



## OHIO STATE BAR ASSOCIATION SCREENING COMMITTEE

### REPORT TO THE COUNCIL OF DELEGATES

The Screening Committee began at 12:00 PM on April 4, 2024, with the following members participating by telephone or video conference:

Maura Scanlon, Akron, Chair  
Awatef Assad, Cleveland  
Kyle Bickford, Saint Clairsville  
David Bressman, Dublin  
Judge Gary Carter, Sidney  
Zach Ferrall, St. Marys  
Gowri Hampole, Elyria  
Paul Giorgianni, Columbus  
Caitlyn Nestleroth Johnson, Columbus  
Kelly Myers, Cincinnati  
Andrew Owen, Columbus  
John Thomas, Broadview Heights  
Gary Stedronsky, Cincinnati

Bruce Wilson, Akron  
Lee Belardo, Avon  
Ryan Breininger, Bryan  
Mike Brink, Mayfield Heights  
Judge Myron Duhart, Toledo  
Ian Friedman, Cleveland  
Polly Harris, Columbus  
Judge Jason Given, Coshocton  
John Mills, Parma  
Adam Nightingale, Toledo  
Matthew Pierron, Greenville  
Lauren Raizk, Wilmington  
Ryan Weikart, Lisbon

Also present:

Bryan Layman, representing the Estate Planning, Trust and Probate Law Section  
Richard Harris, representing the Estate Planning, Trust and Probate Law Section  
Roy Krall, representing the Estate Planning, Trust and Probate Law Section  
Scott Wilkov, representing the Military and Veterans' Affairs Committee  
Judge Michael Jackson, representing the Military and Veterans' Affairs Committee  
Michelle Kranz, representing the Ohio State Bar Association Board of Governors  
Mary Amos Augsburger, Ohio Bar Chief Executive Officer  
Scott Lundregan, Ohio Bar Director of Policy and Legislative Counsel  
Marisa Myers, Ohio Bar Government Relations Manager

#### **Report of the Estate Planning, Trust and Probate Law Section**

Presented by Bryan Layman

To amend the Fiduciary Claims Statute to clarify that a fiduciary, executor, or administrator is not exempt from the requirements of the general claims' statute, R.C. §2117.06.

Upon the motion of Paul Giorgianni, and the second of Lee Belardo, the Screening Committee unanimously accepted an amendment making the following changes:

Line 54: After: “appointment,” Delete: “and the period prescribed by section 2117.06, whichever is earlier.”; Insert: “and before the expiration of the period prescribed for such claim by section 2117.06.”

Upon the motion of Paul Giorgianni and the second of Lee Belardo, the Screening Committee unanimously recommended adoption of the proposal, as amended.

### **Report of the Estate Planning, Trust and Probate Law Section**

Presented by Roy Krall

To amend Ohio law to provide that actions under the Ohio Uniform Fraudulent Transfer Act occasioned by transfers of property at a decedent’s death outside of probate administration may only prevail if the transfer was made with an actual intent to hinder, delay or defraud a creditor and in such case to limit the time period during which such an action may be brought to six months after the decedent’s death.

Upon the motion of Gowri Hampole, and the second of Awatef Assad, the Screening Committee unanimously recommended adoption of the proposal.

### **Report of the Estate Planning, Trust and Probate Law Section**

Presented by John Sullivan

To enact a new Chapter 5818 to supplement R.C. §5808.08 to provide that a party that has the power to direct (“trust protector”) a trustee (“directed trustee”), by default, serves in a fiduciary capacity and is held to the same standard as a trustee in a like position under like circumstances. If the trust instrument provides that the trust protector serves in a non-fiduciary capacity, the trust protector will be liable for willful misconduct to protect a trust beneficiary.

Upon the motion of Caitlyn Nestleroth Johnson, and the second of Lee Belardo, the Screening Committee unanimously accepted an amendment making the following changes:

Line 1033: Delete: “to”; Insert: “~~to~~”

Upon the motion Paul Giorgianni, and the second of Gowri Hampole, the Screening Committee unanimously recommended adoption of the proposal, as amended.

