



Report on Public Policy Position

Name of Section:

Family Law Section

Contact Person:

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Bill Number:

SB 379 (Van Woerkom) Children; services; court-appointed special advocates; provide for. Creates new act.

Date position was adopted:

May 7, 2005

Process used to take the ideological position:

Vote at Family Law Council meeting

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

15-0 in favor

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:

SB 379 introduced by Senators Van Woerkom, Johnson, Goschka, Bishop and Hardiman and referred to Judiciary, would establish a system of Court Appointed Special Advocates (CASA volunteers). To qualify as a CASA, a volunteer would have to be 21 years old, demonstrate an interest in children, and have at least 10 hours of training per year. The CASA would be empowered to interview the parties to the case and other witnesses, review relevant documents, perform investigations regarding the best interests of a child, determine the appropriateness and progress of case service plans under the probate code, make recommendations on placement, parenting time, and appropriate services for a child and family, appear as a witness in an action, and receive notice of all hearings, meetings or other proceedings in a case. The Council unanimously opposed this

bill. The qualifications and training of the volunteers is vastly insufficient to allow them to intervene on child related issues, and the intervention of this type of additional participant would be an impediment, rather than an aid, to good decision-making. The enlistment of volunteers may save money, but motivation that brings someone to volunteer may be precisely the baggage that can cause a problem in the case. It may be very hard for a volunteer to separate personal judgment from professional judgment. The Council voted to oppose this bill.

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-0379>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:
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Arguments for the position:

See position statement.

Arguments against the position (if any):

See position statement.

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.

On September 21, 2005, the State Bar of Michigan adopted a position of oppose in principle.

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

None known

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 CASA program would affect the functioning of the Family Court by bringing in an additional advocate/evaluator in child related matters.