

Public Policy Position SJR J

The Family Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 2,563 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. To date, the State Bar does not have a position on this item.

The Family Law Section has a public policy decision-making body with 21 members. On October 9, 2021, the Section adopted its position after a discussion and vote at a scheduled meeting. 15 members voted in favor of the Section's position, 0 members voted against this position, 0 members abstained, 6 members did not vote.

Oppose

Explanation:

The Section views the resolution as vague, in that it references "best interests of a child" without defining that term, nor citing any statute in which it is defined. In fact, the term "best interests" has different definitions and criteria depending upon the context and type of proceeding. Such an amendment to the State Constitution could run afoul of the US Constitution, given that cases involving third party custody could argue that the "best interests of the child" trumps any argument made by a biological parent to have custody restored to them. Best interests of a child are already codified in statute for child custody and parental termination cases. Addressing these issues statutorily makes more sense than a Constitutional amendment. Statutes can be amended easier should the need arise, whereas a Constitutional Amendment must be placed on the ballot for statewide vote. Those statutes are child-focused, whereas the resolution in question is parent-focused.

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