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**To:** Members of House Judiciary Committee

**From:** Family Law Section Council

**Date:** February 28, 2024

**Subject:** **House Bill 1298:** Family Law – