

FAMILY LAW SECTION

Respectfully submits the following position on:

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ADM File No. 2016-11

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The Family Law 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 Family Law Section only and is not the position of the State Bar of Michigan.

The State Bar of Michigan's position in this matter is to support the proposed amendment of Rule 3.208 of the Michigan Court Rules.

The total membership of the Family Law Section is 2,801.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 19. The number who voted opposed to this position was 0.

Report on Public Policy Position**Name of section:**

Family Law Section

Contact person:

Christopher J. Harrington

E-Mail:cjh@jjharringtonlaw.com**Proposed Court Rule or Administrative Order Number:**[2016-11 – Proposed Amendments of MCR 3.208](#)

The proposed amendment of MCR 3.208 would implement 2014 PA 378 permitting alternate procedures to set contempt proceedings to reduce the steps necessary to schedule a hearing. The proposed amendments also would clarify when the FOC must participate in a contempt hearing. In addition, the proposed amendments would implement 2014 PA 381 making the Office of Child Support responsible for determining allocation and distribution of child support payments, and would allow the friend of the court to refrain from enforcing child support orders in situations in which it is inappropriate or unproductive for the friend of the court to continue to enforce child support orders.

Date position was adopted:

January 21, 2017

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

19 Voted for position

0 Voted against position

0 Abstained from vote

2 Did not vote (absent)

Position:

Support with Recommended Amendments

Explanation of the position, including any recommended amendments:

The Family Law Section voted to approve the proposed amendments of ADM File No. 2016-11, under MCR 3.208, with two recommended "friendly" amendments.

First "friendly" amendment: the proposed language for the SCAO form under MCR 3.208(B)(2)(c)(i) would state

that the notice would be entitled in the name of the "People of the State of Michigan." The Family Law Council felt it was unclear how this would appear on the form. If the notice is brought in the "name of the People..." the Family Law Council felt this implied the show cause hearings would be criminal in nature. However, if this language is intended to appear similarly to the current Subpoena form, the Family Law Council felt this would be acceptable.

Second "friendly" amendment: the Family Law Council believes that a "notice" should only be used in child support proceedings. Simply using a "Notice", and not an "Order to Show Cause", is not an appropriate measure to take from the trial court in parenting time and custody matters. Stricter scrutiny should be applied to show cause proceedings for parenting time and custody matters. This process should remain within the purview of the trial court, and not be delegated beyond the judge presiding over the case. If the drafting of this court rule were amended to only apply the new "Notice" language to child support matters, the Family Law Section would support this ADM File.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Adopted/2016-11_2016-11-23_FormattedOrder_PropAmendtOfMCR3.208.pdf