

## **Matt Carnagie**

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**From:** Diana Raimi <draimi@jaffelaw.com>  
**Sent:** Friday, June 2, 2017 6:47 PM  
**To:** Matt Carnagie  
**Subject:** Opposition to House Bill 4691- PLEASE FORWARD TO EACH MEMBER OF THE JUDICIARY COMMITTEE

I am writing in opposition to House Bill 4691. This bill is an attempt to completely rewrite the law of child custody in Michigan. It is poorly thought out and ambiguously drafted and in many cases it promotes policies that will harm families and children. Such a drastic overhaul of an area of law that affects more Michigan families than almost any other requires thoughtful policy choices and careful drafting and should not be rushed through without substantial opportunity for comment by people—such as family lawyers, Judges, and psychologists—who have spent their careers observing the ways in which the current system affects families and developing perspectives on how the system can be improved.

One particularly troubling aspect of this Bill is its presumption in favor of 50-50 custody (equal time sharing) with a heavy burden of proof to rebut the presumption. Families are not all alike and there should be no one-size-fits-all formula. Under existing law, family Judges have discretion to make temporary as well as long-term custody awards, and in my experience they take this responsibility seriously and exercise it thoughtfully, in good faith, and with reference to the particular facts before them in any given case. This Bill hamstringing them in the exercise of this discretion. Families gain no advantage from this Bill's new mandate. The Bill will not reduce conflict or litigation. All it does is shift the subject matter of litigation and the nature of the proofs, tossing out years of established legal precedent in the process. Worse, it does so after forcing on families a status quo that may often be totally contrary to the best interests of the children and completely at odds with the past roles of the parents. Why deny Judges the power to look at the actual circumstances of the families who come before them?

I note, also, that this Bill conflicts with current child support law in its treatment of support and housing expense. Given how sweeping this Bill is, there are doubtless other areas where it conflicts with related law, but the proposed "fast-track" scheduling of the Bill precludes a careful consideration of these matters.

With the Judiciary Committee meeting coming up in just a few days, there is insufficient time to detail the many serious problems with this Bill. If the Judiciary Committee truly wants to review and improve Michigan's custody law, I strongly urge you to work with the family Bench and Bar to develop a more thought-out, comprehensive, and practical Bill. Please vote "No" on this Bill in its current form.

To assist you in evaluating my comments, here are some of my qualifications: I have practiced family law for over 35 years. I am a Fellow of the American Academy of Matrimonial Lawyers and the Michigan State Bar Foundation. I have been listed continuously for years in Best Lawyers in America and Michigan Super Lawyers, and have authored or edited numerous publications and taught or moderated dozens of seminars for the Institute of Continuing Legal Education.

Thank you for considering my comments.



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