

# final minutes

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## Michigan Law Revision Commission Meeting

Wednesday, September 14, 2005  
Legislative Council Conference Room  
11:30 a.m.

### Members Present:

Richard McLellan, Chair  
Anthony Derezinski, Vice-Chair  
Representative Stephen Adamini  
Senator Michael Bishop  
Representative Edward Gaffney  
George Ward  
Judge William Whitbeck  
John Strand, Legislative Council Administrator, Ex-Officio Member

### Members Absent:

Senator Hansen Clarke

### Others Present:

Gary Gulliver, MLRC Executive Secretary  
Susan Cavanagh, Legislative Council Administrator's Office  
Professor Kevin Kennedy  
Janet Welch, State Bar of Michigan

## I. Convening of Meeting

Chairman McLellan called the meeting to order at 11:40 a.m. The clerk took the roll as each member introduced themselves. A quorum was present and all absent members were excused.

## II. Presentation to Professor Kevin Kennedy

After reading a Special Tribute Resolution prepared in recognition of Professor Kevin Kennedy's past service as Executive Secretary to the Michigan Law Revision Commission, the Chair asked for a motion to adopt the resolution. **Mr. Ward moved, supported by Mr. Derezinski, to adopt the resolution honoring Professor Kennedy. The resolution was unanimously adopted.** Chairman McLellan then thanked Professor Kennedy for his service and presented him with the Special Tribute.

## III. Report from Executive Secretary

### OLD BUSINESS

**2004 Annual Report:** Mr. Gulliver began his report with an update on the status of the 2004 Annual Report. Because no report has been prepared for 2004, he suggested that the Commission issue a combined 2004 and 2005 report as close to January 1 of next year to get the issuance of the report in sync with the statutory charge. The Commissioners agreed and instructed Mr. Gulliver to prepare a draft report for their review by the first of next year.

### NEW BUSINESS

**Recent Court Decisions Identifying Statutes for Legislative Action:** Mr. Gulliver distributed a report that identified four possible court decisions addressing areas of law in which the Commission could recommend legislative reform and three other decisions for which the Commission could make no recommendation. Mr. Gulliver proceeded to provide an overview of each case. After some discussion, the Commissioners decided on the following:

**People v. Morson** and **People v. McCraine** - Not to make a specific recommendation, but to bring the issue to the Legislature's attention by including it in the Annual Report.

**People v. Stephen** – Not to make a recommendation as this case does not fall within the range of the kind of cases the Commission would address.

**Valente v. Valente** – To make a recommendation to the Legislature that state law provide for treble damages to be assessed against the actual converter of property as it currently is assessed against one assisting the converter.

**Dameron v. Auto Club Insurance Ass'n** — Not to make a recommendation nor include a reference in the Annual Report.

The Commissioners agreed that the other two cases (**In the Matter of Hardwick** and **Zulkowski v. Zulkowski**) should be included only as a transmittal where the courts have urged legislative reform.

A discussion regarding the Commission's role in identifying issues that should be brought to the Legislature's attention followed. Judge Whitbeck offered that perhaps the Commission could develop and urge the use of a standardized phrase to more easily find these types of cases using a standard searching tool.

**Executive Order Project Status:** Mr. Gulliver reported that the first two phases of the four phases of the Executive Order Project are completed. He shared the first three pages of a report he is preparing which includes an explanation of the project and description of the organizational structure of the executive branch. Mr. Gulliver acknowledged that the process has been very time-consuming, but he will continue to proceed. How to keep the information up-to-date once the project is completed was also discussed. By the end of the year, Mr. Gulliver will have a report on the first two phases.

**New Projects:** Mr. Gulliver is receiving a good response from law professors in terms of taking on new projects including studying defects in Michigan laws dealing with ecclesiastical corporations, property ownership in abuse cases, and real estate dual registration issues. He has asked proposals be put together so that the Commission can take a look at them.

The Chair expressed his desire for the Commission to undertake a project this year to provide an analysis of all of the laws that would be affected in the event that the proposed Michigan civil rights initiative passes. A discussion followed and the Commissioners agreed that project was a good idea.

Mr. Gulliver reported that there are at least four other possible projects that the Commission could consider—review emergency preparedness statutes, survey all of the various acts that deal with economic development, examine Michigan law relating to burials and embalming, and look at a medical malpractice issue regarding notarized statements.

#### **IV. Public Participation**

The Chair asked for public participation. There was none.

#### **V. Adjournment**

**Having no further business, Mr. McLellan moved, supported by Mr. Ward, to adjourn the meeting. Without objection, the motion was approved.** The meeting was adjourned at 1:05 p.m.

#### **Next Meeting**

The Executive Secretary noted that a conference call meeting will be scheduled sometime in the future to review and approve the 2004-2005 MLRC Annual Report.

*(Minutes were adopted at the February 27, 2006 Michigan Law Revision Commission meeting.)*