



Report on Public Policy Position

Name of Section:

Family Law Section

Contact Person:

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Bill Number:

HB 5198 (Schuitmaker) Family law; marriage and divorce; provision regarding pensions in divorce; modify. Amends sec. 18 of 1846 RS 84 (MCL [552.18](#)).

Date position was adopted:

November 5, 2005

Process used to take the ideological position:

Vote by members elected to the Family Law Council

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

11 in favor, 2 opposed

FOR SECTIONS ONLY:

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

HB 5198 introduced by Reps. Shuitmaker, Lipsey, Condino Bieda, Gaffney, Accavitti, Hune, Elsenheimer, Taub, Gosselin, Ball and Law and referred to the Committee on Judiciary would legislatively reverse the decision in *QUADE v. QUADE*, 238 Mich. App. 222 (1999) by providing that the division of pension benefits divides all components of the pension, except for those components specifically excluded. The Family Law Section supports this bill and suggests the inclusion of language developed by the QDRO committee:

PROPOSED REVISION TO 552.101(4) from the QDRO Committee

552.101

Sec. 1

(4) Each judgment of divorce or judgment of separate maintenance shall determine all rights, including any contingent rights, of the husband and of the wife, respectively, in and to any:

- (a) Vested pension, annuity, or retirement benefits,
- (b) accumulated contributions in any pension, annuity, or retirement system, and,
- (c) in accordance with MCL 552.18, unvested pension, annuity, or retirement benefits.

Whenever any judgment of divorce or judgment of separate maintenance provides for the assignment of any rights in and to any pension, annuity, or retirement benefits, a proportionate share of any and all components of the pension, annuity, or retirement benefits shall be included in the assignment unless the judgment of divorce or judgment of separate maintenance expressly excludes one or more such components. Such components include, but are not limited to, supplements, subsidies, early retirement benefits, post-retirement benefit increases, surviving spouse benefits, and death benefits. This subsection shall apply irrespective of the characterization of the pension, annuity, or retirement benefit as regular retirement, early retirement, disability retirement, death benefit, or any other characterization or classification, unless the judgment of divorce or judgment of separate maintenance expressly excludes a particular characterization or classification.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=2005-HB-5198>