

# final minutes

---

**Michigan Law Revision Commission Meeting**  
Wednesday, December 7, 2011 ▪ 11:30 a.m.  
Legislative Council Conference Room ▪ 3 Boji Tower  
124 W. Allegan ▪ Lansing, Michigan

**Members Present:**

Richard McLellan, Chair  
Tony Derezinski, Vice-Chair  
Representative Kurt Heise  
Representative Mark Meadows  
John Strand  
George Ward

**Members Absent and Excused:**

Senator Vincent Gregory  
Senator Tonya Schuitmaker  
Judge William Whitbeck

**Others Present:**

Sean Bennett  
Susan Cavanagh, Office of the Legislative Council Administrator  
Cliff Flood, State Bar of Michigan  
Jen Tatterlee  
Jane Wilensky, MLRC Executive Secretary

**I. Convening of Meeting and Roll Call**

Chairperson McLellan called the meeting to order at 11:30 a.m. The clerk took the roll as the members of the Commission and the audience introduced themselves. A quorum was present and Senator Gregory, Senator Schuitmaker, and Judge Whitbeck were excused from the meeting.

**II. Approval of April 19, 2011 Meeting Minutes**

The Chair asked for a motion to approve the minutes of the last meeting. No corrections or amendments were offered. **Mr. Derezinski moved, supported by Representative Heise, to adopt the minutes of the April 19, 2011 Michigan Law Revision Commission meeting. The minutes were unanimously approved.**

**III. Michigan Law Revision Commission Annual Report**

The Chair asked for a motion to adopt the 2010 Michigan Law Revision Commission Annual Report as presented. No corrections or amendments were offered. **Representative Heise moved, supported by Mr. Ward, to adopt the 2010 Michigan Law Revision Commission Annual Report. The 2010 MLRC Annual Report was unanimously adopted.** The Clerk noted that due to a possible printing delay, the report will be distributed in January.

**IV. Update on Pending Projects**

The Chair called on Ms. Wilensky for a report on the Commission's pending projects.

**a. Governor's Power to Remove Public Officials**

Ms. Wilensky shared that a report on this subject was completed by the Commission in 2003. Because other statutes, such as the Emergency Financial Manager statute, have since been enacted, the report will be updated and brought back to the Commission for review. She also read an email message from Mr. Bob Ciaffone regarding this topic and asked that his email message be included in the meeting minutes. A discussion of the Governor's removal power followed. Mr. Derezinski wondered if there is any comparable data from other states and noted that the Council of State Governments and the National Conference of State Legislatures might be possible sources for data and language that other states use. Mr. Ward raised the possibility of the Commission looking into the incorporation law for the organization of ecclesiastical bodies. The Chair responded that given the limited resources of the Commission, he is not sure this is an issue that the Commission is able to study at this time.

**b. Modernization of the Freedom of Information Act**

Ms. Wilensky noted this potential project was discussed at the last meeting and a report regarding the modernization of the Freedom of Information Act was included in the 2010 Annual Report. She described the report as a good start, but a more in-depth review is needed. The Chair reported that he spoke to Dave Dempsey from Dickinson Wright who wrote an article on this subject. The Chair will follow-up with Mr. Dempsey to see if he might be willing to take on this project. The F.O.I.A. issue, including inter-branch access to information, was discussed further and Representative Meadows provided additional background based on his experience with the issue. Representative Heise added that another area of concern for him is the private messages he receives on

Facebook, Twitter, and other social media. Participation and attendance at public meetings via electronic means was also discussed.

**c. Emergency Preparedness Laws**

Ms. Wilensky explained that a study report on emergency preparedness laws was included in the 2001 Annual Report and this may be another area that needs to be reviewed and updated. Representative Heise suggested the need to also look at unintentional human-generated crises such as a disaster at a nuclear power plant or water/food contamination. Representative Meadows shared that there are some extraordinary laws already and it would be helpful to organize them all in one spot.

