FAMILY LAW SECTION
Respectfully submits the following position on:

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HB 4724

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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 17. 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:
Kent Weichmann

E-Mail:
weichmannk@att.net

Bill Number:
HB 4724 (Franz) Family law; marriage and divorce; veteran disability compensation; exclude from marital estate. Amends sec. 18 of 1909 PA 259 (MCL 552.18).

Date position was adopted:
June 1, 2013

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:
17 Voted for position
0 Voted against position
0 Abstained from vote
4 Did not vote

Position:
Oppose

Explanation of the position, including any recommended amendments:
HB 4724, would exempt Veterans Disability Compensation from the marital estate when determining property disposition or support obligations, or both. The sponsors have been led to believe that this is already federal law, because Veterans Disability Benefits are one of the rare forms of income not subject to income withholding under certain circumstances. In actuality, the court may order child and spousal support payments based on the veterans disability benefits, and enforce those orders via contempt even if the only source for the payments would be Veterans Disability, Rose v Rose, 481 U.S. 619, 625, 107 S. Ct. 2029, 95 L.Ed.2d 599 (1987).

This bill would be especially harsh to military spouses, who often have to uproot themselves and their family with every transfer of the service member. These transfers make it difficult for the military spouse to establish their own career, and makes them especially dependent on the benefits provided to the service member. Veterans Disability

Benefits may reach $3,088 per month, which are not taxed. Disabled veterans who have also qualified for a military pension can elect to substitute Disability Benefits for pension benefits to avoid paying taxes on those amounts. What would ordinarily be a military pension can be converted to veterans disability benefits at the service member's option.

By excluding the Veterans disability payments from the marital estate for property disposition, the military spouse would not have any claim on what might be the most substantial asset of the marriage. If the military spouse did manage to accrue any retirement accounts on their own, the service member would take half of their spouse's retirement accounts, while keeping their disability benefits entirely for themselves.

This would be even worse in child support cases. Take the example a military family having two children and the military former spouse having the children 80% of the time. If the service member received veterans disability payments of $3,088 per month and the military former spouse earned $2,000 per month, then the veteran would receive $64 per month in child support, and the recommended spousal support to the veteran would be $382 per month. This would leave the military former spouse and two children with only $1,541.25 per month to live on, while the veteran would have $3,531 per month for themselves alone. This would be a harsh and mean-spirited treatment of the service member's children.

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?2013-HB-4724