

Public Policy Position
ADM File No. 2022-05 – Proposed Amendments of MCR 3.977, 3.993, 7.311,
and 7.316

The Children's Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 472 members. The Children's Law Section is not the State Bar of Michigan and the position expressed herein is that of the Children's Law Section only and not the State Bar of Michigan. The State Bar's position on this item is to support ADM File No. 2022-05.

The Children's Law Section has a public policy decision-making body with 19 members. On November 18, 2022, the Section adopted its position after a discussion and vote at a scheduled meeting. 7 members voted in favor of the Section's position, 4 members voted against this position, 1 member abstained, 7 members did not vote.

Support

Explanation

Children's Law Section supports ADM File No. 2022-05 as drafted. Termination of parental rights is the most significant consequence a litigant can sustain the civil court system. It is permanent severance of a one of the most fundamental liberty interests. The failure of counsel to effectively represent a respondent in a termination of parental rights proceeding can have irreversible consequences. This extends to appeals, which is the only error-correcting remedy in termination cases. Children's Law Section supports creating a procedure for respondent-parents to assert ineffective assistance of appellate counsel. It is critical to the constitutional rights of parents and the stability of families that courts get things right the first time, because there are no second chances after termination is finalized. Therefore, the procedure developed in ADM File No. 2022-05 will provide greater due process protections before permanently severing constitutional rights and ensuring that respondent-parents will have a fair chance to correct errors which occurred due to ineffective assistance of appellate counsel.

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