrictions, consequences and conditions as are incident to the **ownership of real estate held jointly by husband and wife** under the laws of this state, with full right of ownership by survivorship in case of the death of either.
- Solutions:
  - “to persons who are husband and wife” to “to persons who are spouses”
  - “shall be held by such husband and wife in joint tenancy” to “shall be held by such spouses in joint tenancy”
  - “ownership of real estate held jointly by husband and wife” to “ownership of real estate held jointly by spouses”

### **Repeal of Community Property Act (1<sup>st</sup> Ex. Session)(Act 39 of 1948)**

#### **MCL 557.253 (Repeal of community property act; community property on effective date of repeal, continuance, notice of claim.)**

- Text:
  - Any property which, at the time this act takes effect, constitutes community property by virtue of the provisions of Act No. 317 of the Public Acts of 1947 shall continue to be community property and remain subject to the provisions of said act and for such purpose said act shall continue in force: Provided, That, except where the conveyance or other instrument of title under which the same was acquired or other evidence of ownership thereof expressly states the intention that such property shall be community property, any such property shall, upon the expiration of 1 year after the time this act takes effect, be deemed to be the **separate property of the husband or the wife, or both**, according to the name or names set forth in the conveyance or other instrument of title under which such property was acquired or other evidence of ownership thereof, unless, within such 1 year period, either spouse having an interest therein, or any of the devisees, legatees, heirs or distributees of either of them who shall have died prior to or during the running of such 1 year period, shall file notice of claim that such property constitutes community property.

- Solution:
  - “separate property of the husband or the wife, or both” to “separate property of 1 or both spouses”

**MCL 557.254 (Repeal of community property act; community property thereafter derived, continuance, notice of claim)**

- Text:
  - Any property hereafter derived from property which constitutes community property by virtue of the provisions of Act No. 317 of the Public Acts of 1947 shall constitute community property and remain subject to the provisions of said act and for such purpose said act shall continue in force: Provided, That, except where the conveyance or other instrument of title under which the same is acquired or other evidence of ownership thereof expressly states the intention that such property shall be community property, any such property acquired within 1 year after the time this act takes effect shall be deemed to be **separate property of the husband or the wife, or both**, according to the name or names set forth in the conveyance or other instrument of title under which such property is acquired or other evidence of ownership thereof, unless within such 1 year period either spouse having an interest therein, or any of the devisees, legatees, heirs or distributees of either of them who shall have died prior to or during the running of such 1 year period, shall file notice of claim that such property constitutes community property: And provided further, That any such property acquired after the expiration of such 1 year period shall be deemed to be separate property, as aforesaid, unless the conveyance or other instrument of title under which such property is acquired or other evidence of ownership thereof shall expressly state the intention that such property shall constitute community property. All of the provisions of section 3 of this act with respect to any notice of claim pursuant thereto shall be applicable with respect to any notice of claim under the provisions of this section.
- Solution:
  - “separate property of the husband or the wife, or both” to “separate property of 1 or both spouses”

**Confirmation of Certain Deeds and Instruments)(Act 21 of 1861)**

**MCL 565.602 (Married woman’s joint deed with husband; validity)**

- Text:
  - All deeds of lands situated in this state, heretofore or hereafter made by any **married woman jointly with her husband** by their attorney in fact, under a joint power of attorney, executed and acknowledged as required in the **joint deed of a husband and wife**, and recorded in the office of the register of deeds of the proper county, shall be taken and deemed as between the parties thereto, and all persons claiming under or through them as valid and effectual to convey the legal title of the premises therein described, as if the same had been executed and acknowledged **by the husband and wife in person**.
- Solution:
  - “married woman jointly with her husband” to “married woman jointly with her spouse”
  - “joint deed of a husband and wife” to “joint deed of spouses”
  - “by the husband and wife in person” to “by the spouses in person”

### **Revised Judicature Act of 1961 (Act 236 of 1961)**

#### **MCL 600.1410 (Legal impediment to marriage as bar to action)**

- Text:
  - If 2 person [sic] have lived together as husband and wife, and a legal impediment existed to the marriage of either of the persons, their issue and the person that entered the relation in the good faith belief that the marriage was lawful are entitled to the same damages in a civil action as though no such impediment existed, when the other of such persons or their issue is injured or dies as a result of the negligent act or omission of another.
- Solution:
  - “lived together as husband and wife” to “lived together as spouses”

#### **MCL 600.2005 (Married women; tort; action against both spouses)**

- Text:
  - No suit may be brought against husband and wife, jointly, or against the husband alone, for any tort of the wife, unless such tort was committed under such circumstances as to render them both liable.
- Solution:
  - “may be brought against husband and wife” to “may be brought against a wife and her spouse”
  - “or against the husband alone, for any tort of the wife” to “or against the spouse alone, for any tort of the wife”

#### **MCL 600.2162 (Husband or wife as witness for or against other)**

- Text:
  - (1) In a civil action or administrative proceeding, a husband shall not be examined as a witness for or against his wife without her consent or a wife for or against her husband without his consent, except as provided in subsection (3).
- Solution:
  - Change entire section to: “In a civil action or administrative proceeding, a spouse shall not be examined as a witness for or against his or her spouse without his or her consent, except as provided in subsection (3).”