**V. Potential New Projects**

Ms. Wilensky brought forward the following potential projects:

**a. Uniform Child Abduction Prevention Act**

Ms. Wilensky explained that this is a model statute, promulgated by the National Conference of Commissioners on Uniform State Laws in 2006, designed to be a tool in both domestic and international child abductions. It is also meant to be a preventative measure that would provide tools and guidance if there is a credible risk that a child is going to be abducted. The Chair commented that there is probably some interest in this issue, but he does not see a driving need for the Commission to press for the adoption of this act at this time.

**b. Uniform Emergency Volunteer Health Practitioners Act**

Ms. Wilensky reported that this proposed model statute, promulgated by the National Conference of Commissioners on Uniform State Laws in 2005, deals with licensing and liability issues of volunteer health practitioners from other states. After discussion, the Chair noted that this might be something worth looking into and recommended the proposal be sent to some groups, such as the medical society and trial lawyers, for input.

**VI. Other Business**

**a. Participation in National Conference of Commissioners on Uniform State Laws**

Ms. Wilensky and the Chair participated in a conference call with staff from the National Conference of Commissioners on Uniform State Laws and two issues emerged—increased participation in the organization and restructuring law reform institutions. On the first issue, the Chair noted the organization hopes the State will pay its dues and, given all the other budget problems, he encourages the legislature to increase participation if at all possible. He continued with the second issue and noted that he is interested in revisiting the idea of why there is a Michigan Law Revision and a Michigan Commission on Uniform State Laws. A discussion followed. Information on the restructuring law reform institutions issue can be found on the handout attached to these minutes. The Chair suggested the Commission request a bill draft for discussion purposes and then decide whether to move forward with the idea.

**b. International Law Licensure**

The Chair provided background on this issue which deals with the licensure standards for in-house general counsels of Fortune 500 companies licensed in Canada and New York and other foreign lawyers who serve important legal functions for Fortune 500 companies. He will have Ms. Wilensky circulate information he has prepared on this issue which includes a draft report and a law review article. He would like to discuss the issue again at the next meeting and have the Commission consider issuing a special report instead of waiting to release the report in the next MLRC Annual Report.

**c. Tribal State Agreements**

Ms. Wilensky noted that the Commission released a report on this subject in the 2006-2007 Annual Report after the Supreme Court issued the Tomac decision. The Chair suggested that another review of the legal basis for the structure of tribal state agreements may be warranted due to the fact that the Indian gaming compacts expire in 2013. He noted that Matthew Fletcher who is a MSU professor might be willing to help with the review. Mr. Derezinski suggested Phillip Prygoski, a professor at Cooley Law School, might be a good resource as well.

**d. Invitation of Interest**

A draft template document that could be used to solicit interest in helping the Commission was distributed and reviewed. Ms. Wilensky shared that the University of Michigan Law School Externship Program and The Frank Murphy

Society at U of M may have students who may be interested in helping the Commission. Mr. Derezhinski offered that the University of Michigan's Dean's Fellowship and a program at Harvard may be potential resources as well.

**e. MLRC Meeting Schedule**

The Chair announced that the dates of Michigan Law Revision Commission meetings in 2012 are February 16, June 21, and October 18.

**VII. Comments from Commissioners**

There were no further comments from the Commissioners.

**VIII. Public Comments**

The Chair asked if there were any public comments. Mr. Sean Bennett was present and encouraged the Commission to study the revisions to Michigan's mental health laws he has raised at the last few meetings including forced drugging and immunity for court-appointed psychologists. In response to a request from Mr. Ward, Mr. Bennett will submit a document that includes an official misconduct model from other states (document attached to these minutes.) The Chair noted that the Commission will take Mr. Bennett's suggestions under advisement.

Mr. Cliff Flood of the State Bar of Michigan commented that he has seen some case law that there may be an avenue through the courts regarding the international licensure issue.

**IX. Adjournment**

**Having no further business, the Chair adjourned the meeting at 1:40 p.m.**

*(Minutes approved at the February 26, 2012 MLRC meeting.)*

**From:** "Bob Ciaffone" <bthecoach@att.net>  
**To:** "Susan Cavanagh" <SCavanagh@legislature.mi.gov>  
**Date:** 12/1/2011 2:19 PM  
**Subject:** RE: Michigan Law Revision Commission Meeting Documents

I am having eyelid surgery on December 6 and will be unable to attend the meeting. I am sorry, because I am particularly interested in what you will have to say about the power of the governor to appoint an emergency manager that can suspend the whole local government and assume dictatorial powers. I recognize that the MLRC is not the Michigan Supreme Court, but hope you will at least point out that the subject needs clarification.

