

**Report on Public Policy Position****Name of section:**

Family Law Section

**Contact Person:**

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**Bill Number:**

[SB 1002](#) (Richardville) Civil procedure; costs and fees; attorney fees; require losing party to pay winning party's fees in a civil lawsuit. Amends [1961 PA 236](#) (MCL [600.101](#) - [600.9947](#)) by adding sec. 2443.

**Date position was adopted:**

February 2, 2008

**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:**

15 Voted for position

0 Voted against position

6 Did not vote

**Position:**

Oppose

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

SB 1002 provides that the court shall award the prevailing party in a civil action attorney fees. This is a bill that affects the bar as a whole, but affects domestic relations in particular. The Council felt that the concept of prevailing party is complicated in domestic relations cases, e.g., emphasizing winning and losing in a child custody dispute is counterproductive. Even if this proposal was approved for other civil actions, we would not want this bill to apply to domestic cases at all. We would also not want it to disturb the current power of the court to award attorney fees under the court rules. The Family Law Section opposes this bill.

**The text 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-SB-1002>