

PROBATE & ESTATE PLANNING SECTION  
Respectfully submits the following position on:

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HB 5638

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The Probate & Estate Planning 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 Probate & Estate Planning 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 Probate & Estate Planning Section is 3,762.

The position was adopted after an electronic discussion and vote. The number of members in the decision-making body is 23. The number who voted in favor to this position was 21. The number who voted opposed to this position was 0.

## Report on Public Policy Position

**Name of section:**

Probate & Estate Planning Section

**Contact person:**

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**Bill Number:**

[HB 5638](#) (Lucido) Probate; wills and estates; exempt property; allow decedent to exclude adult child by written instrument. Amends sec. 2404 of [1998 PA 386](#) (MCL [700.2404](#)).

**Date position was adopted:**

December 7, 2016

**Process used to take the ideological position:**

Position adopted after an electronic discussion and vote.

**Number of members in the decision-making body:**

23

**Number who voted in favor and opposed to the position:**

21 Voted for position

0 Voted against position

0 Abstained from vote

2 Did not vote (absent)

**Position:**

Support Substitute H-3

**Explanation of the position, including any recommended amendments:**

This legislation clarifies the language of MCL 700.2404 following the ruling of the Michigan Court of Appeals in the 2015 case *In re Estate of Jajuga*. The Court effectively ruled that parents cannot disinherit their children by will. The Council supports proposed substitute H-3, adopted by the House Judiciary Committee.

**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?2016-HB-5638>