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February 6, 2006

The Honorable Leslie Mortimer
State Representative
State Capitol
P.O. Box 30014
Lansing, MI 48909-7514

Re: HB 5267 Mandatory Joint Custody

Dear Representative Mortimer:

At its January 20, 2006 meeting, the State Bar of Michigan's Board of Commissioners unanimously voted to **oppose in principle*** HB 5267. This position was adopted after consideration of recommendations made by the Domestic Violence Committee and the Family Law Section.

The State Bar has a long-standing position of opposing any measure that would limit judicial discretion, which HB 5267 would effectively do by eliminating a judge's ability to weigh the facts and circumstances surrounding a custody hearing before entering a judgment on custody arrangement. The ability to consider "best interest" factors versus imposing a single type of custody is important in custody proceedings.

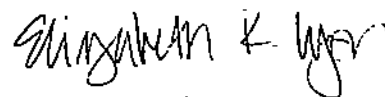
The State Bar's Domestic Violence Committee also expressed concern that the bill may have a chilling effect on a domestic violence victim's willingness to file for divorce. The perception of an increased risk of joint custody and thus a heightened possibility of having to maintain regular contact with an abuser would be apt to cause additional stress to a victim, and could discourage divorce filings by victims.

If you would like to discuss this position in further detail or have questions, please contact Janet Welch directly at (517) 346-6375, jwelch@mail.michbar.org, or Elizabeth Lyon directly at (517) 346-6325, elyon@mail.michbar.org.



Janet Welch
General Counsel

Sincerely,



Elizabeth K. Lyon
Public Policy Program Analyst

CC. Thomas W. Cranmer, President
John T. Berry, Executive Director
Hon. Lisa Sullivan, Chair, Family Law Section
Leslie Hagen, Chair, Domestic Violence Committee
Nell Kuhnmuensch, Governmental Consultant Services, Inc.

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