



Report on Public Policy Position

Name of Committee:

Domestic Violence Committee

Contact Person:

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Bill Number:

HB 5267 (Mortimer) Family law; child custody; joint custody; mandate in every custody dispute between parents except in certain circumstances. Amends sec. 6a of 1970 PA 91 (MCL 722.26a).

Date position was adopted:

12-17-2005

Process used to take the ideological position:

Discussion and vote of committee members

Number of members in the decision-making body:

11

Number who voted in favor and opposed to the position:

11 opposed

Position:

Oppose

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/\(e2mxpj454ynsmp2nb5vnko55\)/mileg.aspx?page=BillStatus&objectname=2005-HB-5267](http://www.legislature.mi.gov/(e2mxpj454ynsmp2nb5vnko55)/mileg.aspx?page=BillStatus&objectname=2005-HB-5267)

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

This legislation would create mandatory joint custody in divorce cases where there is a custody dispute. This bill hampers judicial discretion, impacts the availability of legal services for litigants, and creates a "chilling effect" on domestic violence victims' willingness to file for divorce. It also basically eliminates the "best interests" factors, which would restrain judicial discretion. The law currently requires that parents be informed that joint custody is an option, which is a sufficient safeguard for parents' rights.

Arguments against the position (if any):

None provided.

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.

As of January 20, 2006, the State Bar of Michigan's position is oppose in principle.

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:

Not provided.