



## Report on Public Policy Position

**Name of section:**

General Practice

**Contact Person:**

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**Bill Number:**

**HB 4473** (Cushingberry) Courts; other; statewide collection procedure for court orders of indigent clients; establish and require attorney of indigent client to assist in collection of fees. Amends secs. 6 & 15, ch. V of 1927 PA 175 (MCL 765.6 & 765.15) & adds sec. 3d to ch. XI. TIE BAR WITH: HB 4474'07

**HB 4474** (Cushingberry) Courts; other; indigent defense counsel fund; create. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 177. TIE BAR WITH: HB 4473'07

**Date position was adopted:**

4-19-07

**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:**

9

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

5 Voted for position

0 Voted against position

0 Abstained from vote

4 Did not vote

**Position:**

Oppose

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

The bills add a surcharge to a bail bond of anyone charged with a crime, with the money to be used to fund indigent defense.

The General Practice Section is of the opinion that the bills are unconstitutional and make bad public policy.

Bail is a right guaranteed by the constitution. Bail may not be excessive. By definition bail is a sum deposited with the court to insure the defendant's appearance at trial. This bill by definition makes bail excessive. It adds an arrest tax on to the defendant's bail. The additional arrest tax is not for the purpose of insuring the defendants appearance, it is to raise money to allow the state to meet a mandated obligation.

The bills violate the principle that an accused is innocent until proven guilty. Bail is set before a determination of guilt or innocence is made. The proposed arrest tax is levied at the time the innocent arrestee seeks to make bail. He or she cannot be subject to loss of property at this time.

The legislation is bad policy. The state is faced with jail overcrowding. Raising bail will just exacerbate this problem.

William A. Roy

**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?2007-HB-4473>

<http://legislature.mi.gov/doc.aspx?2007-HB-4474>