FAMILY LAW SECTION
Respectfully submits the following position on:

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SB 131

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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 1.

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 Number:
SB 131 (Hopgood) Family law; child custody; granting of custody or parenting time for parent convicted of certain sexual offenses; prohibit. Amends 1970 PA 91 (MCL 722.21 - 722.31) by adding sec. 5a.

Date position was adopted:
March 2, 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
1 Voted against position
0 Abstained from vote
3 Did not vote

Position:
Oppose

Explanation of the position, including any recommended amendments:
SB 131 limits the court's ability to award custody or parenting time to a party who is, or who resides with, a registered sex offender whose victim was under 18. Before granting any parenting time to a registered sex offender, the court must find by clear and convincing evidence that the party presents no substantial risk to the child, and by a preponderance of the evidence that denying parenting time will create a substantial risk of harm to the child's mental, physical or emotional health. The court must make specific findings on numerous factors, and may not penalize a party for resisting parenting time when the other party is or lives with a sex offender.

This bill is a solution in search of a problem. There is no evidence that judges do not take cases involving child molesters seriously, or that they do not deal with them appropriately. Adding six pages to the child custody act for a narrow issue adds to the complexity of the law, making it less intelligible to non-attorneys. The Child Custody Act

should be intelligible to parents. It should not be like the tax code, full of provisions tailored to special interests which only a tax specialist can understand.

This bill has a narrow focus on registered sex offenders, suggesting that a parent who tortured a child, murdered a child, conducted a drug deal using the child as a shield, killed a child while driving drunk, etc. is not as serious a problem as a parent who committed a sexual offense against a person under 18 years of age.

If a child's parent is a registered sex offender, the child will face a lot of challenges in dealing with that issue. To the extent that the bill deprives a child of contact with that parent, the child may internalize that protection as a message that half of their genetic makeup is unspeakably evil. This isn't a healthy message to give a child.

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-SB-0131