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Justice Kelly Stuns In Resigning To Return To Private Practice

Midway through her first term on the Supreme Court, [Justice Mary Beth Kelly](#) surprised the legal community and state government by announcing she is resigning from the court on October 1 to return to private practice.

In an interview, Ms. Kelly, who will join the Detroit firm of Bodman PLC, said she felt she had accomplished what she came to the Supreme Court to do and that she could do more to promote juvenile justice while off the court.

Her resignation will give [Governor Rick Snyder](#) the chance to name his third member of the court since taking office, the largest number of justices appointed since former Governor John Engler's administration.

There was no indication of when Mr. Snyder would name a new justice. However, it will also mark the third woman to leave the bench in his administration - former Justice Maura Corrigan resigned to become director of the then-Department of Human Services, and former Justice Diane Hathaway resigned after pleading guilty to fraud charges - and with the first two vacancies, Mr. Snyder filled the posts with men: [Justice Brian Zahra](#) to succeed Ms. Corrigan and [Justice David Viviano](#) to succeed Ms. Hathaway.

Asked if that might mean Mr. Snyder would feel more obligation to name a woman to the bench, one source said not necessarily, though a woman justice would probably have an easier task to win election in 2016 to fill out the remainder of Ms. Kelly's term (which expires in 2018). It also means two court seats up for election in 2016, instead of one (Mr. Viviano presumably will seek a full term). When Mr. Snyder made his earlier selections, there were two women serving on the court. If he chooses a man, then [Justice Bridget McCormack](#) would be the only woman on the court.

Asked if she would suggest individuals to succeed her, Ms. Kelly said that would not be her role. Ms. Kelly also said she would continue to participate in court matters until her resignation is official, though she would recuse herself if any of the matters involved the Bodman firm, she said.

To speculation that she would run for attorney general in 2018 (to run for office she would have had to resign from the bench at least one year before the election), Ms. Kelly said she is not running for any political office.

When she joined the Supreme Court following the 2010 election, Ms. Kelly said one of her primary goals was to help elevate juvenile jurisprudence to a level where it would get more consideration from the court. She said she felt that was now accomplished and she was confident juvenile cases would still get full consideration even without her presence.

One case she pointed to as an example of how the Supreme Court now considers juvenile and family justice matters more seriously was the 2014 decision in *In Re Sanders*, in which the court

ended a long-standing one-parent rule on child custody and held that a parent must undergo an adjudication before having his or her parental rights terminated.

She also said one of her goals was to help make the Supreme Court a more collegial bench after it had been racked by years of rancor. That too, she said, has been accomplished.

In recent years, Ms. Kelly has taken a more independent stance than the other four Republican-sponsored justices on the Supreme Court.

Last month, for example, she voted with the dissent in arguing that the state's right-to-work laws should not apply to state workers since that would supersede the Civil Service Commission's authority over state workers.

And in 2014, Ms. Kelly voted with the dissent in *People v. Carp*, arguing that juveniles sentenced to automatic life in prison without parole before a 2012 U.S. Supreme Court decision holding that was unconstitutional should be eligible for a parole hearing. The majority held those juveniles were not eligible (a federal district court ruling held they were eligible, and the state still awaits a decision by the 6th U.S. Circuit Court of Appeals).

In 2012, Ms. Kelly had the lead opinion in the case allowing a referendum on the original emergency manager law to go on the ballot.

Off the bench, Ms. Kelly said she will also be able to serve on the boards of organizations promoting juvenile justice, something she cannot do while serving on the court.

Before her election to the Supreme Court, Ms. Kelly was chief judge for the Wayne Circuit Court, the first woman to hold that position. She was with Dickinson Wright before being elected to the Wayne Circuit in 1999. She graduated from the University of Michigan-Dearborn and got her law degree from the University of Notre Dame.

Bodman Chair Ralph McDowell said the firm was thrilled to have Ms. Kelly. "Her vast experience, keen legal insight, leadership abilities and impeccable reputation will enrich our firm," he said. She was also praised by Mr. Snyder, who said she had "shown tremendous leadership and dedication during her time on the Supreme Court. Her advocacy of juvenile justice issues has had a major impact on the state and she has been instrumental in shaping innovative specialty courts meant to rehabilitate drug offenders and defendants who are veterans."

[Chief Justice Robert Young Jr.](#) said she had written "important opinions and made her presence felt on the bench."

And [Attorney General Bill Schuette](#) said Ms. Kelly "has served Michigan with honor and distinction."

In terms of possible successors, Oakland Circuit Judge Colleen O'Brien, who ran for the Supreme Court in 2012, was mentioned by several people. However, she is also seen as a likely candidate for the Court of Appeals to succeed [Judge Pat Donofrio](#), who is expected to retire this autumn. There also was considerable speculation about Ms. O'Brien to succeed Ms. Hathaway, but Mr. Snyder went with Mr. Viviano.

Former Kent Circuit Judge James Redford, who ran for the Supreme Court in 2014, has also been suggested, but he recently began working as Mr. Snyder's legal counsel.

Oakland Circuit Judges Lisa Langton and Karen McDonald were also named, as well Appeals [Judge Kirsten Frank Kelly](#), who was the only appeals judge so far floated.