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Commentator

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Sadly, Kemp Klein is starting off the year with an unexpected loss. Our friend and shareholder, George Gregory, passed away very suddenly on Tuesday, January 4th.

The reactions to George’s passing from his colleagues here at the office were all very similar. It was said repeatedly that George was a good lawyer, a good man, and was kind and generous with his time and talent. He was a hard worker, but never too busy to discuss an issue and offer excellent legal advice. On a personal level, George was always interested in the lives and families of everyone here at our office. He spoke of his wife, Lorraine, son, Frederick (“Eric”), and granddaughter, Rosalind, often and with pride.

If there is any positive to be found in this news, it is that George was doing work that he loved for many years, although too few, through the end of his life. He was a veteran of the U.S. Army. After his military service, George attended college, earned his CPA in 1976 and subsequently went on to law school, starting his legal career in 1980. He had a wealth of knowledge and experience that will very much be missed, but not nearly as much as his larger than life, friendly personality.

Due to the intensity of COVID cases, a memorial service will be scheduled at a later date.

FIRM ANNOUNCEMENTS

ATTORNEYS ED SADIK, CASEY CALLAHAN & STAVROULA VARLAMOS JOIN KEMP KLEIN

Ed Sadik joins as a shareholder concentrating in estate and tax planning strategies as well as probate, tax and corporate litigation. As a CPA, Ed brings deep experience in tax compliance and has been a welcomed addition to the firm.

Casey Callahan joins the firm as an associate attorney advising clients in estate planning, post-death and corporate law. Casey brings a diverse perspective with educational experiences in Belgium, London, Edinburgh and Frankfurt.

Stavroula "Stavi" Varlamos joins the firm as an associate attorney and will be concentrating in probate law and litigation. Stavi has served as lead coordinator for the Hellenic Society for Performing Arts for 8 years and is an active member of her community.

FAITH GAUDAEN NAMED A SHAREHOLDER AT KEMP KLEIN

Faith Gaudaen has a successful track record with conflict resolution in the areas of contract negotiations, business ownership disputes, employment issues, real estate matters and family disputes over elder care and will/trust administration. Clients and colleagues appreciate Faith for her calm, experienced presence throughout negotiations.

COMMUNITY NEWS

ATTORNEY THOMAS TRAINER TO MODERATE MICHIGAN'S MEDICAID & HEALTH CARE PANEL

Thomas will be joining fellow contributors in leading Michigan's annual Medicaid and Health Care Planning Update 2022. The event is co-sponsored by the Probate & Estate Planning Section and the Elder Law and Disability Rights Section of the State Bar of Michigan.

What to Know about Gun Laws in the Wake of Oxford

AUSTIN W. PROBST

In late 2021, Michigan was shaken by the Oxford High School shooting. The tragedy of that event has sparked debate around firearm ownership, use, storage, and the potential for liability. Heated discussions are occurring on the state and federal levels.

Numerous bills by Michigan Democrats and Republicans were introduced in the 2021 session. Proposed changes range from requiring universal background checks to repealing the pistol registry to allowing residents to concealed carry without a permit.

It can be a dizzying experience trying to follow the debate over firearm legislation. So, we prepared an

overview of proposed legislation at the federal and state levels as well as a brief comparison to Michigan’s current firearm laws.

On the Federal Level:

In late December 2021, U.S. Representative Elisa Slotkin of Michigan’s 8th Congressional district promised to introduce what has been called the “Safe Guns Safe Kids Act.” In the press, she has said the Act would seek to impute liability and criminal penalties upon gun owners that do not secure their firearms. Slotkin has stated “If a child goes on to commit a crime or hurt others, you could be liable, you could be held accountable criminally for up to five years in prison.” Locally, Michigan Attorney General Dana Nessel

released a statement in support of the Act.

On the State Level:

In Michigan, a number of new bills have been introduced in the House and Senate.

House Bills 5627 and 5628 as well as Senate Bills 785 and 786 seek to prohibit the sale or possession of a magazine capable of holding over 10 rounds. Violation of these bills, should they become law, amount to a misdemeanor punishable by a fine of up to \$500.00 or 90 days in jail. However, a subsequent violation would be categorized as a felony, punishable of up to a \$5,000.00 fine or two years in prison. A person who already owned a magazine exceeding

10 rounds would be able to keep it so long as it was reported to the person’s local law enforcement agency. Currently, Michigan has no specific laws which place a limit on magazine capacity.

Much like Slotkin’s proposal, House Bills 5066 and 5069 as well as Senate Bills 550 and 553 have been introduced to require anyone who stores a firearm in an area that may be accessible by a minor to (a) secure the firearm with a locking device; (b) store it in a lock box; or (c) “keep it in a location that a reasonable person would believe is secure”. If these bills were to become law, a failure to abide by them would be a felony punishable of up to 5 years in prison if the minor uses the firearm to hurt, injure, or kill anyone, including themselves.

Currently, Michigan has no specific law regarding storage of firearms. However, MCL 28.435 does require that any licensed Federal Firearms Dealer include (a) a commercially available trigger lock or (b) other device designed to prevent discharge or (c) a commercially available gun case or storage container to prevent access to the firearm when the dealer sells a firearm.

Senate Bills 454-456 as well as House Bills 4869-4871 seek to impose a universal background check for anyone attempting to purchase a firearm. This legislation would extend a licensing process currently

only utilized for handguns (pistols). Michigan currently has no specific licensing requirement for purchase of a long gun.