#### **MCL 600.2807 (Property owned as tenants by the entirety; priority; exceptions; sale or refinance of property subject to judgement lien; limitation on proceeds)**

- Text:
  - (1) A judgment lien does not attach to an interest in real property owned as tenants by the entirety unless the underlying judgment is entered against both the husband and wife.
- Solution:
  - “against both the husband and wife” to “against both spouses”

**MCL 600.3344 (Release of interest by married woman; payment from proceeds of sale; effect on rights)**

- Text:
  - Any married woman may release her right, interest, or **estate to her husband** and lawfully acknowledge this release. If the release is executed outside of this state it shall be executed, acknowledged, and certified as the laws of this state require for the execution, acknowledgment, and certification of deeds in any other state, territory, or district of the United States. Upon the release the shares of the sale arising from her contingent interest shall be paid to her. This release shall be a bar to her right, estate, or claim.
- Solution:
  - “estate to her husband” to “estate to her spouse”

**MCL 600.5451 (Bankruptcy; exemptions from property of estate; exception; exempt property sold, damaged, destroyed, or acquired for public use; amounts adjusted by state treasurer; definitions)**

- Text:
  - (1)(n) Property described in section 1 of 1927 PA 212, MCL 557.151, or real property, held **jointly by a husband and wife** as a tenancy by the entirety, except that this exemption does not apply with regard to a claim based on a **joint debt of the husband and wife**.
- Solutions:
  - “jointly by a husband and wife” to “jointly by spouses”
  - “joint debt of the husband and wife” to “joint debt of the spouses”

**MCL 600.6023a (Property held jointly by husband and wife; exemption under judgment entered against 1 spouse)**

- Text:
  - Property described in section 1 of 1927 PA 212, MCL 557.151, or real property, held **jointly by a husband and wife** as a tenancy by the entirety is exempt from execution under a judgment entered against only 1 spouse.
- Solution:
  - “jointly by a husband and wife” to “jointly by spouses”

**MCL 600.6131 (Prima facie case; burden of proof; proceedings before sale on execution; transfer of property within 1 year prior to commencement of action)**

- Text:
  - (3) Where it appears that the judgment debtor at a time within 1 year prior to the date of the commencement of the action in which the judgment is entered has had title to or has paid the purchase price of any real or personal property to which **at the time of the examination his wife**, or a relative or a person on confidential terms with the judgment debtor may claim title or right of possession, the burden of proof shall be upon the judgment debtor, or person claiming title or right of possession, to establish that the transfer or **gift from him** was not made for the purpose of delaying, hindering, and defrauding creditors.

- Solution:
  - “of the examination his wife” to “of the examination his or her spouse”
  - “gift from him” to “gift from him or her”
    - Note: Not strictly required by *Obergefell* but a semantic change reflecting the understanding that this statute applies to both men and women.

### **Estates and Protected Individuals Code (Act 386 of 1998)**

#### **MCL 700.2114 (Parent and child relationship)**

- Text:
  - (1)(a) If a child is born or conceived during a marriage, both spouses are presumed to be the natural parents of the child for purposes of intestate succession. A child conceived by a married woman with the consent of her husband following utilization of assisted reproductive technology is considered as their child for purposes of intestate succession. Consent of the husband is presumed unless the contrary is shown by clear and convincing evidence. If a man and a woman participated in a marriage ceremony in apparent compliance with the law before the birth of a child, even though the attempted marriage may be void, the child is presumed to be their child for purposes of intestate succession.
- Solutions:
  - “by a married woman with the consent of her husband” to “by a married woman with the consent of her spouse”
  - “Consent of the husband is presumed” to “Consent of the spouse is presumed”
  - “If a man and a woman” to “If two spouses”

#### **MCL 700.2801 (Effect of divorce, annulment, decree of separation, bigamy, and absence)**

- Text:
  - (1) An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, he or she is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.
- Solution:
  - “does not terminate the statute of husband and wife” to “does not terminate the status as spouses”
- Text:
  - (2)(a) An individual who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless they subsequently participate in a marriage ceremony purporting to marry each to the other or live together as husband and wife.
- Solution:
  - “together as husband and wife” to “together as spouses”

**MCL 700.2806 (definitions relating to revocation of probate and nonprobate transfers by divorce; revocation by other changes of circumstances)**

- Text:
  - (b) “Divorce or annulment” means a divorce or annulment, or a dissolution or declaration of invalidity of a marriage, that would exclude the spouse as a surviving spouse within the meaning of section 2801. A decree of separation that **does not terminate the status of husband and wife** is not a divorce for purposes of this section and sections 2807 to 2809.
- Solution:
  - “does not terminate the status of husband and wife” to “does not terminate the status as spouses”

**Probate Code of 1939 (Act 288 of 1939)**

**MCL 710.24 (Petition for adoption; filing; jurisdiction; verification; contents; preplacement assessment; omission of certain identifying information)**

- Text:
  - (1) Except as otherwise provided in this section, if a person desires to adopt a child or an adult and to bestow upon the adoptee his or her family name, or to adopt a child or an adult without a name change, with the intent to make the adoptee his or her heir, that person, **together with his wife or her husband**, if married, shall file a petition with the court of the county in which the petitioner resides, where the adoptee is found or, where the parent's parental rights were terminated or are pending termination. If both parents' parental rights were terminated at different times and in different courts, a petition filed under this section shall be filed in the court of the county where parental rights were first terminated. If there has been a temporary placement of the child, the petition for adoption shall be filed with the court that received the report described in section 23d(2) of this chapter.
- Solution:
  - “together with his wife or her husband” to “together with His or her spouse”

