



Report on Public Policy Position

Name of Section:

Family Law Section

Contact Person:

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Bill Number:

SB 1128 (Garcia) Family law; child custody; modification of child support assessment for certain military personnel; provide for. Amends 1982 PA 295 (MCL 552.601 - 552.650) by adding sec. 15a.

Date position was adopted:

April 1, 2006

Process used to take the ideological position:

Vote at monthly meeting of Family Law Council

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

14-1

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:

The Council considered SB 1128, sponsored by Sens. Garcia, Jelinek, Goschka, Toy and Kuipers and referred to the Committee on Families and Human Services. This bill would require the Friend of the Court to seek a modification of child support in cases where the payer is called to emergency military service and suffers a reduction in income. Friend of the Court action would be triggered by a letter from the commanding officer that contains the date of the commencement of the emergency military service and the compensation of the payer. The bill provides that the date the payer reported for military service will be considered the date the motion to modify child support was filed.

The bill seeks to address the dilemma faced by payers who are called to military duty before they have an opportunity to file a motion to reduce their child support. Some reservists do not know how much of an income reduction they will face until they are on duty. A study conducted by the Marine Corp indicated that more than

30% of reservists suffered a pay reduction of more than 10%, and 9% of reservists suffered a reduction of more than 50%. The Council supported the intent of the bill, but thought that the bill needed some revisions to provide due process to the payee, and to address the prohibition against retroactive reductions of child support.

The Council voted to support this bill in principle and suggest the following technical amendments:

P.1, l. 6 – Strike “a letter” and insert “ an authoritative written communication”,

P.1, l. 10 – After “shall”, insert “advise the child support recipient and, by motion”.

P. 2, l.1 – Strike “to reflect that” and insert “if”

P.2, l. 10 – Strike “or” and insert “and”

P.2, end – Insert new paragraph (5)

“Each judgment and order containing a child support provision is deemed to incorporate a provision authorizing the court to adjust child support during a payer’s emergency military service.”

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/\(x5gmtk45q1xzqh453muyxw45\)/mileg.aspx?page=getObject&objectName=2006-SB-1128](http://www.legislature.mi.gov/(x5gmtk45q1xzqh453muyxw45)/mileg.aspx?page=getObject&objectName=2006-SB-1128)