

Report on Public Policy Position

Name of Committee:

Justice Policy Initiatives

Contact Person:

Lorray Brown

E-mail:

lorrayb@umich.edu

Regarding:

[SB 0960](#) (George) Occupations; notaries public; procedure for notary public when witnessing the signature of certain individuals; revise. Amends sec. 25 of [2003 PA 238](#) (MCL [55.285](#)).

Date position was adopted:

February 16, 2010

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting via conference call.

Number of members in the decision-making body:

19

Number who voted in favor and opposed to the position:

11 Voted for position

0 Voted against the position

Position:

Oppose

Explanation of the position:

- 1.) The statutory change expands a notary's duties far beyond that which exists today. Currently, a notary is only required to conform that the person signing is in fact the person identified in the instrument.
- 2.) The statutory change would require a notary to determine matters which are not easily determinable (i.e. competency and understanding of the substance of the transaction).
- 3.) The statutory change requires a notary to apply a subjective standard in determining competency and understanding which may be beyond a notary's training and expertise and thus allowing for irregularity in application of the law.
- 4.) The statutory change would make it more difficult to find notaries willing to notarize documents, and may lead to notary shopping.
- 5.) The statutory change would lead to inadvertent disclosure of confidential information to a person who is not a party to the transaction.

- 6.) Disabled persons could be discriminated against by a notary who believes that, because of the person's disability, the person is unable to understand the transaction.

The text of the legislation that is the subject of this report: <http://legislature.mi.gov/doc.aspx?2009-SB-0960>

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