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**To:** Members of The House Government, Labor, and Elections Committee

**From:** Family Law Section Council (FLSC)

**Date:** February 24, 2026

**Subject:** House Bill 403:  
Public Information Act – Divorce Records

**Position:** **UNFAVORABLE**

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The Maryland State Bar Association (MSBA) FLSC **opposes House Bill 403.**

This testimony is submitted on behalf of the Family Law Section Council (“FLSC”) of the Maryland State Bar Association (“MSBA”). The FLSC is the formal representative of the Family Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family law and, at the same time, tries to bring together the members of the MSBA who are concerned with family laws and in reforms and improvements in such laws through legislation or otherwise. The FLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,100 attorney members.

The Family Law Section Council is aware that this legislation is being proposed in responses to an instance in which a non-party individual was provided documents from the court clerk for a divorce case which contained personal identifying and financial information, which the individual then “posted”, leading to harassment of the party to the divorce case. While this is an unfortunate circumstance, the Family Law Section Council does not believe this wide-sweeping legislation is necessary or appropriate. It is very likely that this particular bad outcome was an isolated circumstance which could have been avoided by adherence to the Rules and laws that are already in place. Though House Bill 403 attempts to restrict access to divorce and custody records through the Public Information Act process, the FLSC is aware that the proponents may be attempting to broaden their requested restrictions to the same type of court records which are also available directly from the clerk of courts in Maryland counties.

The Maryland Rules reflect a long-standing general policy of “presumption of openness” for judicial records which are presumed to be open to the public for inspection. Md. Rule 16-904(a). The Rules already include strict requirements for the identification of highly personal “Restricted

Information” in the pleadings and other documents submitted with the Courts in divorce and custody cases. Md. Rule 20-201.1 If such restricted information, including, but not limited to, personal financial information, social security numbers, or ages of children are included in submissions, the submission must be clearly marked as restricted and will not be subject to public inspection. If the submission is filed without adhering to this Rule, the Clerk should reject it and require the deficiency to be corrected before the submission will be accepted. Md. Rule 20-203. Moreover, there is already a process in place for individuals to request that their entire case file or individual submissions be sealed to protect their privacy rights. In that process, the individual must prove a legal basis justifying the sealing. This justification is required because the Court must balance the individual’s desire for privacy against the public’s right to obtain information from the court system. See also Md. Rule 16-934.

There are many good reasons to permit the public and press to obtain court records of divorce and custody matters. It is a hallmark of our democratic society that such records will be open to inspection through the Public Information Act process. The process is essential for fostering a transparent and accountable government and court system. The presumption of openness of judicial records assures that the judicial system is being administered in a fair, impartial, and efficient manner that protects the rights of all people. In fact, to legislatively restrict access to all divorce and custody records would also lead to the need to restrict the public from all court rooms in which the courts are hearing divorce and custody matters, which would be a radical departure from our general policy and would have a significant chilling effect on the public’s ability to monitor the activities of the members of the Judiciary who are elected officials.

In addition to the public policy implications, there are practical reasons that citizens should be able to access divorce and custody records. The presumption of openness allows for individuals to obtain information which will inform their own decisions in personal matters, some of which invoke safety concerns. Family Law attorneys often obtain documents in their cases related to divorce and custody matters of third parties in order to shed light on the facts and circumstances related to a variety of issues, including, but not limited to: new partners, family members, or household members of the parties in their cases.

For the reason(s) stated above, the MSBA FLSC **opposes House Bill 403 and urges a UNFAVORABLE committee report.**

Should you have any questions, please contact Michelle Smith at 410-280-1700 or [msmith@lawannapolis.com](mailto:msmith@lawannapolis.com).