

Report on Public Policy Position

Name of section:

Family Law Section

Contact person:

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Bill Number:

[SB 1201](#) (Basham) Family law; paternity; failure of mother to contest paternity claim by putative father; provide for entry of order of filiation. Amends sec. 4 of [1956 PA 205](#) (MCL [722.714](#)) & adds sec. 7c.

Date position was adopted:

April 10, 2010

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:

13 Voted for position

2 Voted against position

0 Abstained from vote

6 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

SBs 1200- 1203 arose from the facts in the case *In re MKK*, no. 292065. In that case the trial judge held a paternity proceeding in abeyance pending the resolution of the adoption. The court of appeals reversed, holding that it was essential to determine the child's father in order to decide whether the child was available for adoption. These bills seek to remedy a problem that has already been resolved by this appellate decision and in this instance the cure is worse than the disease.

SB 1201 requires the court to award custody to the paternity claimant if the mother fails "to file and serve a responsive pleading as required by the court rules" unless the court determines that such an award would present a reasonable likelihood of harm to the child. Thus, a technical defect in the mother's pleadings would require the

court to bypass the best interest factors. The Family Law Section believes that any child custody dispute between parents should be resolved under the best interest factors and opposes this bill.

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?2010-SB-1201>