*(This section was amended by 2016 PA 191.)*

**MCL 710.36 (Hearing to determine whether child born out of wedlock and to determine identity and rights of father; filing proof of service of notice of intent or acknowledgment; copy of notice of intent to claim paternity; notice of hearing; contents; filing proof of service of notice of hearing; waiver; evidence of identity; adjournment of proceedings)**

- Text:
  - (1) If a child is claimed to be born out of wedlock and the mother executes or proposes to execute a release or consent relinquishing her rights to the child or **joins in a petition for adoption filed by her husband**, and the release or consent of the natural father cannot be obtained, the judge shall hold a hearing as soon as practical to determine whether the child was born out of wedlock, to determine the identity of the father, and to determine or terminate the rights of the father as provided in this section and sections 37 and 39 of this chapter.

- Solution:
  - “joins in a petition for adoption filed by her husband” to “joins in a petition for adoption filed by her spouse”

*(This section was amended by 2016 PA 191.)*

### **Surrogate Parenting Act (Act 199 of 1988)**

#### **MCL 722.853 (Definitions)**

- Text:
  - (i) "Surrogate parentage contract" means a contract, agreement, or arrangement in which a female agrees to conceive a child through natural or artificial insemination, or in which a female agrees to surrogate gestation, and to voluntarily relinquish her parental or custodial rights to the child. It is presumed that a contract, agreement, or arrangement in which a female agrees to conceive a child through natural or artificial insemination **by a person other than her husband**, or in which a female agrees to surrogate gestation, includes a provision, whether or not express, that the female will relinquish her parental or custodial rights to the child.
- Solution:
  - “by a person other than her husband” to “by a person other than her spouse”

### **Foster Care and Adoption Services Act (Act 203 of 1994)**

#### **MCL 722.954a (Placement of child in supervising agency’s care; determination of placement with relative; notification; special consideration and preference to child’s relative; documentation of decision; review hearing)**

- Text:
  - (4)(b) Provide written notice of the decision and the reasons for the placement decision to the child’s attorney, guardian, guardian ad litem, **mother, and father**; the **attorneys for the child’s mother and father**; each relative who expresses an interest in caring for the child; the child if the child is old enough to be able to express an opinion regarding placement; and the prosecutor.
- Solution:
  - “mother, and father” to “and parents”
  - “attorneys for the child’s mother and father” to “attorneys for the child’s parents”

### **Uniform Child-Custody Jurisdiction and Enforcement Act (Act 195 of 2001)**

#### **MCL 722.1309 (delivery of child to petitioner; grounds for exception; expenses; additional relief; refusal to testify; inference; privilege against disclosure)**

- Text:
  - (4) A privilege against disclosure of communications between spouses and a defense of immunity based **on the relationship of husband and wife** or parent and child cannot be invoked in a proceeding under this article.



- Solution:
  - “on the relationship of husband and wife” to “on the relationship as spouses”

### **The Michigan Penal Code (Act 328 of 1931)**

#### **MCL 750.30 (Adultery; punishment)**

- Text:
  - Punishment—Any person who shall commit adultery shall be guilty of a felony; and when the crime is committed **between a married woman and a man who is unmarried, the man shall** be guilty of adultery, and liable to the same punishment.
- Solution:
  - “between a married woman and a man who is unmarried, the man shall” to “between a married woman and person who is unmarried, the unmarried person shall”

#### **MCL 750.90 (Sexual intercourse under pretext of medical treatment)**

- Text:
  - Sexual intercourse under pretext of medical treatment—Any person who shall undertake to medically treat any female person, and while so treating her, shall represent to such female that it is, or will be, necessary or beneficial to her health that she have sexual intercourse with a man, and shall thereby induce her to have carnal sexual intercourse **with any man, and any man, not being the husband** of such female, who shall have sexual intercourse with her by reason of such representation, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years.
- Solution:
  - “with any man, and any man, not being the husband” to “with any person, and any person, not being his or her spouse”
    - Note: The suggested change extends beyond what is strictly required but seems appropriate given other changes suggested in the report.

#### **MCL 750.166 (Wife may testify against husband)**

- Text:
  - In all prosecutions under this chapter, **the wife may testify against the husband without his consent.**
- Solution:
  - “the wife may testify against the husband without his consent” to “the wife may testify against her spouse without such spouse’s consent”

#### **MCL 750.335 (Lewd and lascivious cohabitation and gross lewdness)**

- Text:
  - **Any man or woman, not being married to each other,** who lewdly and lasciviously associates and cohabits together, and any man or woman, **married** or unmarried, who is guilty of open and gross lewdness and lascivious behavior, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00.

No prosecution shall be commenced under this section after 1 year from the time of committing the offense.