You are welcome to read this email letter at the meeting if the chair feels it would be appropriate.

Thanks, Bob Ciaffone

# Restructuring Law Reform Institutions In Michigan

July 22, 2011

## Background

The issue of the need for a continuous review and revision of the laws of the state was addressed in the Michigan Constitution of 1963 by assigning the task to the newly created Legislative Council:

Constitution, Art. IV, §15 Legislative council.

There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. ... The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

To carry out the constitutional mandate, the Michigan Legislature adopted the Legislative Council Act (“Act”), Act 268 of 1986, MCL §4.1101 *et seq.* The Act established two separate commissions, as follows:

- The Michigan commission on uniform state laws under MCL §4.1301.
- The Michigan law revision commission under MCL §4.1401. (See <http://council.legislature.mi.gov/mlrc.html>)

For more than a century, the National Conference of Commissioners On Uniform State Laws (“NCCUSL”), commonly called the Uniform Law Commission (“ULC”), has worked for the improvement of state laws by drafting uniform state laws on subjects where uniformity is desirable and practicable. It is comprised of state commissions on uniform laws from each state, including Michigan, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands. The ULC is the oldest state governmental association and is the source of more than 300 uniform acts which seek to secure uniformity of state laws where diversity obstructs the interests of all the citizens of the United States.

The Michigan commission on uniform state laws is the Michigan entity designated to participate in the ULC.

In addition, the Michigan law revision commission is charged by law to:

Receive and consider proposed changes in the law recommended by the American law institute, the national conference of commissioners on uniform state laws, a bar association, or other learned bodies. MCL§4.1403(1)(b)

The 2010 Report of the Law Revision Commission was its 43<sup>rd</sup> Report to the Legislature.

## Reasons for Considering Restructuring

Over the past several years, a number of changes have occurred:

- Law Revision Commissioners are no longer paid an annual stipend; all work is as a volunteer.
- Term limits have limited the ability of individual legislators to be actively engaged in ULC projects over an extended time.
- There are fewer lawyers in the legislature and with term limits, legislators have less time to address important, but not politically sensitive, issues.
- Because of budget cuts, funds appropriated for annual Michigan dues to the ULC have been cut and used for other purposes in the Legislative Council budget.
- No travel funds have been available for Michigan's uniform laws commissioners to participate in the annual or committee meetings of the ULC.
- Participation by faculty members of Michigan law schools has diminished as most faculty focus on national issues and tenure-supporting research.

As a result of these developments, and the interest of maintaining a focus on needed law reforms, the two commissions have considered whether to consolidate would create a stronger basis for going forward in a downsized state government environment.

A second element of the proposed restructuring is the formal inclusion of all three branches of state government in the work of the commission. For many years, the Legislative Council has appointed a member of the Court of Appeals to the Commission, and the State Bar of Michigan, a government instrumentality, has participated informally in the work of the commission.

A restructured, consolidated single commission would continue as an agency of the Legislative Council as required by the Constitution. But it would be an agency with formal representation by both the executive and judicial branches. Because the restructured commission would serve as the Michigan participant in an intergovernmental agency, the NCCUSL, it may have membership from all branches pursuant to the following provision of the Constitution:

Art.III, § 5 Intergovernmental agreements; service by public officers and employees.

Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. **Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency**

**thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.** The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate. (Emphasis supplied.)

Attached is a proposed draft bill to consolidate the two commissions and add formal representatives of the Attorney General, State Bar and Supreme Court.

# Draft Revisions to the Michigan Law Revision Commission Provisions of the Legislative Council Act

## **4.1401 Michigan law revision commission; creation; appointment, qualifications, and terms of members; vacancy; designation of chairperson; continuation of members appointed under former law.**

Sec. 401.

