



## REPORT OF COUNCIL OF DELEGATES

The Council of Delegates met on Wednesday, April 27, 2016, at the Duke Energy Convention Center, Cincinnati, Ohio, to consider reports and recommendations of OSBA committees and sections that had been submitted for consideration by the Council of Delegates.

OSBA President John D. Holschuh, Jr. called the meeting to order at 1:07 PM. Secretary/ Executive Director Mary Amos Augsburg reported that a quorum was present.

### State of the Bar

President Holschuh reported on efforts to improve access to justice at the OSBA and Ohio Supreme Court and on the OSBA's lobbying efforts during ABA day in Washington to increase LSC funding.

### Foundation Report

Thomas P. Moushey invited attendees to the reception and highlighted the Foundation's mission and support of OCLRE.

### Report of Executive Director

Executive Director Augsburg reported on his leadership in the areas of access to justice, outreach to law students and opposition to the marijuana monopoly ballot issue, and explained that even though the meeting name has changed to the Forum, it was still a good time to network and obtain quality CLE.

### Report of the Banking, Commercial and Bankruptcy Law Committee

Presented by Professor Jeffery Ferriell

A proposal to amend sections 1303.01, 1303.05, 1303.14, 1303.18, 1303.35, 1303.38, 1303.401, 1303.56, 1303.57, 1303.59, 1303.67, 1303.69, 1304.01, 1304.17, 1304.18, 1304.22, 1304.27, 1304.32, and 1304.35, to enact new section 1303.70, and to repeal section 1303.70 of the Revised Code to make changes to the laws on commercial paper and bank deposits and collections in the Ohio Uniform Commercial Code, elimination of double payment obligation, unsigned and telephonically authorized checks, electronic records and signatures, modernized suretyship rules, and others.

The proposal was adopted with the following amendments:

Delete lines 321-346.

Report of the Corporation Law Committee  
Presented by Jeffrey Wahl

1. A proposal to amend sections 1705.43(A)(4) and 1705.43(C) and adding new Section 1705.43(A)(6) to provide a default "rule" that an LLC is not automatically dissolved upon the death of the Member in a single member LLC or the death of the last remaining Member of an LLC.

The proposal was adopted without amendments.

2. A proposal to amend sections 1705.43(D)-(H), 1705.43(B), 1705.44, 1705.46 and 1705.48 and adding new Sections 1705.431, 1705.432 and 1705.441 to provide for a "statute of repose" in Chapter 1705 similar to Sections 1701.88(B)(2) and 1701.883(C).

The proposal was adopted with the following amendment:

At line 1126 at the beginning of the line, add (B).

At line 1181 between the words "Code" and "Any", add a . period.

At line 1322 at the beginning of the line, delete "corporation" and replace it with "limited liability company".

Report of the Criminal Justice Committee

The report was referred back to Committee for further clarification.

Report of the Estate Planning, Trust and Probate Law Section  
Presented by Patty Laub

Proposals 1-3 were adopted without amendments.

1. A proposal to add a new chapter to the Ohio Revised Code to adopt the "Revised Uniform Fiduciary Access to Digital Assets Act" as recommended by the National Conference of Commissioners on Uniform State Laws.
2. A proposal to add a new section 1337.571 and to amend section 1337.60 of the Ohio Revised Code to define the breadth of an agent's power over digital assets when conferred by a principal in a power of attorney and to add provisions to the statutory general power of attorney with regard to digital assets and access to the content of electronic communications, both toward conformity with the Revised Uniform Fiduciary Access to Digital Assets Act.
3. A proposal to amend sections 2107.52 and 5808.19 of the Ohio Revised Code to clarify that the exception to the antilapse statutes preventing the creation of a substitute gift in the descendants of a deceased class member only applies if the defined class is multi-generational.

4. A proposal to add a new chapter 5817 and delete sections 2107.081 to 2107.085 of the Ohio Revised Code to allow a living settlor to determine the validity of his or her trust, just as a living testator may determine the validity of his or her will under current law, to make some modifications to the provisions for testators, and to coordinate the two sets of provisions into a single chapter.

Proposal 4 was adopted with the following amendments:

At line 3098, delete “section” and replace with “chapter”. Also at line 3098, delete “.04” following “5804”.

#### Report of the Family Law Committee

Presented by Karen Brinkman, Eric Johnson and Josh Langdon

1. A proposal to amend Ohio Rule of Juvenile Procedure 13 to add a procedure for establishing temporary parenting time and child support orders in private allocation of parental rights and responsibilities cases. The new provision mirrors the Ohio Rule of Civil Procedure 75(N) procedure for divorcing parents.

The proposal was adopted with the following amendments:

#### Juvenile Rule 13(B)

1. In cases involving the allocation of parental rights and responsibilities under Chapter 3111, and in other parenting actions regarding the allocation of parental rights and responsibilities in Juvenile Court, and when requested in the complaint, answer, or counterclaim, or by motion served with the pleading, upon satisfactory proof by affidavit duly filed with the clerk of the court, the court or magistrate, without oral hearing and for good cause shown, may make a temporary order regarding the support, maintenance, and allocation of parenting or companionship rights and responsibilities for the care of children, whether natural or adopted, during the pendency of the action.
2. Counter affidavits may be filed by the other party within fourteen days from the service of the complaint, answer, counterclaim, or motion, and all affidavits shall be used by the court or magistrate in making a temporary child support order and order allocating parenting or companionship rights and responsibilities for the care of children. If there has been either no or limited contact between the child and a party, the court may make a provision for parenting or companionship time with the child pursuant to a limited or graduated schedule.

Upon request, in writing, after any temporary child support order or order allocating parenting or companionship rights and responsibilities for the care of children is journalized, the court shall grant the party so requesting an oral hearing within twenty-eight days to modify the temporary order. A request for oral hearing shall not suspend or delay the commencement of child support payments previously ordered or change the allocation of parenting or companionship rights and responsibilities until the order is modified by journal entry after the oral hearing.

2. A proposal to amend the Ohio Revised Code (“ORC”) to comply with the United States Supreme Court decision in Obergefell v. Hodges by changing words such as “husband and wife” and “male and female” to “married couple” and “persons” and eliminating gender bias.

The proposal was adopted without amendment.

There being no further business the Council of Delegates adjourned at 2:42 PM.

Respectfully submitted,

Todd Book