

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

Family Law Section

Contact person:

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[HB 5949](#) (McMillin) Family law; marriage and divorce; statutory requirements for divorce or separate maintenance; provide exceptions for covenant marriage. Amends 1846 RS 84 (MCL [552.1](#) - [552.45](#)) by adding sec. 5.

[HB 5950](#) (McMillin) Family law; marriage and divorce; marriage license application; provide for selection of covenant marriage. Amends sec. 2 of [1887 PA 128](#) (MCL [551.102](#)) & adds sec. 4a.

[HB 5951](#) (McMillin) Family law; marriage and divorce; covenant marriage; provide for. Creates new act.

Date position was adopted:

April 10, 2010

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

0 Voted against position

0 Abstained from vote

5 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

HBs 5949-5951 propose the creation of covenant marriages and the establishment of a different standard for the grounds for divorce from those marriages.

HB 5949 exempts covenant marriages from the standard divorce section of the statutes. HB 5951 lays out the declaration that binds couples to a covenant marriage, and the fault based grounds for the divorce. Although the

declaration provides that the parties have “disclosed to one another everything that could adversely affect the decision to enter into this marriage”, fraud in this disclosure is not one of the grounds for divorce. Nor does the declaration provide any clear notice that the signing of the declaration subjects the signer to entirely different divorce laws. If the bill purports to create a covenant, it is a fraudulently induced covenant. The pressure on marital partners to elect a covenant marriage would be intense, especially if particular churches required covenant marriages as a condition of marriage in that church. Marital partners in an emotionally abusive relationship would also find refusing to elect covenant marriage difficult.

HB 5950 amends the marriage license act to provide for an election of whether the marriage is a covenant marriage. HB 5951 lays out the declaration that binds couples to a covenant marriage, and the fault based grounds for the divorce. Although the declaration provides that the parties have “disclosed to one another everything that could adversely affect the decision to enter into this marriage”, fraud in this disclosure is not one of the grounds for divorce. Nor does the declaration provide any clear notice that the signing of the declaration subjects the signer to entirely different divorce laws. If the bill purports to create a covenant, it is a fraudulently induced covenant. The pressure on marital partners to elect a covenant marriage would be intense, especially if particular churches required covenant marriages as a condition of marriage in that church. Marital partners in an emotionally abusive relationship would also find refusing to elect covenant marriage difficult.

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Regardless of these problems, the underlying concept of using the power of the state to imprison individuals in a marriage causes more harm than good. These bills would do little to preserve good marriages, and would greatly increase the conflict at the end of bad marriages. Once married, a spouse has little incentive to work on the marriage and only has to avoid the statutory grounds for divorce to stay married. These bills seemingly do not even permit divorce when both spouses agree to a divorce (unless they collusively create a fraud on the court.) The Family Law Section opposes these bills.

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?2010-HB-5949>

<http://legislature.mi.gov/doc.aspx?2010-HB-5950>

<http://legislature.mi.gov/doc.aspx?2010-HB-5951>