

**Public Policy Position
HB 5443**

The Family Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 2,633 members. The Family Law Section is not the State Bar of Michigan and the position expressed herein is that of the Family Law Section only and not the State Bar of Michigan. The State Bar's position on this matter is to support bail/bond legislation that aligns with the recommendations of the Michigan Joint Task Force on Jail and Pretrial Incarceration—namely, HB 5436-HB 5439 and HB 5441-HB 5443—and to oppose HB 5440, as it was not based upon any Task Force recommendation. The State Bar further authorizes the Section to advocate its public policy positions on this legislative package.

The Family Law Section has a public policy decision-making body with 21 members. On December 4, 2021, the Section adopted its position after a discussion and vote at a scheduled meeting. 19 members voted in favor of the Section's position, 0 members voted against this position, 0 members abstained, 2 members did not vote.

Oppose**Explanation:**

The bill would amend section 165 of the penal code as it relates to setting bond related to spousal support and child support arrearage in felony non-payment of support cases. It would change the manner of determining bonds for a person arrested for non-appearance on a support enforcement proceeding by deleting language referencing the support and parenting time enforcement act, MCL 552.631, as a framework for setting bond, and replaces it with the framework in MCL 765.6 under the Code of Criminal Procedure, which would also be amended as set forth in an accompanying/tie-barred bill, HB 5436. The Family Law Council concluded that HB 5436 was not appropriate for support cases because it does not provide for the payment of a cash bond (currently \$500 or 25% of the outstanding arrearage, whichever is greater). Requiring a cash bond is often the only way to ensure some payment to the recipient and serves as significant motivation for the payer that incarceration or personal recognizance doesn't. HB 5436 does not appear to be written with support cases in mind, causing the Family Law Section to not only recommend opposing 5443, but also that 5436 should not be tie barred with 5443.

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