- Solution:
  - “Any man or woman, not being married to each other” to “Any two people, not being married to each other”

#### **Revised Uniform Reciprocal Enforcement of Support Act (Act 8 of 1952)**

##### **MCL 780.159a (Enforcement of duties of support; defense of immunity not available)**

- Text:
  - All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this act including a proceeding for civil contempt. The defense that the parties are immune to suit **because of their relationship as husband and wife** or parent and child is not available to the obligor.
- Solution:
  - “because of their relationship as husband and wife” to “because of their relationship as spouses”

##### **MCL 780.169 (Husband and wife; privilege against disclosure inapplicable; competent witnesses; compelling testimony)**

- Text:
  - Laws attaching a privilege against the disclosure of communications **between husband and wife** are inapplicable to proceedings under this act. **Husband and wife are competent witnesses** and may be compelled to testify to any relevant matter, including marriage and parentage.
- Solution:
  - “between husband and wife” to “between spouses”
  - “Husband and wife are competent” to “Spouses are competent”

#### **Coercion of Married Woman by Husband (Act 85 of 1935)**

##### **MCL 780.401 (Presumption of coercion by husband prohibited)**

- Text:
  - In the prosecution of any complaint or indictment charging a criminal offense, no presumption shall be indulged that a married woman committing an offense does so under coercion **because she commits it in the presence of her husband.**
- Solution:
  - “because she commits it in the presence of her husband” to “because she commits it in the presence of her spouse”

## **SECTION 2. POLICY ISSUES**

### **1. ESTATES IN DOWER**

“Dower,” at common law, is a wife’s right, upon her husband’s death, to a life estate in one-third of the land that he owned. Black’s Law Dictionary. Michigan still has laws that recognize a wife’s dower rights. No similar laws exist for a husband. The following statutory provisions relate to dower and should be reviewed, particularly in the event the Legislature repeals Michigan’s dower laws.

*(These statutory provisions have been affected by 2016 PA 489.)*

#### **MCL 558.1 (Right of widow to dower)**

- Text:  
The widow of every deceased person, shall be entitled to dower, or the use during her natural life, of 1/3 part of all the lands whereof her husband was seized of an estate of inheritance, at any time during the marriage, unless she is lawfully barred thereof.

#### **MCL 558.2 (Dower in lands exchanged; election)**

- Text:  
If a husband seized of an estate of inheritance in lands, exchange them for other lands, his widow shall not have dower of both, but shall make her election to be endowed of the lands given, or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange, within 1 year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

#### **MCL 558.4 (Dower in mortgaged lands; purchase money mortgage given after marriage)**

- Text:  
“When a husband shall purchase lands during coverture, and shall at the same time mortgage his estate in such lands to secure the payment of the purchase money, his widow shall not be entitled to dower out of such lands, as against the mortgagee or those claiming under him, although she shall not have united in such mortgage, but she shall be entitled to her dower as against all other persons.”

#### **MCL 558.5 (Dower in surplus of proceeds from foreclosure of mortgage)**

- Text:  
“Where in either of the cases mentioned in the 2 last preceding sections, or in case of a mortgage in which she shall have joined with her husband, the mortgagee, or those claiming under him shall after the death of the husband cause the mortgaged premises to be sold by virtue of such mortgage, and any surplus shall remain after payment of the moneys due thereon and the costs and charges of the sale, such widow shall be entitled to the interest or income of 1/3 part of such surplus, for her life, as dower.”

#### **MCL 558.6 (Dower in lands released by payment of mortgage)**

- Text:  
“If, in either of the cases above specified, the heir or other person claiming under the husband, shall pay and satisfy the mortgage, the amount so paid shall be deducted from the value of the land, and the widow shall have set out to her, for her dower in the mortgaged lands, the value of 1/3 of the residue after such deduction.”

#### **MCL 558.7 (Dower in aliened lands; estimation)**

- Text:  
“When a widow shall be entitled to dower out of any lands which shall have been aliened by the husband in his lifetime, and such lands shall have been enhanced in value after the alienation, such lands shall be estimated, in setting out the widow's dower, according to their value at the time when they were so aliened.”

#### **MCL 558.12 (Alternative dower rights before assignment; occupation, profits and rents receipt)**

- Text:  
When a widow is entitled to dower in the lands of which her husband died seized, she may continue to occupy the same with the children or other heirs of the deceased, or may receive 1/3 part of the rents, issues and profits thereof, so long as the heirs or others interested do not object, without having the dower assigned.

#### **MCL 558.13 (Barring of dower; joining in conveyance, release)**

- Text:  
A married woman residing within this state may bar her right of dower in any estate conveyed by her husband or by his guardian, if he be under guardianship, by joining in the deed of conveyance and acknowledging the same as prescribed in the preceding chapter, or by joining with her husband in a subsequent deed, acknowledged in like manner; or by deed executed by the wife alone to one who has theretofore acquired and then holds the husband's title, provided the intent to bar her right of dower shall be expressed in said deed.

#### **MCL 558.14 (Barring dower; jointure)**

- Text:  
A woman may also be barred of her dower in all the lands of her husband by a jointure settled on her with her assent before the marriage, provided such jointure consists of a freehold estate in lands for the life of the wife at least, to take effect in possession or profit immediately on the death of the husband.

#### **MCL 558.16 (Barring of dower; antenuptial pecuniary provisions)**

- Text:  
Any pecuniary provision that shall be made for the benefit of an intended wife, and in lieu of dower, shall, if assented to as provided in the preceding section, bar her right of dower in all the lands of her husband.

