FAMILY LAW SECTION
Respectfully submits the following position on:

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SB 0520

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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 20. The number who voted opposed to this position was 0.

SBM
STATE BAR OF MICHIGAN

FAMILY LAW SECTION

Report on Public Policy Position

Name of section:
Family Law Section

Contact person:
Kent Weichmann

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Bill Number:
SB 0520 (Emmons) Crime victims; restitution; restitution orders for crime of nonpayment of support; clarify. Amends sec. 165 of 1931 PA 328 (MCL 750.165).

Date position was adopted:
October 5, 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:
20 Voted for position
0 Voted against position
0 Abstained from vote
1 Did not vote

Position:
Oppose and Amend

Explanation of the position, including any recommended amendments:
SB 520 eliminates the requirement in a felony non support case that the individual have appeared in, or received personal service of the action in which support was ordered. Making a voluntary or involuntary payment of child support would be sufficient. Thus, if Defendant had never left the State of California and never been served with notice of a child support action, but Michigan was able to administratively intercept his tax refund, the defendant would be guilty of felony non-support. This is an abhorrent denial of due process.

The bill clarifies that child support restitution in the criminal case would be paid in the same manner as child support. This is an improvement over the current statute.

Lastly, the bill would allow consequential damages to be assessed against the defendant. These could be argued in every case, and would primarily serve to coerce Defendants to plead guilty.

The Family Law Section opposes this bill unless it is amended to restore the requirement of personal service or appearance, and eliminate the provision for consequential damages.

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-0520