(1) The Michigan law revision AND UNIFORM LAWS commission is created. The commission shall consist of the following:

(a) Four members appointed by the council. Members appointed under this subdivision shall not be members of the legislature.

(b) Two members appointed by the majority leader of the senate, 1 from the minority party.

(c) Two members appointed by the speaker of the house, 1 from the minority party.

(d) The director of the bureau or his or her designee, as an ex officio member.

(2) The members first appointed by the council shall be appointed for such terms that the term of 1 member will expire on each succeeding December 31. The term of a member thereafter appointed by the council, except to fill a vacancy occurring otherwise than by expiration of term, shall be 4 years from the expiration of the term of his or her predecessor. A vacancy in the office of a member appointed by the council occurring otherwise than by expiration of term, shall be filled by the council for the remainder of the unexpired term.

(3) The council shall designate 1 of the members appointed by the council as chairperson of the commission. At least 3 members appointed by the council shall be attorneys admitted to practice in the courts of this state.

~~(4) The 3 members of the commission appointed by the council under former Act No. 412 of the Public Acts of 1965 shall continue in office for the duration of the terms of office for which they were appointed and with the members appointed under subsection (1)(b) and (c), the director of the bureau or his or her designee, and the additional member appointed by the council under subsection (1)(a) shall constitute the Michigan law revision commission. Members shall be appointed by the council under subsection (1)(a) to replace the 3 members appointed by the council under former Act No. 412 of the Public Acts of 1965 only as the terms of those members expire. Members appointed by the council under former Act No. 412 of the Public Acts of 1965 may be appointed to the commission by the council under this section. IN ADDITION TO THE MEMBERS APPOINTED UNDER SUBSECTION (1), THREE ADDITIONAL COMMISSIONERS, DESIGNATED UNIFORM LAWS COMMISSIONERS, SHALL BE APPOINTED, AS FOLLOWS:~~

~~(A) THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE.~~

~~(B) THE EXECUTIVE DIRECTOR OF THE STATE BAR OF MICHIGAN OR HIS OR HER DEISIGNEE.~~

~~(C) THE CHIEF JUSTICE OF MICHIGAN OR HIS OR HER DESIGNEE.~~

#### **4.1402 Salaries and expenses of members; appointment, duties, and compensation of employees.**

Sec. 402.

Each member of the commission, other than the ex officio member, may receive an annual salary as established by the council. All members may be reimbursed their actual and necessary expenses incurred in the performance of their official duties. The commission may appoint such employees as may be needed, prescribe their duties, and fix their compensation within the amount appropriated for the commission.

#### **4.1403 Duties of commission; availability of writings to public.**

Sec. 403.

(1) The Michigan law revision AND UNIFORM LAWS commission shall do each of the following:

(a) 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.

(b) Receive and consider proposed changes in the law recommended by the American law institute, the national conference of commissioners on uniform state laws, a bar association, or other learned bodies.

(c) Receive and consider suggestions from justices, judges, legislators, public officials, lawyers, and the public generally as to defects and anachronisms in the law.

(d) 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.

(e) Encourage the faculty and students of the law schools of this state to participate in the work of the commission.

(f) Cooperate with law revision commissions of other states and Canadian provinces.

(g) Report its findings and recommendations to the council and annually to the legislature. If the commission considers it advisable, it shall accompany the commission's report with proposed bills to implement the recommendations.

(H) DESIGNATE ONE OR MORE COMMISSIONERS TO PARTICIPATE IN THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS AND TO MEET AND CONFER WITH COMMISSIONERS OF OTHER STATES TO BRING ABOUT UNIFORMITY OF STATE LAWS.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Enacting section 1. Section 301 is repealed.

