FAMILY LAW SECTION
Respectfully submits the following position on:

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HB 5463

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Family Law Section is 2,481.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 18. The number who voted opposed to this position was 0.

SBM | FAMILY LAW SECTION

Report on Public Policy Position

Name of Section:
Family Law Section

Contact person:
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Bill Number:
HB 5463 (Denby) Family law; paternity; certain genetic testing establishes paternity; provide for. Amends secs. 6 & 7 of 1956 PA 205 (MCL 722.716 & 722.717).

Date position was adopted:
May 3, 2014

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:
18 Voted for position
0 Voted against position
0 Abstained from vote
3 Did not vote

Position:
Oppose with amendments

Explanation of the position, including any recommended amendments:
HB 5463 is part of a package of bills that seek to modernize the establishment of paternity from a quasi-criminal process to a civil administrative process focusing on genetic testing. HB 5463 amends the Paternity Act to change the effect of a DNA test of 99% or higher from a presumption of paternity to a conclusive determination of paternity. Even a genetic test showing a probability of exclusion of 99% still admits a 1% chance of a false positive. This bill would eliminate any testimony of non-access or the ability to allege mistakes on the part of the lab. (google "Crime Lab Scandal" for examples of lab malfeasance) Challenges are limited to subsection (4) of the Paternity Act, which discusses only admissibility of the DNA tests, not their accuracy. Subsection (4) only makes sense in the context of a presumption, rather than a determination. The benefit of changing from a presumption to an absolute determination is marginal compared to the harm of eliminating any recourse for the few defendants in cases where a mistake was made. The current summary disposition process can be used to expedite cases where there is no

genuine issue of fact. The Section opposes this bill unless it amended to allow a defendant to challenge the accuracy of the test results, and to restore the summary disposition process.

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?2014-HB-5463