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May 10, 2005

The Honorable Brenda J. Clack
State Representative
State Capitol
P.O. Box 30014
Lansing, MI 48909-7514

306 Townsend Street
Michael Franck Building
Lansing, MI
48933-2083

Re. HB 4339 Truancy

Dear Representative Clack:

At its April 22, 2005 meeting, the Board of Commissioners unanimously voted to **oppose in principle¹ HB 4339**.

For your information, I have enclosed the public policy report from the Judicial Conference. Please note that the opinions expressed in the report are those of the Conference and not of the State Bar.

I would be happy to discuss the State Bar's position in more detail. I can be reached directly at (517) 346-6375 or jwelch@mail.michbar.org.

Sincerely,

Janet Welch
General Counsel

CC. Nancy J. Diehl, President
John T. Berry, Executive Director
Hon. Kathryn J. Root, Chair, Judicial Conference
Nell Kuhnmuensch, Governmental Consultant Services, Inc.

¹ Definition of oppose in principle: Pending legislation that the State Bar opposes but is not the subject of active lobbying effort. The State Bar is on record on this position and will explain it upon request.



Report on Public Policy Position

Name of Section:
Judicial Conference

Contact Person:
Judge Milton Mack

Email:
mmack@wpcpc.us

Bill Number:
HB 4339

Date position was adopted:
March 11, 2005

Process used to take the ideological position:
Proposed bill was e-mailed for comment to all Probate Judges. The bill was then discussed at the regular meeting of the Executive Committee of the Judicial Conference.

Number of members in the decision-making body:
27

Number who voted in favor and opposed to the position:
15 yes
0 no

FOR SECTIONS ONLY:

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

The Executive Committee of the Judicial Conference recommends that the State Bar oppose HB 4339.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=2005-HB-4339>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

The bill would unnecessarily limit judicial discretion. The imposition of the sanction will often occur too far in the future, i.e. after probation ends. Many judges already impose license sanctions but they are contemporaneous with the disposition. The effectiveness of consequences is best when flexible discretion is used. In rural areas, the ability to drive is required in order to attend school, community service and part time jobs to pay restitution.

Arguments against the position (if any):

None reported.

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

As of March 22, 2005, the State Bar of Michigan opposes in principle HB 4339.

Fiscal implications of the recommended policy to the State Bar of Michigan:

None.

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller- permissible explanation:

The bill would adversely affect the functioning of the courts as it relates to the handling of juvenile matters.