FAMILY LAW SECTION
Respectfully submits the following position on:

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HB 5466 – HB 5471

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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

State Bar of Michigan

Report on Public Policy Position

Name of Section:
Family Law Section

Contact person:
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Bill Numbers:
HB 5466 (Kosowski) Family law; paternity; consolidation of child support functions into 1 local agency; provide for in the paternity act. Amends sec. 4 of 1956 PA 205 (MCL 722.714).

HB 5467 (Hooker) Family law; paternity; consolidation of child support functions into 1 local agency; provide for in the revocation of paternity act. Amends sec. 7 of 2012 PA 159 (MCL 722.1437).

HB 5468 (Victory) Family law; child support; consolidation of child support functions into 1 local agency; provide for in the family support act. Amends sec. 4 of 1966 PA 138 (MCL 552.454).

HB 5469 (Kurtz) Family law; child support; consolidation of child support functions into 1 local agency; provide for in the uniform interstate family support act. Amends secs. 308 & 312 of 1996 PA 310 (MCL 552.1308 & 552.1312).

HB 5470 (Kesto) Family law; child support; consolidation of child support functions into 1 local agency; provide for in the uniform reciprocal enforcement of support act. Amends secs. 10a, 12b, 13, 13a & 33 of 1952 PA 8 (MCL 780.160a et seq.).

HB 5471 (Outman) Family law; child support; consolidation of child support functions into 1 local agency; provide for in the status of minors and child support act. Amends sec. 3 of 1968 PA 293 (MCL 722.3).

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:
Support with recommended amendments

Explanation of the position, including any recommended amendments:
HBs 5466-5471 allow the Prosecuting Attorney and DHS to agree to transfer the PA's responsibilities to the Friend of the Court (with the Chief Judge's approval) or to an attorney under contract with the County or with DHS. Each bill clarifies that the attorney conducts proceedings on behalf of the state, and not as an attorney for a party. HB 5466 covers the Paternity Act, 5467 covers Revocation of Paternity Act, 5468 covers the Family Support Act, 5469 covers UIFSA, 5470 covers RURESA, and 5471 covers MCL 722.3.

There are at least eight circuits (including Wayne and Monroe) where the FOC already performs these functions, usually by having a "Deputy Prosecuting Attorney" employed by the FOC. These bills would legitimize that practice, and allow other counties to follow suit.

The Family Law Section supports these bills only if certain amendments are included. Only activities that are consistent with impartial decision making should be placed within a court agency such as FOC. There may be additional purely ministerial duties that could be placed within FOC, but one agency should not act as both the moving party and the adjudicator of the motion. These bills should be amended to assure that there remains a separation of functions when the PA's duties are transferred to the FOC, and that the duties must be performed under the supervision of an attorney.

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-5466
http://legislature.mi.gov/doc.aspx?2014-HB-5467
http://legislature.mi.gov/doc.aspx?2014-HB-5468
http://legislature.mi.gov/doc.aspx?2014-HB-5469
http://legislature.mi.gov/doc.aspx?2014-HB-5470
http://legislature.mi.gov/doc.aspx?2014-HB-5471