

PROBATE & ESTATE PLANNING SECTION  
Respectfully submits the following position on:

\*

SB 1296

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The Probate & Estate Planning 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 Probate & Estate Planning 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 Probate & Estate Planning Section is 4,128.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 23. The number who voted in favor to this position was 21. The number who voted opposed to this position was 0.

## Report on Public Policy Position

**Name of section:**

Probate & Estate Planning Section

**Contact person:**

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**Bill:**

[SB 1296](#) (Schuitmaker) Civil procedure; statute of limitations; statute of repose for actions against an attorney-at-law or a law firm; enact. Amends sec. 5838 of [1961 PA 236](#) (MCL [600.5838](#)) & adds sec. 5838b.

**Date position was adopted:**

October 27, 2012

**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:**

23

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

21 Voted for position  
0 Voted against position  
0 Abstained from vote  
2 Did not vote

**Position:**

Support and Amend

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

Amend MCL 600.5805(15) to include references to MCL 600.5838A and 600.5838B

Amend proposed MCL 5838B (as contained in SB 1296) as follows:

SEC. 5838B

- (1) AN ACTION FOR LEGAL MALPRACTICE AGAINST AN ATTORNEY-AT-LAW OR A LAW FIRM SHALL NOT BE COMMENCED AFTER THE EARLIER OF:
- (A) THE EXPIRATION OF THE APPLICABLE PERIODS OF LIMITATION DESCRIBED IN THIS CHAPTER, OR
- (B) 6 YEARS AFTER THE DATE OF THE ACT OR OMISSION THAT IS THE BASIS FOR THE CLAIM.

(2) A LEGAL MALPRACTICE ACTION THAT IS NOT COMMENCED WITHIN THE TIME PRESCRIBED BY SUBSECTION (1) IS BARRED.

(3) AS USED IN THIS SECTION:

(A) “LAW FIRM” MEANS A PERSON OR ENTITY THAT IS PRIMARILY ENGAGED IN THE PRACTICE OF LAW, REGARDLESS OF WHETHER IT IS ORGANIZED AS A SOLE PROPRIETORSHIP, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, PROFESSIONAL LIMITED LIABILITY COMPANY, PROFESSIONAL CORPORATION, OR OTHER BUSINESS ENTITY. THE TERM “LAW FIRM” ALSO INCLUDES A LEGAL SERVICES ORGANIZATION. “ATTORNEY-AT-LAW” MEANS AN INDIVIDUAL LICENSED TO PRACTICE LAW IN THIS STATE OR ELSEWHERE.

**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?2012-SB-1296>