

CIVIL PROCEDURE & COURTS COMMITTEE

Respectfully submits the following position on:

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HB 4913

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The Civil Procedure & Courts Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Civil Procedure & Courts Committee. The State Bar of Michigan has authorized the Civil Procedure & Courts Committee to advocate its position.

The State Bar's position on this matter is oppose.

The total membership of the Civil Procedure & Courts Committee is 23.

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 16. The number who voted against it was 0.

Report on Public Policy Position**Name of Committee:**

Civil Procedure & Courts Committee

Contact person:

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Bill Number:

[HB 4913](#) (McMillin) Civil procedure; civil actions; strategic lawsuits against public participation; limit. Amends [1961 PA 236](#) (MCL [600.101](#) - [600.9947](#)) by adding sec. 2978.

Date position was adopted:

November 16, 2013

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:

16 Voted for position

0 Voted against position

0 Abstained from vote

7 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

The Committee appreciates the intent behind anti-SLAPP legislation. However, the better course may be for courts to utilize MCR 2.114 and perhaps a new Michigan analog to 28 USC 1927 rather than this sort of mechanism. As written, the statute is extremely broad and could easily be used against the very class of individuals anti-SLAPP statutes are designed to protect. Moreover, the statute would cause significant changes to existing jurisprudence in areas such as defamation; e.g., this statute would (under 2978(2)(A)) impose a knowledge component which is a higher standard of proof than currently exists for some types of defamation.

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?2013-HB-4913>

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:

It is Keller permissible because it addresses access to the courts and the availability of legal services to the public.