



## Report on Public Policy Position

**Name of Section:**

Family Law Section

**Contact Person:**

Kent Weichmann

**Email:**

[weichmann@earthlink.net](mailto:weichmann@earthlink.net)

**Bill Number:**

**HB 4564** (Steil) 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:**

May 5, 2007

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

Position adopted after discussion and vote at a scheduled meeting

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

21

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

16 Voted for position

1 Voted against position

0 Abstained from vote

4 Did not vote

**Position:**

Oppose

**Explanation of the position, including any recommended amendments:**

HB 4564 is this year's version of the mandatory equal physical custody bill. The Council opposed last year's version (HB 5367) and the Council has a position paper opposing even the presumption of joint physical custody. This bill would require the court to award equal physical custody in every custody dispute where the parties live in the same school district, unless the court finds by clear and convincing evidence that a parent is unfit, unwilling, or unable to care for the child. The Family Law Section opposes this bill. The effect of this bill would be to disregard the best interest factors and impose a single type of custody arrangement on all families. It assumes that joint legal and physical custody is best for all children, regardless of what those children want, or the extent of their parents' conflict. This bill benefits the parties with the poorest parenting skills, at the expense of their children. The Council opposes this bill in its entirety.

**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?2007-HB-4564>

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

List any arguments against the position:

N/A

**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 bill prohibits the court from considering the best interest of the children in determining parenting arrangements. It imposes a single solution on all families and deprives the court of any discretion in these cases.