



## Report on Public Policy Position

**Name of Committee:**

Criminal Jurisprudence and Practice Committee

**Contact Person:**

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**Bill Number:**

**SJR G** (Goschka) Constitutional amendments; state; court to deny release on bail for felony involving sexual assault of minor; amend state constitution to allow. Amends sec. 15, art. I of the state constitution.

**Date position was adopted:**

12-08-05

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

Open discussion

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

14

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

14 opposed

**Position:**

The committee is unanimously opposed to SJR G.

**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/\(pylrgn45jvonxn45ih5kjsuz\)/mileg.aspx?page=BillStatus&objectname=2005-SJR-G](http://www.legislature.mi.gov/(pylrgn45jvonxn45ih5kjsuz)/mileg.aspx?page=BillStatus&objectname=2005-SJR-G)

**RECOMMEND STATE BAR ACTION ON THIS ISSUE:**

**Arguments for the position:**

The right to bond is an important established constitutional right. The constitution should not be amended without substantial and compelling reasons. A person is entitled to bond except in extreme circumstances and the court has discretion to determine what bond to set. Lack of a bond being available should not be determined solely because of the age of the victim. The proposed amendment is overbroad and fails to take into account facts and circumstances that would permit a bond. Others besides sexual predators could be held without bond even if the parties were the same age or close in age where consent is not an issue.

**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.**

On January 20, 2006, the State Bar adopted the following position: Oppose in principle. This action is better addressed by amending statute, not the state constitution.

**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:**

This proposed amendment could increase the trial docket since those in custody would want a speedy trial date and they would be filing additional motions to show why they should not be released where the proofs are not evident or the presumption great.