## **Report of the Estate Planning, Trust and Probate Law Section**

Presented by Bryan Layman

To enact a new R.C. §5808.161 to provide an Ohio trustee with a discretionary power to pay a taxing authority directly or reimburse a grantor for income tax owed by the grantor attributable to grantor trust income and amend R.C. §5812.43 to provide that such a disbursement is paid from principal.

Upon the motion of Paul Giorgianni, and the second of Caitlyn Nestleroth Johnson, the Screening Committee unanimously accepted an amendment making the following changes:

Line 1128: After: “unless”; Insert: “any of the following applies”

Line 1143: After: “is”; Insert: “rebuttably”

Upon the motion Bruce Wilson, and the second of Awatef Assad, the Screening Committee unanimously recommended adoption of the proposal, as amended.

## **Report of the Estate Planning, Trust and Probate Law Section**

Presented by Bryan Layman and Richard Davis

To amend Sections 1337.42 and 1337.34 of the Ohio Revised Code by incorporating a key sentence from the official comments to the Uniform Power of Attorney Act regarding the mandatory nature of duties imposed upon all agents under powers of attorney governed by Chapter 1337; to amend Sections 1337.42, 1337.52, and 5806.02 to more explicitly state the inability of an agent under a power of attorney to exercise the principal’s right to withdraw assets from a revocable trust of which the principal is the settlor without such authorization being granted in both the trust agreement and the power of attorney; and to amend Section 1337.36 to grant to courts the same power to award attorney fees in actions involving powers of attorney that they already have in cases involving the administration of trusts.

Upon the motion of Paul Giorgianni, and the second of John Thomas, the Screening Committee unanimously accepted an amendment, making the following changes:

Line 1371: Delete: “distribution”; Insert: “distribution”

Line 1420: Delete: “do all of the following.”; Insert: “do all of the following:”

Line 1537: Delete: “assets from the trust”; Insert: “trust property”

Line 1535: Delete: “;”; Insert: “,”

Line 1538: After: “instrument” delete: “,”; Insert: “,”

Upon the motion of Paul Giorgianni, and the second of Gowri Hampole, the Screening Committee unanimously accepted an amendment, making the following changes:

Line 1370: After: “agreement”; Insert: “also”

Line 1509: after “distribution of trust property” add: “,”

Upon the motion of Paul Giorgianni, and the second of John Thomas, the Screening Committee unanimously recommended adoption of the proposal, as amended.

### **Report of the Military and Veterans' Affairs Committee**

Presented by Retired Judge Michael Jackson and Scott Wilkov

To amend Ohio R.C. §5901.03 to authorize veteran service commissions to provide direct financial support to veterans treatment courts, including by hiring and compensating individuals at the court who provide outreach.

Upon the motion of Caitlyn Nestleroth Johnson, and the second of Paul Giorgianni, the Screening Committee unanimously accepted an amendment making the following changes:

Line 1660: Delete: “. Both of the following apply:”; Insert: “, which may but need not include:”

Line 1662: Delete: “The veterans service commission may provide”; Insert: “Providing”

Line 1664: Delete: “under R.C. 5901.03(E)”

Line 1666: Delete: “the veterans service commission may hire and compensate”; Insert: “Hiring and compensating”

Line 1669: Delete: “established under R.C. 5901.03(E). This Amendment adopts an Ohio Attorney General's Opinion No. 2011-047”

Upon the motion of Gary Carter, and the second of Awatef Assad, the Screening Committee unanimously recommended adoption of the proposal, as amended.

### **Report of the Military and Veterans' Affairs Committee**

Presented by Retired Judge Michael Jackson and Scott Wilkov

To require all Ohio confinement facilities to identify and verify veterans who are imprisoned.

