

FAMILY LAW SECTION

Respectfully submits the following position on:

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SB 1015

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Family Law Section is 2,865.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 19. The number who voted opposed to this position was 0. The number who abstained from voting was 0.

Report on Public Policy Position

Name of Section:

Family Law Section

Contact person:

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Bill Number:

[SB 1015](#) (Jones) Family law; child custody; requirement to file motion for change of custody or parenting time order when parent is called to active military duty; modify. Amends secs. 7 & 7a of [1970 PA 91](#) (MCL. [722.27](#) & [722.27a](#)).

Date position was adopted:

September 18, 2014

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:

19 Voted for position

0 Voted against position

0 Abstained from vote

2 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

SB 1015 expands the protections of the Service Members Civil Relief Act of 2003 in custody and parenting time actions to remove any discretion from the trial judge. Although the bill states that it would allow temporary modifications of custody and parenting time, in practice these would not be possible because the bill mandates a stay in all cases of deployment. This overrides the careful balancing test contained in the Service Members Civil Relief Act. The absolute stay prevents any action by the court. The effect of this act would be to elevate third party custody over parental custody.

The act also requires the trial court to request a review by the State Court Administrative Office whenever a stay is denied. This appellate role is not a proper function of the SCAO.

The Family Law Section opposes this bill. It will compel unfair results for children of military families and unconstitutionally elevates third parties' rights to children over parental rights.

The Section believes that the Uniform Deployed Parents Custody and Visitation Act provides a more balanced approach to this issue, and should be used as a model for legislation in Michigan.

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?2014-SB-1015>