

CIVIL PROCEDURE & COURTS COMMITTEE
Respectfully submits the following position on:

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SB 0038

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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 of Michigan's position on this matter is to oppose.

The total membership of the Civil Procedure & Courts Committee is 18.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 18. The number who voted in favor to this position was 12. The number who abstained was 1.

Report on Public Policy Position

Name of committee:

Civil Procedure & Courts Committee

Contact person:

Daniel D. Quick

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Bill Number:

[SB 0038](#) (Jones) Civil procedure; garnishment; garnishment for failure to pay fines or costs ordered under the home rule cities act; provide for. Amends [1961 PA 236](#) (MCL [600.101](#) - [600.9947](#)) by adding sec. 4027.

Date position was adopted:

March 2, 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:

18

Number who voted in favor and opposed to the position:

12 Voted for position

0 Voted against position

1 Abstained from vote

5 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

The Committee opposes the proposal absent a method for judicial involvement in the process. As written, a hearing officer essentially has the right to issue judgments, which then compels the courts to issue garnishments related thereto, just as any other judgment in Michigan. To the Committee's knowledge, this is a novel device; other statutory regimes (including a number of civil fines issued by municipalities) directly utilize the court procedures, and thus benefit from its due process protections. Absent such protections, the Committee cannot support the proposal.

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-SB-0038>

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:

This bill affects the functioning of the courts because it removes the judicial involvement in the garnishment process.