Upon the motion of Judge Gary Carter, and the second of Caitlyn Nestleroth Johnson, the Screening Committee unanimously accepted an amendment making the following changes:

Line 1749: Delete: “**Veteran Status Verification of Imprisoned Individuals**”; Insert: “**An Act Relating to the Verification of Veteran Status of Individuals Imprisoned Defined in 1749 R.C. § 1.05 and Veteran's Reentry Search Service (VRSS)**”

Line 1757: Delete: “The number of qualified individuals needed for a particular institution or entity shall be determined by the [Appropriate Ohio Department to be Determined]”; Insert: “The particular institution or entity shall determine the number of qualified individuals necessary to perform the duties set forth in this Act.”

Line 1762: Delete: “(1) To” Insert: “(B) The particular institution or entity is to”

Line 1765: Delete: “(2)”; Insert: “(1)”

Line 1767: Delete: “(3)”; Insert: “(2)”; After: “Paragraph (1)”; Delete: “to assist each imprisoned individuals who are veterans in applying for federal and Ohio benefits or compensation for which imprisoned individuals may be eligible under a program administered by the United States

Department of Veterans Affairs and administered by any department of the State of Ohio.”; Insert: “to connect the veteran with any available resource that can assist each imprisoned individuals who are veterans in applying for any available resource.”

Line 1773: Delete: “(B) The [Appropriate Ohio Department to be Determined] shall provide the funds to train properly such qualified individual(s) for each institution or entity described in Paragraph (A) and develop a training manual for this position. Thereafter, should a vacancy occur, each of the named institutions or entities set forth above shall provide the funds to train properly such qualified institutions or entities set forth above shall provide the funds to train properly such qualified individual(s) by following the training manual prepared by the [Appropriate Ohio Department to be Determined].” Insert: “(C) The particular institution or entity is to train properly such qualified individual(s) to use VRSS by seeking the assistance of Veterans Justice Outreach representative or other appropriate representative of the United States Department of Veterans Affairs, or others qualified and knowledgeable to use VRSS.”

Line 1780: Delete: “(C)”; Insert: “(D)”

Upon the motion of Paul Giorgianni, and the second of Caitlyn Nestleroth Johnson, the Screening Committee unanimously accepted an amendment, making the following changes:

Line 1780: Delete: “As used in R. C. §105 (A), unless the context otherwise requires, “imprisoned” or “imprisonment” means being imprisoned under a sentence imposed for an offense or serving a term of imprisonment, prison term, jail term, term of local incarceration, or other term under a sentence imposed for an offense in an institution under the control of the department of rehabilitation and correction, a county, multicoounty, municipal, municipal-county, or multicoounty-municipal jail or workhouse, a minimum security jail, a community-based correctional facility, or another facility described or referred to in section 2929.34 of the Revised Code for the type of criminal offense and under the circumstances specified or referred to in that section. (B) As used in division (A) of this section, “community-based correctional facility” has the same meaning as in section 2929.01 of the Revised Code. R.C. § 1.05.” Insert: “Imprisoned” has the same meaning as in section 1.05 of the Revised Code.”

Upon the motion Awatef Assad, and the second of Kelly Myers, the Screening Committee unanimously recommended adoption of the proposal.

### **Report of the Military and Veterans’ Affairs Committee**

Presented by Retired Judge Michael Jackson and Scott Wilkov

To enact the Ohio Veterans Justice Act, an act to provide for alternative sentencing options for U.S. veterans charged with certain crimes that may derive from conditions regarding military service and that recognize their service to the country.

Upon the motion of Awatef Assad, and the second of Kelly Myers, the Screening Committee unanimously recommended that the Council of Delegates not adopt the proposal.

**Report of the Ohio State Bar Association Board of Governors**

Presented by Michelle Kranz

To adopt the recommendations of the Rural Practice Task Force.

Upon the motion of Adam Nightingale, and the second of Zach Ferrell, the Screening Committee unanimously recommended adoption of the proposal.

There being no other business the Screening Committee adjourned at 2:36 PM.

Respectfully submitted,

Scott Lundregan