

## FAMILY LAW SECTION

Respectfully submits the following position on:

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HB 4691

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Family Law Section is 2,851.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 17. The number who voted opposed to this position was 0.

## Report on Public Policy Position

**Name of section:**

Family Law Section

**Contact person:**

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**Bill Number:**

[HB 4691](#) (Runestad) Family law; child custody; joint custody in every custody dispute between parents; mandate except in certain circumstances. Amends secs. 1, 2, 3, 4, 6a, 7, 7a & 11 of [1970 PA 91](#) (MCL [722.21](#) et seq.).

**Date position was adopted:**

June 3, 2017

**Process used to take the ideological position:**

Position adopted after discussion and vote at a scheduled meeting.

**Number of members in the decision-making body:**

21

**Number who voted in favor and opposed to the position:**

17 Voted for position

0 Voted against position

0 Abstained from vote

4 Did not vote (absent)

**Position:**

Oppose

**Explanation of the position, including any recommended amendments:**

HB 4691 is this term's version of the mandatory joint physical custody bill. This bill extensively rewrites the Child Custody Act, creating new language and concepts that are ill-defined and will require years of litigation to clarify.

This bill appears to be designed to eliminate many of the arguments against previous versions of the bill, while still entitling all parents to substantially equal physical custody, regardless of the best interests of the children. Previous versions of the bill disregarded established custodial environments and bypassed the best interest factors. This version rewrites the established custodial environment so that it applies to parents with little connection to their child, and then requires the court to grant the parents substantially equal parenting time (at least 165 days per year) and joint legal custody. It also rewrites the best interest factors so that actual involvement with children is not important. A court may only deviate from substantially equal physical custody if a parent proves, by clear and convincing evidence,

that the child has been exposed to domestic violence, or is likely to be subjected to abuse or neglect, if the child/parent relationship is materially harmed by the other parent's alienating behavior, or if a parent has knowingly made false or misleading allegations regarding abuse, neglect or domestic violence. Thus, a parent can raise issues of domestic violence, abuse or neglect, but they are discouraged from doing so. If the parent is unable to prove the allegations by clear and convincing evidence they run the risk of losing their share of custody based on their failure to prove their allegations. Like previous versions of this bill, the proposal favors bad parents at the expense of children and good parents.

The bill also has a provision that reduces the 100 mile restriction on parental moves to 40 miles (as measured by an undefined person's odometer), and increases the burden of proof to clear and convincing evidence to allow a parent to move more than 40 miles. The bill would give a deployed parent the right to assign their parenting time to any third person they want, without any consideration of how that assignment would affect the child.

This is a bill that benefits a small interest group at the expense of the majority of parents and children.

The Family Law Section opposes this bill.

**The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.**

<http://legislature.mi.gov/doc.aspx?2017-HB-4691>