

FAMILY LAW SECTION  
Respectfully submits the following position on:

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HB 5986

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The Family Law 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 Family Law 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 Family Law Section is 2,481.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 19. The number who voted opposed to this position was 1.

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

Family Law Section

**Contact person:**

Kent Weichmann

**E-Mail:**[weichmannk@att.net](mailto:weichmannk@att.net)**Bill Number:**

[HB 5986](#) (Johnson) Children; parental rights; immediate termination of parental rights and visitation rights for parent or legal guardian upon sentencing for criminal sexual conduct or other sex crimes; require. Amends sec. 19b, ch. XIA of [1939 PA 288](#) (MCL 712A.19b).

**Date position was adopted:**

December 6, 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:**

21

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

19 Voted for position

1 Voted against position

0 Abstained from vote

1 Did not vote

**Position:**

Oppose And Amend

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

HB 5986 modifies the Probate Code to provide for an automatic termination of parental rights of a parent convicted of criminal sexual conduct against the child, or a sibling of the child, involving penetration, attempted penetration, or assault with intent to penetrate.

The Family Law Section has several technical concerns with the bill. The bill requires the judge imposing a sentence in a criminal sexual conduct (MCL 750.520a et seq.) case to terminate the perpetrator's parental rights. This provision will be found in MCL 712A.19b of the Probate Code, where neither the prosecutor, defense counsel, nor the judge is likely to see it. This provision should be moved to the criminal code, or at least referenced there. The termination order should also be placed in any ongoing case in the family court. If there is no pending case,

the family court should open a neglect and abuse case in order to record the termination. The Family Law Section opposes this bill until these technical amendments are made.

**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-HB-5986>