

Report on Public Policy Position**Name of committee:**

Committee on Justice Initiatives

Contact persons:

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Bill number:

[HB 5534](#) (Tobocman) Criminal procedure; verdicts; recording of order setting aside forged deed following criminal conviction; provide for. Amends secs. 248 & 249 of [1931 PA 328](#) (MCL [750.248](#) & [750.249](#)).

Date position was adopted:

April 8, 2008

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:

18

Number who voted in favor and opposed to the position:

12 Voted for position

0 Voted against position

0 Did not vote

Position:

Support and Amend

Explanation of the position, including any recommended amendments:

The legislation would close a loophole in the current law that permits the offender to benefit from his/her illegal act. There is concern about victims not being made whole after the criminal case ended with either a guilty plea or a conviction. Currently, the person holding the original deed would still need to go through the civil process to obtain clear title with the defendant still retaining title to the property. This proposed legislation permits the court to set aside the fraudulent title and permit the victim to once again retain clear title. The court order would be filed with the register of deeds and the fraudulent title would then be removed.

The Committee on Justice Initiatives recommends that the bill be amended to include that the judge enter a contemporaneous order to quiet title in the victim's name.

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?2007-HB-5534>

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller-permissible explanation:

The proposed legislation deals with the functionality of the court and the court's ability to enforce the intent and purpose of its sentencing as well as upholding the constitutional and statutory rights of crime victims.