

FAMILY LAW SECTION

Respectfully submits the following position on:

*

HB 6087

*

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 2,855.

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 14. The number who voted opposed to this position was 0. The number who abstained from voting was 2.

Report on Public Policy Position

Name of section:

Family Law Section

Contact person:

Kent Weichmann

E-Mail:

kent.weichmann@3rdcc.org

Bill Number:

[HB 6087](#) (Kosowski) Civil procedure; personal protection orders; child custody and child and spousal support; allow to be included. Amends sec. 2950 of [1961 PA 236](#) (MCL [600.2950](#)).

Date position was adopted:

December 10, 2016

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:

14 Voted for position

0 Voted against position

2 Abstained from vote

5 Did not vote (absent)

Position:

Oppose

Explanation of the position, including any recommended amendments:

HB 6087 adds language to the end of MCL 600.2950 (the PPO statute) to allow personal protection orders to include provisions regarding custody of a child of either party and provisions regarding spousal support for the petitioner or child support for a child of whom the petitioner has custody. Although the bill seems well-intentioned, there are a number of serious problems with the bill.

The focus of a PPO action should be determining whether a protective order is appropriate. Courts seek to make sure that these hearings are scheduled on an expedited basis so that relief is quickly available. The proofs for a custody determination or a decision on spousal and child support are beyond the scope of a PPO hearing. Accommodating custody and support motions in a PPO docket would clog that docket and delay relief for parties

who need protection.

A PPO can be sought and granted in any circuit, regardless of the residence of the parties. This means that a PPO can be sought in a venue that is not appropriate for custody. There is also the danger that a custody or support order of the PPO court would conflict with the orders of the court handling the divorce or custody order, or would not comply with the requirements of the UCCJEA or UIFSA.

Lastly, PPOs expire after a set period of time. If a protected party relied on the custody or support provisions of a PPO, they would need to renew the PPO for as long as those provisions were needed. This is not an appropriate use of the PPO process.

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?2016-HB-6087>