

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

Justice Policy Initiatives

Contact Person:

Lorray Brown

E-mail:

lorrayb@umich.edu

Regarding:

[HB 5468](#) (Haveman) Communications; technology; validity of judgment or order created with an electronic record or signature; clarify. Amends sec. 7 of [2000 PA 305](#) (MCL [450.837](#)).

Date position was adopted:

December 11, 2009

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting via conference call.

Number of members in the decision-making body:

19

Number who voted in favor and opposed to the position:

11 Voted for position

0 Voted against the position

Position:

Support

Explanation of the position:

The proposed amendment would clarify that an electronic record of a judgment or order of a court, including a judgment or order which was created using an electronic record or upon which an electronic signature was placed could not be denied legal effect or enforceability. Approval of this amendment will improve the functioning of the Courts and the availability of legal services to society.

The text of the legislation that is the subject of this report: <http://legislature.mi.gov/doc.aspx?2009-HB-5468>

This position falls within the following Keller-permissible categories:

The improvement of the functioning of the courts

The availability of legal services to society

1. The improvement of the functioning of the Courts.

Many courts are now converting to electronic imaging systems in which all court documents are stored electronically. When done properly, this speeds up the handling of the judicial process. Documents can be transferred and processed by the courts more quickly and efficiently. For example, in non-imaging courts, physical files must be manually transported from the Clerk's office to the Judge, Referee or Magistrate and back. In domestic relations cases, often the Friend of the Court office is also involved in the process. Files go back and forth and can be misplaced. The search for missing files consumes much court staff time which could be better spent.

A key component of the efficiency of imaging is the elimination of the paper file. If only a judgment or order with a physical signature of a judge is legally enforceable, much of the efficiencies and cost reduction potential of imaging will be lost. Papers would still need to be printed and physically transported back and forth between the clerk, the judge, the Friend of the Court office and others. A physical file would still need to be kept of all judgments and orders, so some of the file space savings of imaging would be lost. Giving legal effect to electronic signatures eliminates this need.

2. The availability of legal services to the public.

Imaging of court records, including judgments and orders, increases the flexibility and transparency of the courts. Some counties have already made the public court records accessible over the Internet, allowing access to "read only" copies of public documents at all times. If electronic signatures have legal effect, bench warrants, personal protection orders and other court orders can be instantaneously available to law enforcement officers, and action could be taken on the orders more quickly. In appropriate circumstances, requests for emergency relief could be filed electronically, and if relief is deemed appropriate by the court, electronically signed and an enforceable order electronically provided to the petitioner. Giving legal effect to electronic signatures will create these benefits.

Legal recognition of the validity of electronic documents and electronic signatures is not new. President Clinton enacted e-sign legislation in 2000. <http://www.elock.com/resources-e-sign.html>. Bankruptcy courts have been fully electronic for over 5 years. http://www.uscourts.gov/cmecf/cmecf_about.html

Many Michigan counties (Ottawa, Monroe, Genesee, Washtenaw, Ingham, Saginaw, etc.) view technology as part of the answer to solving resource issues in our tough budget climate. They have already made a significant investment and are becoming more efficient through electronic document management. Other states recognize the potential savings of electronic Courts ("eCourts") and are moving forward with aggressive initiatives. The State of Oregon "will become the first state to provide a statewide virtual courthouse, using technology to increase access to the courts, improve court efficiency, and ensure that judges have complete and timely information with which to make decisions." <http://courts.oregon.gov/OJD/OregoneCourt/index.page>

Enactment of HB 5468 will be a significant step in improving the functioning of courts in Michigan and will improve access and transparency of the courts and legal services to the public.