#### **MCL 558.21 (Dower right of aliens and nonresidents)**

- Text:  
A woman being an alien, shall not on that account be barred of her dower, and any woman residing out of the state, shall be entitled to dower of the lands of her deceased **husband**, lying in this state, of which her **husband** died seized, and the same may be assigned to her, or recovered by her, in like manner as if she and her deceased **husband** had been residents within the state at the time of his death.

#### **MCL 558.24 (Damages upon recovery of dower; widow's rights)**

- Text:  
Whenever in any action brought for the purpose, a widow shall recover her dower in lands of which her **husband** shall have died seized, she shall be entitled also to recover damages for the withholding of such dower.

#### **MCL 558.26 (Damages upon recovery of dower; use of added improvements)**

- Text:  
Such damages shall not be estimated for the use of any permanent improvements made after the death of her **husband** by his heirs, or by any other person claiming title to such lands.

#### **MCL 558.27 (Damages upon recovery of dower; against heir alienating land)**

- Text:  
When a widow shall recover her dower in any lands alienated by the heir of her **husband**, she shall be entitled to recover of such heir, in an action on the case, her damages for withholding such dower, from the time of the death of her **husband** to the time of the alienation by the heir not exceeding 6 years in the whole; and the amount which she shall be entitled to recover from such heir, shall be deducted from the amount she would otherwise be entitled to recover from such grantee, and any amount recovered as damages, from such grantee, shall be deducted from the sum she would otherwise be entitled to recover from such heir.

#### **MCL 558.28 (Assignment of dower; effect of acceptance)**

- Text:  
When the widow shall have accepted an assignment of dower, in satisfaction of her claim upon all the lands of her **husband**, it shall be a bar to any further claim of dower against the heir of such **husband**, or any grantee of such heir, or any grantee of such **husband**, unless such widow shall have been lawfully evicted of the lands so assigned to her as aforesaid.

#### **MCL 558.29 (Collusive recovery by widow; effect on rights of infants or others entitled to land)**

- Text:  
When a widow not having right to dower, shall during the infancy of the heirs of the **husband**, or any of them, or of any person entitled to the lands, recover dower by the default or collusion of the guardian of such infant, heir or other person, such heir or other person so entitled shall not be prejudiced thereby, but when he comes of full age, he shall have an action against such widow, to recover the lands so wrongfully awarded for dower.

### **Dual Claim To, or Discharge of, Dower (Act 63 of 1847)**

#### **MCL 558.52 (Dower claimed by two or more widows; liability of land to claims after discharge of dower)**

- Text:  
Where dower in any lands may be claimed by 2 or more widows, the 1 whose husband was first seized therein, shall be first entitled thereto, and in all cases where dower in any land shall have been assigned, or where it shall appear that the owner or owners, or person or persons having an interest therein, shall have made full satisfaction to, and has obtained a discharge from the person recovering or having a prior right to dower therein by reason of the prior seizen of her husband, the said land shall not be subject to any other claim for dower during the lifetime of the person so recovering or who has received satisfaction and given a discharge as aforesaid.

### **Filing Claim of Dower (Act 58 of 1917)**

#### **MCL 558.81 (Claim of dower; filing, contents)**

- Text:  
All persons having or claiming dower, whether inchoate or consummate, in lands conveyed, or otherwise disposed of, more than 25 years prior to the time this act shall take effect, by the person who is or was the husband of the person claiming such dower, shall, within 6 months after this act shall take effect, file in the office of the register of deeds of the county in which such lands are situated, a claim of dower under oath setting forth the name and address of the persons claiming such dower and the name of the person who is or was her husband and through whom she claims to have obtained dower in such lands and a description of the lands in which dower is claimed.

### **Filing of Claim of Dower (Act 105 of 1939)**

#### **MCL 558.91 (Claim of dower; filing, contents)**

- Text:  
All persons having or claiming dower, whether inchoate or consummate, in lands heretofore or hereafter conveyed, or otherwise disposed of, by the person who is or was the husband of the person claiming such dower, shall, within 25 years from the time of such conveyance or other disposal of said lands, or within 6 months after this act shall take effect, file in the office of the register of deeds of the county in which such lands are situated, a claim of dower under oath setting forth the name and address of the persons claiming such dower and the name of the person who is or was her husband and through whom she claims to have obtained dower in such lands and a description of the lands in which dower is claimed: Provided, however, That this act shall apply only to persons having or claiming dower, inchoate or consummate, in lands conveyed or otherwise disposed of subsequent to a time 25 years prior to August 10, 1917, that being the time Act No. 58 of the Public Acts of 1917 became effective.

