

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

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HB 4033

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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 support with the amendment that notices are published under the requirements of Sections 4T(1)(A) and 4T(1)(B).

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 13.

Report on Public Policy Position

Name of committee:

Civil Procedure & Courts Committee

Contact person:

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Bill Number:

[HB 4033](#) (Geiss) Cities; home rule; posting of legal notices as alternative to publishing; provide for. Amends [1909 PA 279](#) (MCL [117.1](#) - [117.38](#)) by adding sec. 4t.

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:

13 Voted for position

0 Voted against position

0 Abstained from vote

5 Did not vote

Position:

No position, but see comments.

Explanation of the position, including any recommended amendments:

The Committee takes no position given that the proposed statute does not directly relate to the administration of the courts. However, to the extent that the proposal would impact proceedings in the courts, and to some extent touches upon due process rights, the Committee opposes the proposal and notes the following:

- The notice methods of section 1(c)-(e) are too transient to serve a proper due process function, and are not able to be readily memorialized to verify compliance. The Committee would support their use in addition to the methods set forth in sections (a)-(b).

- Section 3 would impose a considerable burden on cities; they would have to send notices out first class mail to anyone so requesting, and would have to maintain a permanent email roster, despite the fact that emails regularly change.
- The provision of section 4 seems to conflict with the flexibility granted to cities under section 1. Moreover, this requirement would impose a significant burden upon cities with no clear benefits. The same may be said for section 5.

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-4033>

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:

The bill affects the functioning of the courts in the publication of legal notices, whether via internet or paper publication. Depending on the publication source used, the function of due process could be negatively affected.