



Report on Public Policy Position

Name of Committee:

Criminal Jurisprudence and Practice Committee

Contact Person:

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Bill Number:

SB 120 (Johnson) Criminal procedure; evidence; prior acts of domestic violence; allow to be admissible as evidence. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 27a to ch. VIII.

Date position was adopted:

3/17/05

Process used to take the ideological position:

Committee meeting

Number of members in the decision-making body:

10

Number who voted in favor and opposed to the position:

Unanimous opposition

Position:

Please refer to comments submitted on SB 263.

Comments on SB 263: "This bill is overbroad and would allow into evidence testimony that is highly inflammatory and prejudicial, which is why there currently is no exception for the admission of this testimony in the exceptions to the hearsay rule. The current exceptions to the hearsay rule, including, most notably, the excited utterance exception, are important safeguards to a fair trial and such safeguards should not be enlarged or eviscerated to make it easier to obtain convictions for one particular class of cases."

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-SB-0120>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

While the committee is sympathetic to the plight of victims of domestic violence, this bill compromised court procedures and, in changing the hearsay rules to allow into evidence what is otherwise inadmissible, compromises the fairness of criminal trials.

Arguments against the position (if any):

None

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.

At its September 21, 2005 meeting, the State Bar of Michigan's Board of Commissioners unanimously voted to oppose in principle SB 120. The State Bar's opposition is based on a long-standing position that changes in evidentiary rules should not be addressed in statute but rather by the Michigan Supreme Court in court rule.

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:

See above comments on the compromising of fair trials.