



## Report on Public Policy Position

**Name of Section:**

Children's Law Section

**Contact Person:**

Kathryn Fehrman

**Email or Phone:**

kathrynfehrman@yahoo.com

**Bill Number:**

**HB 4038** (Sheen) Children; protection; requirement for the presence of certain adult during interview process of a child suspected of abuse or neglect; provide for. Amends secs. 8 & 8c of 1975 PA 238 (MCL 722.628 & 722.628c).

**Date position was adopted:**

5/11/05

**Process used to take the ideological position:**

Examined by Legislative subcommittee. Vote by Legislative Committee members. Recommendation to Council. E-vote by Council.

**Number of members in the decision-making body:**

19

**Number who voted in favor and opposed to the position:**

10 to 0 E-vote to support Legislative Committee's recommendations and OPPOSE this bill.

**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 Children's Law Section OPPOSES HB 4038 for the following reasons:

- This legislation is overreaching and would require a support person to be present for every CPS interview for every type of allegation of every alleged child-victim, regardless if the child wants anyone else present. This would be a huge impediment to a timely investigation being conducted.
- The practice of having support persons present for investigative interviews is "discouraged" in the Forensic Interviewing Protocol for the state. The protocol states that although it is "intuitive" to think that support persons would help, studies (which are quoted) have failed to show this.
- The 2nd person may interfere with the interviewer or attempt to assist or inhibit the child (verbally or nonverbally.)
- Removing an interfering person from the interview may hurt the interview.
- Having no support person available, who meets the statutory definition, will prohibit an interview from being conducted. For example, during a home visit to a mother and her two children in the summer, where mother is the alleged perpetrator, the interview with the alleged victim could not occur unless someone who the child is comfortable with could be located.
- It is impossible to know what "comfortable with" means, depending on what is going to be discussed. Also, who decides? A 4 y/o child, for example?
- This bill presumes that the presence of a support person would make the child feel more comfortable. This is not necessarily true.
- There are confidentiality issues that result from the child having to discuss family business in front of non-family members.
- Certainly in those instances when a child does prefer that someone else be present, it should be explored, and, absent any significant concerns, permitted. That's not the same thing as mandating it. DHS policy already adequately covers using a support person in appropriate situations (see CFP 713-3, pages 4-5).

**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-4038>