PROBATE & ESTATE PLANNING SECTION
Public Policy Position
Estate of James Erwin

The Probate & Estate Planning Section is a voluntary membership section of the State Bar of Michigan, comprised of 3,657 members. The Probate & Estate Planning Section is not the State Bar of Michigan and the position expressed herein is that of the Probate & Estate Planning Section only and not the State Bar of Michigan. To date, the State Bar does not have a position on this item.

The Probate & Estate Planning Section has a public policy decision-making body with 23 members. On December 16, 2017, the Section adopted its position after discussion and vote at a scheduled meeting. 14 members voted in favor of the Section's position on the *Estate of James Erwin*, 1 member voted against this position, 2 members abstained, 6 members did not vote.

Explanation
The Probate and Estate Planning Section authorizes (i) the filing with the Michigan Supreme Court of a motion requesting permission to file an amicus curiae brief and an amicus curiae brief in the *Estate of James Erwin*, taking the position that (a) the "absent" portion of the "willfully absent" provision in MCL 700.2801(2)(e)(i) is defined exclusively by physical absence; (b) the "willfully" portion of the "willfully absent" provision in MCL 700.2801(2)(e)(i) permits consideration of mental and emotional bonds and connections; and (c) MCL 700.2801(2)(e)(i) does not require proof that a spouse intends to abandon his or her marital rights; and (ii) the payment of up to $15,000.00 in legal fees and costs for the preparation and submission of such brief on behalf of the Section; and (iii) the engagement of a lawyer to be determined by the Council to prepare and submit such brief.

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