

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

Family Law Section

Contact person:

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Bill Number:

[HB 5993](#) (Simpson) Family law; paternity; claim to revoke acknowledgment of paternity; allow a man identified as the father by DNA testing to file, and require prosecuting attorney to file claim. Amends sec. 11 of [1996 PA 305](#) (MCL [722.1011](#)).

Date position was adopted:

June 7, 2008

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:

15 Voted for position

2 Voted against position

0 Abstained from vote

4 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

HB 5993 expands standing for challenging an acknowledgment of paternity. Current law allows the parties who signed the acknowledgment, the child, or a prosecuting attorney to file for revocation of the acknowledgment. This bill gives standing to a man who is shown to be the father through blood or genetic testing, and it requires a prosecuting attorney to file and pursue a claim for revocation if presented with such evidence. Although the bill continues current law in allowing the court to consider the equities of the case in deciding whether revocation of the acknowledgment is proper, HB 5993 grants the prosecuting attorney no discretion in deciding whether to file and pursue the claim.

The Family Law Section opposes HB 5993. It is inappropriate to deprive a prosecuting attorney of any discretion in filing to revoke an acknowledgment of paternity, even in a case where equitable grounds do not favor a revocation. In addition, the bill sets no time limit in bringing a motion to revoke an acknowledgment. A child that has grown up with one father may be confronted with another father at any age. If neither the mother, child, acknowledged father, nor the prosecuting attorney are interested in bringing an action to set aside an acknowledgment, it is hard to see any benefit to the child in doing so.

This approach fails to address the underlying problem with acknowledgments. A purported father should not be allowed to sign an acknowledgment without presenting proof, via blood or genetic testing, that he is indeed the father of the child. This requirement would prevent mistaken or collusive acknowledgments of paternity. The Family Law Section believes that the family obligations and relationships initiated by the establishment of paternity are extremely important and should be given as much permanency as possible. This can be achieved by requiring a father to prove paternity before acknowledging paternity.

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?2008-HB-5993>