

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

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SB 0519

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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's position on this matter is oppose.

The total membership of the Civil Procedure & Courts Committee is 23.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 23. The number who voted in favor to this position was 16. The number who voted against it was 0.

Report on Public Policy Position

Name of Committee:

Civil Procedure & Courts Committee

Contact person:

Daniel D. Quick

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Bill Number:

[SB 0519](#) (Proos) Civil procedure, other; Courts, other; Crime victims, compensation; Criminal procedure, other; Family law, child support. Civil procedure; other; fines, costs, and other indebtedness to courts; require SCAO to establish a database, and require civil litigants to check database before paying or collecting on a judgment. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 1477.

Date position was adopted:

November 16, 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:

23

Number who voted in favor and opposed to the position:

16 Voted for position

0 Voted against position

0 Abstained from vote

7 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

The Committee observed several potential problems if this bill became law.

First, we are skeptical as to the Court's ability to maintain an updated list as envisioned by 1477(1).

Second, we oppose the concept that a party advocate must first check the list before disbursing money to his or her own client. This presents potential conflicts of interest and increases the likelihood of disputes between clients and lawyers. Moreover, it places on counsel the burden of not only checking the list but making the 'proper' payment, which is unreasonable and fraught with potential liability issues.

Third, the concept behind the statute may frustrate the settlement of civil actions, which is contrary to existing public policy in this State.

Fourth, there are existing mechanisms for the Friend of the Court (as one party potentially interested in this statute) to lien assets; this statute would circumvent established procedures for attachment and the establishment of priorities among creditors, effectively giving the state super-priority. The potential claims of third party creditors against lawyers holding and disbursing funds is further reason to oppose the statute.

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-0519>

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 affects the functioning of the courts because of the increase in court workload to create, maintain, and search such a database, and the bill burdens attorneys to check the database and to make the 'proper' payment.