**~~4.1301 Michigan commission on uniform state laws; creation; composition; meetings; purpose; annual report; expenses; continuation of commissioners appointed under former law.~~**

~~Sec. 301.~~

~~(1) The Michigan commission on uniform state laws is created. The Michigan commission on uniform state laws shall consist of the following:~~

~~(a) Three members appointed by the council. Members appointed under this subdivision shall not be members of the legislature.~~

~~(b) Two members appointed by the majority leader of the senate, 1 from the minority party.~~

~~(c) Two members appointed by the speaker of the house, 1 from the minority party.~~

~~(d) The director of the bureau or his or her designee.~~

~~(2) The commissioners may meet and confer with commissioners of other states to bring about uniformity of state laws. The Michigan commission on uniform state laws shall report annually to the council.~~

~~(3) The expenses of the commissioners may be paid from appropriations made to the council upon vouchers approved by the council.~~

~~(4) The commissioners on uniform state laws for this state appointed under former Act No. 412 of the Public Acts of 1965 shall continue in office until commissioners for the Michigan commission on uniform state laws are appointed under this section. Commissioners on uniform state laws for this state appointed under former Act No. 412 of the Public Acts of 1965 may be appointed under this section to the Michigan commission on uniform state laws.~~

**MICHIGAN LAW REVISION COMMISSION  
INVITATION OF INTEREST**

**POTENTIAL PROJECT AREA/ISSUE**

The Michigan Law Revision Commission is responsible for recommending changes in the law that it considers necessary to modify or eliminate antiquated and inequitable rules of law and bring the civil and criminal law of Michigan into harmony with modern conditions. See MCL 4.1403(1)(d).

The Commission has no permanent staff and has always relied on volunteers to prepare reports on the issues identified for consideration. The Commission is looking for individuals and/or organizations with relevant interest and experience in a particular subject area, willing to contribute *pro bono* services to work on the Commission's projects by assisting in the preparation of the reports. The Commission has [does not have] funds available for an honorarium for the services. The Commission may have limited funds to hire law students to work on a particular project.

The issue identified by the Commission for study is:  
[Insert statement of issue.]

**DEADLINE FOR RESPONSE**

A written response describing your experience and interest in the project should be submitted to:  
Ms. Jane O. Wilensky, Executive Secretary  
Michigan Law Revision Commission  
3711 Cavalier Drive  
Okemos, MI 48864.  
or to [jwilensky@comcast.net](mailto:jwilensky@comcast.net).

If you have questions, you may contact Ms. Wilensky at [jwilensky@comcast.net](mailto:jwilensky@comcast.net).

Responses must be received by [insert date.]

**THE MICHIGAN LAW REVISION COMMISSION**

The Michigan Law Revision Commission is an agency of the legislative branch of State Government created under the Legislative Council Act. The Legislative Council is a Constitutional body. Const 1963, art IV, §15 provides

There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law...The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

The Michigan Law Revision Commission was created by the Legislature to implement this section of the Constitution. See 1986 PA 268, MCL 4.1401 *et. seq.* Members of the Commission include sitting legislators from the Senate and House of Representatives and four public members. The

Legislative Council designates the Chair. Current members of the Commission are Sen. Raymond Basham, Sen. Bruce Patterson, Rep. Tonya Schuitmaker, Rep. Mark Meadows, Richard McLellan, Anthony Derezinski, Judge William Whitbeck, and George Ward. Mr. McLellan serves as Chair of the Commission; Mr. Derezinski is Vice-Chair. John Strand, Legislative Council Administrator, is an *ex officio* member. Jane Wilensky is the Executive Secretary.

The Commission is charged by statute with, among others, the following duties:

- To examine the common law and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and to recommend needed reform.

- To receive and consider suggestions from justices, judges, legislators and other public officials, lawyers, and the public generally as to defects and anachronisms in the law.

- To recommend such changes in the law as it deems necessary in order to modify or eliminate antiquated and inequitable rules of law, and to bring the civil and criminal law of this state into harmony with modern conditions

- To encourage the faculty and students of the law schools of this state to participate in the work of the Commission

- To cooperate with the law revision commissions of other states and Canadian provinces.

The issues that the Commission studies are mainly identified by the Commission members and Executive Secretary through an examination of the statutes and case law of Michigan, the reports of scholarly bodies and commissions from other jurisdictions, and legal literature. Other subjects are brought to the attention of the Commission by various organizations and individuals, including members of the Legislature. The Commission encourages the submission of issues for its consideration.

The Commission's annual reports to the Legislature can be found at <http://council.legislature.mi.gov/mlrc.html>.

