



## Report on Public Policy Position

**Name of Section:**

Probate and Estate Planning

**Contact Person:**

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**Bill Number:**

SB 1272 (Van Woerkom) Probate; guardians and conservators; criminal background checks; require for guardians and conservators of vulnerable adults or children. Amends 1998 PA 386 (MCL 700.1101 - 700.8102) by adding sec. 5106a.

**Date position was adopted:**

June 17, 2006

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

Vote of Governing Council of the Probate and Estate Planning Section

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

23 - 16 participated

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

16 in favor

0 opposed

**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 Probate and Estate Planning Section is opposed to SB 1272.

Utilization of background checks on prospective guardians and conservators can be useful, but only if requested by an interested person or ordered by the court on its own initiative.

A probate judge is empowered under current law to order a background check if desired.

SB 1272, while well-intended, would have unintended consequences which would seriously impair the ability of the courts to carry out their duties.

Approximately 40,000 to 50,000 people are nominated as guardians and conservators for children and adults in Michigan. This translates into roughly 1,000 background checks per week, which the Michigan State Police would have to conduct. Such a burden would completely overload the State Police's background check system and slow, if not halt, the ability of the court's to appoint guardians and conservators to protect vulnerable children and adults.

This legislation would mandate background checks even in cases where the petitioner has nominated the prospective guardian and/or conservator.

The procedure would violate the intent of the Estates and Protected Individuals Code (EPIC) which gave the ward's nominee and the ward's family a clear priority for these appointments.

There is no exception for temporary guardianships or special conservatorships.

Implementation of this law would result in a significant increase in the number of adjourned guardianship and conservatorship hearings. This would waste scarce judicial resources and result in additional cost without providing any meaningful benefit.

**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://legislature.mi.gov/doc.aspx?2006-SB-1272>