

DOMESTIC VIOLENCE COMMITTEE
Respectfully submits the following position on:

*

SB 0743 Substitute S-2

*

The Domestic Violence Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Domestic Violence Committee. The State Bar of Michigan has authorized the Domestic Violence Committee to advocate its position.

The State Bar position on this matter is support.

The total membership of the Domestic Violence Committee is 18.

The position was adopted after an electronic discussion and vote, with some members voting at a scheduled meeting. The number of members in the decision-making body is 18. The number who voted in favor to this position was 12. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of committee:

Domestic Violence Committee

Contact person:

Ashley Lowe
Sarah Prout

E-Mail/Phone:

alowe@shaya.us
proutsarah@yahoo.com

Proposed Court Rule or Administrative Order Number:

[Substitute SB 0743](#) (Jones) Children; abduction; uniform child abduction prevention act; create. Creates new act.

Date position was adopted:

June 12, 2012

Process used to take the ideological position:

Position adopted after discussion and electronic vote, with a few members voting at a scheduled meeting.

Number of members in the decision-making body:

18

Number who voted in favor and opposed to the position:

12 Voted for position
0 Voted against position
0 Abstained from vote
6 Did not vote

Position:

The Committee previously voted to oppose this bill because they were concerned that certain provisions would deter or prevent domestic violence survivors from fleeing abuse. The substitute makes several revisions to minimize the chances that the act would be used against survivors. Some of those revisions include:

- The definitions of “wrongful removal” and “wrongful retention” exclude actions taken to provide for the safety of a party or child.
- The bill lists a number of factors the court must consider in determining whether there is a risk of child abduction, including activities that are part of a safe plan for domestic violence survivors. The substitute adds language to exclude planning activities related to providing for the safety of a party or the child while avoiding or attempting to avoid domestic violence.

- The substitute also clarifies that if the court finds that respondent's conduct was intended to avoid domestic violence or imminent harm to child or respondent, the court shall not issue an abduction prevention order.

Explanation of the position, including any recommended amendments:

Support Substitute SB 0743

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

[http://www.legislature.mi.gov/\(S\(kmq0tf3yskukoz45dsxcxa55\)\)/mileg.aspx?page=getObject&objectName=2011-SB-0743](http://www.legislature.mi.gov/(S(kmq0tf3yskukoz45dsxcxa55))/mileg.aspx?page=getObject&objectName=2011-SB-0743)

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller-permissible explanation:

This bill will affect the functioning of the courts. Its main purpose appears to be: A) factors that may point to a risk of child abduction, and B) effective remedies to prevent child abduction. Given that judges can already consider the risk factors and issue the remedies the bill provides, the bill proceeds from an assumption that current court processes are not functioning in such a way that courts can apply the factors and issue the remedies effectively where child abduction is anticipated. Thus, the bill sets forth procedural guidelines within the context of the courts' existing authority, which evidences its purpose to facilitate courts' exercise of that authority.