#### **MCL 600.2931 (Barring dower of incompetent wife; action by husband; determination by court; disposition of proceeds; action by guardian; proceedings)**

- Text:
 

(1) **The husband of an insane or otherwise incompetent wife** or any other person who has an interest in the real estate in which she has a right of dower may maintain an action to bar her of her right of dower in the premises.
- Text:
 

(2) If the court finds that **the wife** is incurably insane or for more than 2 years has remained insane or otherwise incompetent so that she has been unable from **defective intellect to join her husband** in the conveyance of the real estate, and that it is proper or necessary to sell the real estate or bar the **wife's right of dower** in it, then the court shall determine the cash value of the wife's dower interest in the premises, taking into consideration **the respective ages of the husband and wife**, and order that the **wife shall be barred of her dower** by the payment of this sum to a guardian other **than her husband** who shall receive and invest this sum for her sole use and support subject to the supervision of the court. On her becoming sound in mind the court shall direct the remainder to be delivered to her. On her death, the court shall direct the **remainder to be delivered to her husband**, if living, or if not, to her personal representatives.
- Text:
 

(3) The guardian, after posting bond approved by the court, may sell at private sale the interest of his ward at a sum not less than the value of the dower as fixed by the court or he may, in a **conveyance with the husband**, or by separate conveyance, transfer the interest of the ward in the **property to the husband's** grantee or grantees, or their heirs and assigns but to no other person. Such conveyance shall bar dower as if the ward had, being in sound **mind, joined her husband** in a deed of the premises.

**MCL 600.2933 (Dower; admeasurement procedure; award of money in lieu of dower; actions equitable in nature)**

- Text:
 

(1) A widow entitled to dower, or a woman entitled to dower and her **husband**, may maintain a claim to recover her dower in lands, tenements, and hereditaments under section 2932 after the expiration of 6 months from the time her right to dower accrued. If an action is brought to recover the dower of any widow which has not been admeasured to her before the commencement of such action, instead of a writ of possession being issued, such plaintiff shall proceed to have her dower assigned to her in the following manner:
- Text:
 

(2) In any action commenced by any widow for the recovery of dower in lands which were aliened by her **husband** in his lifetime, if dower cannot be assigned in the land by metes and bounds without injustice or manifest injury to the widow or to the owners or persons in possession of the land or some one of them, the court having cognizance of the matter may award a sum of money in lieu of dower to be paid to the widow, or may assign to her, as tenant in common, a just proportion of the rents, issues, and profits of the lands. In all cases the court shall consider the true value of the lands at the time of their alienation by the **husband**, and of the probable duration of the life of the doweress at the time the sum of money is awarded or the rents, issues, and profits are assigned to her.

## 2. STATUTES THAT REFERENCE “MOTHER” AND “FATHER” AND/OR “HUSBAND” AND “WIFE”

The following statutes include references to “father” and “mother”, and/or “husband” and “wife”, and do not recognize that parents of children may be same-sex couples. The subject matters of these statutes implicate family law considerations beyond just simple changes to the text and are identified separately in this section for that reason.

### **Born Alive Infant Protection Act (Act 687 of 2002)**

**MCL 333.1073 (Abortion resulting in live birth; surrender of newborn to emergency service provider; medical care; report; confidentiality of newborn’s mother and father; transmission of information to newborn’s mother)**

- Text:  
(4) If a newborn is considered a newborn who has been surrendered to an emergency service provider under the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, as provided in subsection (1), **the identity of the newborn's mother and father becomes confidential** and shall not be revealed, either orally or in writing.

### **Public Health Code (Act 368 of 1978)**

**MCL 333.2822 (Persons required to report live birth occurring in state; “abortion defined”)**

- Text:  
(1)(b)(iii) **The father, the mother, or, in the absence of the father and the inability of the mother,** the individual in charge of the premises where the live birth occurs.

**MCL 333.2824 (Registering name of husband as **father** of child; registering surname of child; consent; acknowledgment of parentage; designating surname of child; entering name of **father** and surname of child on birth certificate; **father** not named on birth registration; utilization of assisted reproductive technology; reference to legitimacy or illegitimacy prohibited)**

- Text:  
(1) The name of the husband at the time of conception or, if none, the husband at birth shall be registered as the **father** of the child. The surname of the child shall be registered as designated by the child's parents.
- (2) If the child's mother was not married at the time of conception or birth, the name of the **father** shall not be entered on the certificate of birth without the written consent of the mother and without the completion, and filing with the state registrar, of an acknowledgment of parentage by the mother and the individual to be named as the **father**. The acknowledgment of parentage shall be completed in the manner provided in the acknowledgment of parentage act. For a certificate of birth completed under this subsection and upon the written request of both parents, the surname of the child shall be designated by the child's parents.
- (3) If the name of the child's **father** cannot be shown under subsection (1) or (2), the child shall be given the surname designated by the mother.
- (4) If the paternity of a child is determined by a court of competent jurisdiction, the name of the **father** shall be entered on the certificate of birth as found and ordered by the court. The surname of the child shall be entered on the certificate of birth as designated by the child's mother.



- (5) If the child's father is not named on the birth registration, no other information about the father shall be entered on the registration.
- (6) A child conceived by a married woman with consent of her husband following the utilization of assisted reproductive technology is considered to be the legitimate child of the husband and wife.

### **Judgment of Divorce or Separate Maintenance (Act 259 of 1909)**

**MCL 552.101 (Judgment of divorce or separate maintenance; provision in lieu of dower; determining rights of wife or husband in and to policy of life insurance, endowment, or annuity; discharge of liability on policy; determination of rights; assignment of rights.)**

- Text:
  - (1) When any judgment of divorce or judgment of separate maintenance is granted in any of the courts of this state, the court granting the judgment shall include in it a provision in lieu of the dower of the wife in the property of the husband, which shall be in full satisfaction of all claims that the wife may have in any property that the husband owns or may own in the future or in which he may have any interest.

