

**Public Policy Position
HB 4195**

The Family Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 2,669 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 in this matter is to authorize the Section to advocate its position.

The Family Law Section has a public policy decision-making body with 21 members. On April 10, 2021, the Section adopted its position after a discussion and vote at a scheduled meeting. 18 members voted in favor of the Section's position on HB 4195, 1 member voted against this position, 1 member abstained, 1 member did not vote.

Support with Recommended Amendments

Explanation:

A bill that would make a Complaint for Divorce non-public until a proof of service is filed with the court. There was concern about making the filing of the proof of service the sole triggering event for the documents to become available, as some Plaintiffs may choose to delay filing the proof of service for strategic purposes. Purposefully delaying filing the proof of service could be done for financial reasons (e.g., one spouse moving money while the other spouse is unaware of the filing). Also, there could be unintended consequences whereas the Plaintiff may fail to file a proof of service where the Defendant files an Answer to Complaint right away, resulting in the documents being unavailable to the public indefinitely. Moreover, in pro se Plaintiffs may be unaware of the requirement to file a proof of service, again, resulting in the documents remaining non-public indefinitely. The addition of a 42-day trigger to make the documents public would serve as a safety net to avoid the many unanticipated consequences of failure by the Plaintiff to file the proof of service.

Recommended amendments to HB 4195:

- a. **The bill should apply to more than just divorce but all family court filings under MCR 3.200 et seq.**
- b. **The law should require a suppression of all “case initiating documents”, as opposed to the current language limiting the suppression to the Complaint for Divorce.**
- c. **The suppression shall continue for 42 days or until a Proof of Service is filed with the court, whichever is earlier.**



FAMILY LAW SECTION

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