Well, well, well — we meet again. Why have I taken over Director of Legislative Affairs Fred Cabell’s column in this issue? It is not to tell you about the Pennsylvania Bar Association’s recent legislative victories like I did the last time I wrote this column. That’s old news. (But please do not forget about said victories and please contribute to the PABAR-PAC). I am here to tell you about some of the priorities of the PBA this legislative session and some of the issues that we will be lobbying on at the Capitol on behalf of PBA members.

First up is a PBA initiative that you have heard about before: Senate Bill 320 or the Fiduciary Access to Digital Assets Act. SB 320 would extend a fiduciary’s existing authority over a person’s tangible assets to include the person’s digital assets (photos, music, financial records, emails, etc.) with the same fiduciary duties to act for the benefit of the represented person or estate. This bill has already had movement this session and is currently in the Senate Appropriations Committee.

Another priority is House Bill 437, which addresses contempt of custody orders. You might think that if Party A violates a custody order, Party B would be able to make up the custody time they missed due to the violation. Think again. Right now under the Custody Act, the only remedies for contempt are short imprisonment, probation, driver’s license suspension and counsel fees and costs. In the past, judges would commonly award make-up custody time for the parent who had missed custodial time with a child due to another parent’s contempt of a custody order. However, a few years ago the Superior Court noted that make-up custody time was not a contempt remedy set forth in the statute, which put an end to that.

Are you a civil litigation attorney who has attempted to obtain documentation from law enforcement for a civil matter only to be told the release of information is prohibited by the Criminal History Records and Information Act? We are working to amend the CHRIA so that law enforcement has immunity when providing investigative information pursuant to a court order or subpoena.

Two long-term legislative projects for the PBA include increasing indigent criminal defense funding and advancing legislation prohibiting “paper terrorism.” The PBA Legislative Department and legal experts from the Civil and Equal Rights Committee have been hard at work in the initial stages of advancing legislation that would increase indigent criminal defense funding. We propose the creation of a statewide appeals center to be funded by the Commonwealth. Attorneys from this center would handle appellate cases, per the request of county public defender’s offices, thus providing public defenders’ offices with more time and resources to devote to other cases. Our second long-term project involves “paper terrorism.” What is paper terrorism, you might ask? This threat/harm occurs when an individual (often those self-identified as “sovereign citizens”) files fraudulent liens against a public official or judicial officer in order to harass and cause financial harm. Our goal is to pass legislation that would prohibit the fraudulent use of liens and other encumbrances against public officers and employees, including members of the judiciary, a protection that would be extended to immediate family members.

Now let’s talk “defense.” While there are always bills we are trying to get passed, a large part of our job is to defend against bad (although perhaps well-intended) legislation. One bill we oppose is House Bill 1397, which would create a presumption, rebuttable by clear and convincing evidence, that shared physical and legal custody and equal parenting time is in the best interest of the child.
Various iterations of this legislation have popped up over the years. While this legislation might seem, at first glance, like a perfectly good idea, our family law experts have a whole host of reasons why the legislation would be bad for children and families. We anticipate a hearing on this matter, with PBA experts testifying, in the near future.

What else are we always vigilantly opposing? Any advertising legislation that does not have a carve out for county legal journal advertising and any sales tax on legal services.

Let’s talk about a sales tax on legal services. This issue has usually come up in the context of the elimination of school property tax. While the issue was quiet for a while, it is back! In fact, a bipartisan, bicameral work group (which includes members from the governor’s office) has been convened and the members all agree on one thing — they want to eliminate school property taxes. The elimination of school property taxes would call for a huge source of revenue, so the question always becomes where to get the money? Taxing retirement income? Taxing legal and other services? Homestead exemptions? There are various options floating around, so stay tuned, everyone!

Lastly, I want to introduce you to the newest member of our team, Logan Stover. He is the PBA legislative coordinator and helps Fred and me out behind the scenes. The next time you are at a PBA event, please take the time to introduce yourself to Logan and be sure to ask him about his baseball/football career at Lebanon Valley College.

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