To The Michigan Law Revision Commission:

Sean Bennett

I urge the MLRC to correct and to reverse its recommendation to codify the Diehl v. Danuloff holding, and instead to recommend legislative abrogation of absolute immunity for court-appointed psychologists and psychiatrists.

Absolute immunity from civil liability for damages for psychological expert witnesses is a classic defect, anachronism, antiquated, and inequitable rule of law. It should be immediately corrected by the Michigan legislature. The present rule denies the injured a remedy, obstructs justice, encourages misconduct and wrong-doing, disservices the public interest, imperils our citizens, and is contrary to our democratic and constitutional values, and is contrary to the rule of law. Liability protects society and deters wrong-doing. Justice for all is a fundamental value in America. Access to the courts for justice is a fundamental liberty in America. Absolute immunity serves only the guilty, the corrupt, and the partial. The reasons provided by courts justifying absolute immunity are meritless and pale in comparison to the reasons for abrogating absolute immunity.

*Note the Statutes limiting Immunity and Liability:*

*Note also Official Misconduct Statutes:*

**N.J. Stat. Ann. § 2C:36-2. Official misconduct**

A public servant is guilty of official misconduct when, with purpose to obtain a benefit for himself or another or to injure or to deprive another of a benefit:

a. He commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized or he is committing such act in an unauthorized manner; or

b. He knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.

Official misconduct is a crime of the second degree. If the benefit obtained or sought to be obtained, or of which another is deprived or sought to be deprived, is of a value of \$200.00 or less, the offense of official misconduct is a crime of the third degree.

**§ 16-10-1 - Violation of oath by public officer**

O.C.G.A. 16-10-1 (2010)

16-10-1. Violation of oath by public officer

Any public officer who willfully and intentionally violates the terms of his oath as prescribed by law shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years.

*Thank you,*



**West Virginia Code**

§55-7-21. Creating presumption of good faith for court-appointed licensed psychologists and psychiatrists conducting a child custody evaluation; method for assigning court and legal fees.

(a) A licensed psychologist or licensed psychiatrist who has been appointed by a court to conduct a child custody evaluation in a judicial proceeding shall be presumed to be acting in good faith if the evaluation has been conducted consistent with standards established by the American psychological association's guidelines for child custody evaluations in divorce proceedings.

(b) No complaint to a licensing or accrediting entity against a court-appointed licensed psychologist or psychiatrist relating to a child custody evaluation shall be considered if it is filed anonymously and does not include the full name, address and telephone number of the complainant.

(c) Any action filed against a licensed psychologist or licensed psychiatrist alleging tortious conduct related to evidence provided while acting as a court-appointed expert in a child custody matter shall contain a recitation of a specific allegation of breaches of the American psychological association's guidelines for child custody evaluations in divorce proceedings. Failure to specifically plead such violations shall be cause for dismissal of the action.

(d) Any licensed psychologist or licensed psychiatrist who is named in a civil action as a defendant because of his or her performance of a child custody evaluation while acting as a court-appointed expert and who prevails due to a finding that he or she acted consistently with the American psychological association's guidelines shall be entitled to reimbursement of all reasonable costs and attorneys fees expended.

**Florida Statutes**

**61.122 Parenting plan recommendation; presumption of psychologist's good faith; prerequisite to parent's filing suit; award of fees, costs, reimbursement.—**

(1) A psychologist who has been appointed by the court to develop a parenting plan recommendation in a dissolution of marriage, a case of domestic violence, or a paternity matter involving the relationship of a child and a parent, including time-sharing of children, is presumed to be acting in good faith if the psychologist's recommendation has been reached under standards that a reasonable psychologist would use to develop a parenting plan recommendation.

(4) If a legal action, whether it be a civil action, a criminal action, or an administrative proceeding, is filed against a court-appointed psychologist in a dissolution of marriage, case of domestic violence, or paternity matter involving the relationship of a child and a parent, including time-sharing of children, the claimant is responsible for all reasonable costs and reasonable attorney's fees associated with the action for both parties if the psychologist is held not liable. If the psychologist is held liable in civil court, the psychologist must pay all reasonable costs and reasonable attorney's fees for the claimant.