*(This section was amended by 2016 PA 378.)*

**MCL 600.3320 (Guardian; authority to agree to division; report; infants; infant as married woman; delivery of guardianship property to probate court guardian; discharge of circuit court guardian)**

- Text:
  - (4) If the infant is a married woman the court may, upon petition, appoint her husband as her guardian and he shall be subject to the provisions of this section.
- Solution:
  - “appoint her husband as her guardian” to “appoint her spouse as her guardian”
    - Note: Although *Obergefell* doesn’t require any additional changes, the Legislature may take this as an opportunity to re-examine the seemingly needless gender specificity in this section

### **Estates and Protected Individuals Code (Act 386 of 1998)**

**MCL 700.1303 (Concurrent Jurisdiction; removal; policy)**

- Text:
  - (1) In addition to the jurisdiction conferred by section 1302 and other laws, the court has concurrent legal and equitable jurisdiction to do all of the following in regard to an estate of a decedent, protected individual, ward, or trust:
    - (k) Bar an incapacitated or minor wife of her dower right.

*(This section was amended by 2016 PA 490.)*

**Probate Code of 1939 (Act 288 of 1939)**

**MCL 711.1 (Order changing name of adult, minor, or spouse and minor children)**

- Text:

(5) Except as provided in subsection (7), if the petitioner is a minor, the petition shall be signed by the mother and father jointly; by the surviving parent if 1 is deceased; if both parents are deceased, by the guardian of the minor; or by 1 of the minor's parents if there is only 1 legal parent available to give consent. If either parent has been declared mentally incompetent, the petition may be signed by the guardian for that parent. The written consent to the change of name of a minor 14 years of age or older, signed by the minor in the presence of the court, shall be filed with the court before an order changing the name of the minor is entered. If the court considers the child to be of sufficient age to express a preference, the court shall consult a minor under 14 years of age as to a change in his or her name, and the court shall consider the minor's wishes.
- Text:

(6) If the petitioner is married, the court, in its order changing the name of the petitioner, may include the name of the spouse, if the spouse consents, and may include the names of minor children of the petitioner of whom the petitioner has legal custody. The written consent to the change of name of a child 14 years of age or older, signed by the child in the presence of the court, shall be filed with the court before the court includes that child in its order. Except as provided in subsection (7), the name of a minor under 14 years of age may not be changed unless he or she is the natural or adopted child of the petitioner and unless consent is obtained from the mother and father jointly, from the surviving parent if 1 is deceased, or from 1 of the minor's parents if there is only 1 legal parent available to give consent. If the court considers the child to be of sufficient age to express a preference, the court shall consult a minor under 14 years of age as to a change in his or her name, and the court shall consider the minor's wishes.

**Acknowledgment of Parentage Act (Act 305 of 1996)**

**MCL 722.1003 (Acknowledgment of parentage; form; validity; signatures; witness; copy)**

- Text:

(2) An acknowledgment of parentage form is valid and effective if signed by the mother and father and those signatures are each notarized by a notary public authorized by the state in which the acknowledgment is signed or witnessed by 1 disinterested, legally competent adult. The witness must be an employee of 1 of the following: a hospital, publicly funded or licensed health clinic, pediatric office, friend of the court, prosecuting attorney, court, department of human services, department of community health, county health agency, county records department, head start program, local social services provider, county jail, or state prison. The witness must sign and date the acknowledgment of parentage form and provide his or her printed name, address, and place of employment. An acknowledgment may be signed any time during the child's lifetime.
- Text:

(3) The mother and father shall be provided a copy of the completed acknowledgment at the time of signing.

### **MCL 722.1006 (Grant of initial custody)**

- Text:  
After a mother and father sign an acknowledgment of parentage, the mother has initial custody of the minor child, without prejudice to the determination of either parent's custodial rights, until otherwise determined by the court or otherwise agreed upon by the parties in writing and acknowledged by the court. This grant of initial custody to the mother shall not, by itself, affect the rights of either parent in a proceeding to seek a court order for custody or parenting time.

### **MCL 722.1010 (Consent to court jurisdiction)**

- Text:  
Except as otherwise provided by law, a mother and father who sign an acknowledgment that is filed as prescribed by section 5 are consenting to the general, personal jurisdiction of the courts of record of this state regarding the issues of the support, custody, and parenting time of the child.

### **The Michigan Penal Code (Act 328 of 1931)**

### **MCL 750.162 (Payments for care and support of wife or children; sworn statement)**

- Text:  
When any person is convicted under section 161 and sentenced to serve a term of imprisonment either in 1 of the state prisons or other penal institution, the warden of the prison or superintendent of said penal institution in which said person shall be confined shall, in case funds are available for such purpose, at the end of each and every week during the period of said term of imprisonment, pay over to any of the superintendents of the poor of the city or county in which the wife or children of such person resides, the sum of 2 dollars and 50 cents per week, if there be only a wife, and 75 cents per week additional for each minor child under the age of 17 years; if there be no wife and there are children under the age of 17 years, the sum of 2 dollars and 50 cents per week for the oldest child, and an additional sum of 1 dollar per week for each of the other children under said age in lieu of any earnings of such person while an inmate therein, said sums to be expended by said superintendent of the poor for the care and support of the wife or children of said person, as the case may be; and it shall be the duty of the superintendent of the poor of the city or county from which such person shall be committed to furnish the warden of the prison or superintendent of the penal institution in which said person is confined with a sworn statement, showing the names of the wife and children who are left dependent upon the city or county for support, their ages and the relation they bear to such convicted person.
- Solution:  
Note: The statute is currently written in such a way that only incarcerated men need to provide such support.

