

JEANNE M. HANNAH

FAMILY LAWYER

June 21, 2011

Dear Representative Walsh and Other Members of the
Judiciary Committee:

I write to you to ask you to vote against House Bills No. 4672 and 4673. Unfortunately, I will be unable to be present on Thursday, June 23, 2011 seeking to testify before the House Judiciary Committee. I ask, nevertheless, that you please take the time to read my letter and to consider my opinions. I have been a practicing family law attorney for 25 years.

I share with my esteemed colleague, Carole Chiamp, Esq. dismay, shock and outrage regarding the haste with which your committee is trying to pass this bill without any support from the State Bar of Michigan Family Law Section. In my humble opinion, if these bills become law, Michigan women will be immediately thrust back into the dark ages of servitude and poverty.

Impact of Proposed Legislation. Mothers and children will live below the poverty level. And who's going to support them? The public. The voters. Your constituency.

Private vs Public Interests. This legislation appears to be driven by private interests who have the power to push political buttons. However, as our elected representatives, surely you must understand that by giving this type of relief [protection of premarital "separate property"] to owners of close corporations, you are going to sink the ship for the taxpayers—those people who pay your salaries. When

- private interests are protected, causing a humongous sea change in the state of Michigan family law jurisprudence;
- appreciation of separate property during the marriage—achieved by active management—is deemed owned by the person who brought the property to the marriage, without exception [as in "thou shall return . . ."] regardless of contribution, need, and whether the non-titled owner has minor children to support;
- the public is called upon to support mothers and children left impoverished because, after a lengthy marriage mother has no job, no marketable skills, no possibilities and she needs public assistance to get by and she is denied an equitable distribution of the appreciation of "the family business"—the partnership . . .

then society—and the place of women and children in society—will suffer consequences that have likely not been contemplated.

The Contract Clause of the US and Michigan Constitution: Many people have pre-nuptial or post-nuptial agreements—contracts that development of Michigan law has seen fit to protect, if the contracts pass muster, i.e., are not voidable for fraud, undue influence, etc. The proposed legislation would be unconstitutional as impairing existing contractual rights of some Michigan residents. This legislation, if passed, will provide untold opportunities for litigation and appellate interpretation about whether the legislation is constitutional when a pre-nuptial or post-nuptial agreement exists.

Why “Fast-track” this legislation? In fact, it was only two days ago that I was made aware of these pending bills, despite my active participation in family law matters. The members of the family law bar—those who are committed to the active practice of family law—who know about these pending bills are shocked and outraged that the bills are "fast tracked" without any input from the State Bar Family Law Section. Can this matter not be reviewed and dealt with in an orderly fashion before a serious mistake is made?

Looking outside of private interests to reasoned legal opinions: As Carole Chiamp has stated, “there are many august bodies which have studied this issue for years. The most prominent is the American Law Institute (ALI) which brings together judges, expert professors and consultants. Before overlooking the opinions of almost all experts in this field, I suggest you review what the ALI has recommended in this area. If not the present law, why not review other law and proposals?”

These bills are anti-family and anti-marriage: Whenever financial considerations impact on the well-being of mothers and children—and older women who’ve done their child-rearing and face the future with little to show financially for their efforts—where is the incentive to marry, to bear children, to actively support the family partnership?

I request a NO vote on the bills. Please pause to make a reasoned decision.

Sincerely yours,

Jeanne M. Hannah

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pc:House of Representatives Judiciary Committee:

Honorable Kurt Heise, via email Honorable Judson S. Gilbert, via ema
Honorable Kenneth B. Horn, via email Honorable Paul Scott, via email
Honorable Kurt Damrow, via email Honorable Paul Muxlow, via email
Honorable Bradford C. Jacobsen, via email
Honorable Peter Pettalia, via email Honorable Pat Somerville, via email
Honorable Mark S. Meadows, via email Honorable Bob Constan, via email
Honorable Stacy Erwin Oakes, via email Honorable Lisa Brown, via email
Honorable Jeff Irwin, via email