

**Public Policy Position
HB 5850**

The Family Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 2,461 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 3, 2020, the Section adopted its position after a discussion and vote at a scheduled meeting. 19 members voted in favor of the Section's position, 1 member voted against this position, 0 members abstained, 1 member did not vote.

Oppose

Explanation:

The substitute bill maintains the court's ability to suspend a payer's driver's license for non-payment of support, but adds that the court must first conduct an "ability to pay assessment" and that the FOC has "exhausted all other enforcement mechanisms" first. Both of these new requirements are problematic, though the requirement to "exhaust all other enforcement mechanisms" is particularly troubling. For example, would "other enforcement mechanisms" include incarceration of the payer? Driver's license suspension is already rare and used as a last resort, but the prospect of suspension can be very effective to collecting support. This is different than a punishment for a crime. This is a tool by the FOC to collect child support which is owed. Subsection 1(c) regarding the need to conduct an "ability to pay assessment" is also problematic because it suddenly talks about "the court", rather than the FOC, which would typically occur at an FOC show cause hearing.

Contact Person: James Chryssikos

Email: jwc@chryssikoslaw.com