### **MCL 750.163 (Complaints)**

- Text:  
Complainants—Any of the superintendents of the poor of the city or county or the county agent of the state welfare commission for the county wherein the wife or minor children of

the person complained of reside, may make the complaint under the first section of this chapter.

- Solution:
  - Note: The statute is currently written in such a way that only incarcerated men need to provide such support. Therefore, there are two potential changes, with different policy implications.

### **SECTION 3. AUTHORITY FOR USE OF A SINGLE PUBLIC ACT TO AMEND MULTIPLE SECTIONS OF MICHIGAN STATUTES AND RECOMMENDED TEXT**

#### **I. Authority for Use of a Single Public Act to Amend Multiple Sections of Michigan Statutes**

Bills that amend more than one statute are introduced infrequently because of the restrictions imposed by the “Title/Object” provision of the Michigan Constitution. Const 1963, art IV, § 24. There are, however, instances where one statute having a single purpose references and affects other related statutes.

For example, Const 1963, art VI, § 26 abolished Justice of the Peace courts. A number of statutes were subsequently enacted to eliminate references to the abolished courts, some of which were single bills that amended multiple statutes. Several single bills were drafted, each of which had a common subject matter nexus to the statutes being amended in the bill, in order to be mindful of the Constitution’s “Title/Object” provision and not be overbroad. (See 1978 Legislative Session in the section of this Annual Report titled “Prior Enactments Pursuant to Michigan Law Revision Commission Recommendations”).

Bills that amend more than one act are permissible if the bill concerns a single object and if the bill request has been recommended by the Michigan Law Revision Commission. The use of a single public act to amend multiple statutes is permitted by the following authority.

#### **1. CONSTITUTIONAL PROVISIONS**

##### **A. Const 1963, art IV, § 15 Legislative Council**

There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council’s operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

##### **B. Const 1963, art IV, § 24 Laws; object, title, amendments changing purpose**

No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

#### **2. STATUTORY PROVISIONS**

Legislative Council Act (Excerpt), 1986 PA 268

MCL 4.1403 Duties of commission; availability of writings to public

The Michigan law revision commission shall do each of the following:

Examine the common law and statutes of this state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms.

\*\*\*

Recommend changes in the law it considers necessary in order to modify or eliminate antiquated and inequitable rules of law, and bring the law of this state into harmony with modern conditions.

\*\*\*

Report its findings and recommendations to the council and annually, before January 2 of each year, to the legislature. If the commission considers it advisable, it shall accompany the commission's report with proposed bills to implement the recommendations.

### **3. LEGISLATIVE COUNCIL RULES (as adopted through October 23, 2003).**

#### **Chapter 7: Drafting; General Rules**

The Bureau shall not accept a bill request unless the request is sufficiently specific to determine the subject and the purpose of the bill to be prepared.

The Bureau shall accept a bill request that will amend more than one act in a single bill if both of the following apply:

The purpose of the request has been formally approved or recommended by the Michigan Law Revision Commission pursuant to its duties as provided in Section 403 of the Legislative Council Act, Act No. 268 of the Public Acts of 1986, being section 4.1403 of the Michigan Compiled Laws.

The Bureau has determined that the sections to be amended are necessarily or properly related, or otherwise meet the requirements of Const 1963, art IV, § 24.

## **II. Michigan Law Revision Commission Recommendation and Proposed Statutory Language for Single Act to Address OBERGEFELL V HODGES.**

The Michigan Law Revision Commission has the statutory duty to “Examine the common law and statutes of this state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms”. MCL 4.1403(1). The recent decision of the U.S. Supreme Court in *Obergefell v Hodges*, 135 S Ct 2584 (2015) has direct implications on the text of more than one hundred Michigan laws involving a wide range of subjects, rendering those statutes anachronistic in light of the Supreme Court decision.

The Commission believes that changes are necessary to bring the laws of this State into harmony with modern conditions, and, in the interest of legislative efficiency, believes that this is a situation in which a single bill that directs the use of gender-neutral terms rather than gender-specific references may effectively be used to amend multiple acts.

For these reasons, the Commission has determined that the sections to be amended are necessarily and properly related and meet the requirements of Const 1963, art IV, § 24.

### **PROPOSED TEXT FOR BILL REQUEST:**

#### **Revised Statutes of 1846 (EXCERPT)**

#### **CHAPTER 83. Of marriage and the solemnization thereof.**

Sec. 551.1A. ALL PROVISIONS OF LAW THAT UTILIZE GENDER-SPECIFIC TERMS IN REFERENCE TO THE PARTIES TO A MARRIAGE SHALL BE CONSTRUED IN A GENDER-NEUTRAL MANNER AS NECESSARY TO EFFECTUATE THE INTENT OF THE UNITED STATES SUPREME COURT DECISION IN *OBERGEFELL V HODGES*, 135 S CT 2584 (2015).