

FAMILY LAW SECTION
Respectfully submits the following position on:

*

HB 5536

*

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 2,962.

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.

Report on Public Policy Position

Name of section:

Family Law Section

Contact person:

Kent Weichmann

E-Mail:

weichmannk@att.net

Bill Number:

[HB 5536](#) (Vaupel) Family law; parenting time; another family member to use parenting time when parent is on active duty outside of Michigan; allow. Amends [1970 PA 91](#) (MCL [722.21](#) - [722.31](#)) by adding sec. 7d.

Date position was adopted:

May 5, 2016

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 (absent)

Position:

Oppose

Explanation of the position, including any recommended amendments:

HB 5536 would modify the Child Custody Act to add MCL 722.27d, which would allow a noncustodial parent who is on active duty outside of Michigan to petition to assign his parenting time to a family member. The motion may be granted on clear and convincing evidence that it is in the best interest of the child.

Beyond the Constitutional issue of elevating the rights of a non-parent over the rights of a parent, there are additional problems with the bill.

Family member” is not defined, and the lack of definition would allow this bill to be an end run around the requirements of the grandparenting time statute. As drafted, the bill only allows the court to assign all of the parenting time to the family member, or none at all. If the parenting time doesn’t work out, there is no procedure to

modify an assignment, because the family member isn't a party to the case. Although the committee could see some justification for a limited assignment of parenting time if a child had strong bonds to a step-parent and/or step-siblings, or if assigned parenting time was necessary to support a continuing relationship with the absent parent, the bill doesn't mention these issues as areas of focus. 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?2016-HB-5536>