

**Public Policy Position**  
**HB 5578**

The Family Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 2,486 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 March 14, 2026, the Section adopted its position after a discussion and vote at a scheduled meeting. 18 members voted in favor of the Section's position, 0 members voted against this position, 1 member abstained, 2 members did not vote.

**Oppose as Drafted**

**Explanation:**

Without taking any position as to the intent of the bill, the Family Law Section of the State Bar of Michigan opposes HB 5578 as written. The bill as drafted is confusing, contradictory, and poorly drafted.

As a starting point, the bill seems to misunderstand a trial court's determination regarding established custodial environment. An ECE determination is made based on the situation of the child. A trial court must take testimony regarding the present situation of the child and the parents to determine what the child's ECE is at the time the decision is made. The language of HB 5578 runs counter to the law and procedure regarding an ECE determination as it does not take into consideration the quantity and quality of time a child has spent with a parent or the other guidance provided in MCL 722.27(1)(c).

The bill further creates a non-rebuttable presumption that a parent has sexually assaulted a child due simply to that parent's placement on the Michigan Sex Offender Registry. A substantial percentage of the people who must register under SORA have never been found to have sexually assaulted a child and are on the register for other sexual offenses, such as sexually assaulting another adult or indecent exposure. If the purpose of the bill is to prevent those who sexually abuse children from having custody of children, the non-rebuttable presumption that a person on SORA has done so significantly undermines that purpose.

There are apparent contradictions within the bill as well. The predicate section 7(2) addresses a parent who has sexually assaulted children being prohibited from having an ECE with their own child. The two subparts to that section, though, focus on the nonoffending parent. For example, 7(2) discusses the parent who has the criminal sexual conduct conviction, but 7(2)(a) discusses

whether the nonoffending parent knew about the offending parent's conviction when entering into a custody agreement, and 7(2)(b) then discusses whether the nonoffending parent allowed the offending parent to have parenting time in accordance with a court order. It is not at all clear what these two subparts have to do with the predicate section. We are left to wonder whether this bill is prohibiting both parents from having an ECE with their child and whether it is therefore creating a presumption of third-party custody. If so, that should be explicitly stated rather than leaving experienced family law practitioners to wonder how the section will operate.

Again, the Family Law Section is taking no position at this time on the apparent question of whether it is appropriate for a court to find an established custodial environment with a parent who has sexually abused a child. If a more comprehensible bill is brought forward, the Section will not hesitate to consider such a bill. This particular bill, though, is completely unworkable right now, and the Family Law Section cannot support it as currently drafted.

**Contact Person:** Josh Pease

**Email:** [jpease@sado.org](mailto:jpease@sado.org)