Alternatively, Senate Bills 489-492 and House Bills 5364-5367 seek to allow residents to carry a concealed weapon without a permit. This type of structure for a state is colloquially known as a “constitutional carry.” Currently, Michigan requires a permit to carry a concealed weapon.

Senate Bills 646-648 and House Bills 5312-5314 are aimed at repealing the Michigan Pistol registry. The bills also seek the destruction of existing records unless held for an ongoing criminal matter or civil lawsuit. Michigan currently requires that handguns be registered with the county or police.

State Level Bipartisan Bills:

Senate Bill 678-679 and House Bill 5371-5372 seek to prohibit any individual that is convicted of a domestic violence misdemeanor from possession of a gun or ammunition for 8 years from the date of (a) payment of all fines and (b) completion of any jail time or probation.

No matter what side of the proposed legislation you are on, there are some basic safety techniques that can be used when dealing with firearms. The Michigan Department of State Police has issued some

guidance on use and storage of a firearm in the home environment.

These tips include:

- 1. Having a discussion with family members regarding safe and unsafe use**
- 2. Treating every firearm as if it is loaded**
- 3. Unloading a firearm when it is not in use**
- 4. Keeping ammunition and the firearm out of the reach of children**
- 5. Using proper eye and ear protection when using a firearm**

Throughout 2022 we may see some movement on a few of these proposals. Many of us will be watching closely. We hope that everyone has a safe and prosperous new year.

When questions or concerns arise about legislation, all citizens have the option to write or call local representatives. Contact information for Representatives can be found at:

SOM - Legislature Contacts (michigan.gov)

austin.probst@kkue.com
248.740.5680



Digital Legacies: A Modern Necessity in a Digital World

CASEY W. CALLAHAN

With so many hours spent on email, social media and other internet activities, it might feel as if your whole life is lived online. But have you ever wondered what will happen

to your accounts and photos when you pass away? How will loved ones communicate about your passing, access photos of you, or wrap up unfinished business? The simple answer: you can leave instructions describing your wishes.

Written instructions in your estate planning documents can help your executor or trustee access your digital legacy post-death. A digital legacy may include accounts on Facebook, LinkedIn, Instagram, or Twitter as well as blogs, licensed domain names,

music, photos, files you store online and access to financial accounts.

In recent years, laws have been enacted to facilitate the transfer in ownership of digital accounts. The most notable of which for Michigan residents is the Revised Uniform Fiduciary Access to Digital Assets Act (“RUFADAA” or the “Act”). This Act provides individuals an ability to empower a fiduciary – such as an executor or trustee – to receive disclosure of the individual’s digital assets from the entity that runs or operates the account (also known as the “custodian” of the account). For example, Apple is the custodian of iCloud.

Under the Act, a properly empowered fiduciary would have the ability to petition the account’s custodian for access to the deceased’s account and its contents. Critically, the access granted pursuant to RUFADAA must be in the form of the deceased individual expressly authorizing access within their will, trust, or power of attorney.

The process of efficiently and adequately transferring many digital assets is still in its infancy. With this in mind, there are proactive steps an account owner should take while still alive to expedite access to digital accounts once deceased. For example, it is one thing to have the legal authority to gain access to an account, and quite another to have current direct access with username and password to identify and unlock the account. Thus, it is advantageous to also provide the fiduciary with login information for digital accounts.

Putting login names and passwords in writing does not come without a degree of risk, and caution should be utilized in sharing this sensitive information. If you have concerns about providing your fiduciary with account login information while you are still living, you should discuss safeguard options with your estate planning attorney. At a minimum, the fiduciary should have a username, or the equivalent, to identify the account in question to petition for access.

While the RUFADAA is useful, it is even more advantageous if the fiduciary does not have to rely on the Act at all. This can be done by using online tools directly through the account custodian. These online tools are a relatively new phenomenon but are becoming increasingly commonplace, as account custodians grapple with how to adequately balance account owner privacy against many owners’ desires to transfer digital accounts and contents once the owner is no longer living.

The functionality of these online tools varies from custodian to custodian, but the intent broadly remains the same. At its core, an online tool provided by a custodian allows an account’s owner to identify individuals that are permitted to access the owner’s account in the event of the owner’s death.

One of the more robust versions of this can be found in Google’s Inactive Account Manager. There, the account owner can decide on a time period of inactivity, at the end of which the Inactive Account Manager kicks in. The

owner also identifies up to ten people that are to be notified once the period of inactivity has run. The tool applies to all Google products, meaning that the owner can choose which of the identified people receive access to which accounts.

Another notable online tool is the Apple iCloud Digital Legacy, a recent addition to Apple software. There, the iCloud account owner can choose up to five people that can access and download the account’s data after the owner’s death. This has been a highly sought-after feature because users often store the bulk of their pictures in the cloud, often making those memories difficult to access following the death of the account owner.

As our lives become further documented online, it is imperative that you work with your estate planning attorney to ensure digital accounts are included in a comprehensive estate plan. A combination of proper estate planning techniques and use of custodian online tools will help to ensure your digital legacy is accessible to your loved ones.

For a list of digital legacy options, visit:
www.kkue.com/services/estate-planning

casey.callahan@kkue.com
248.740.5683



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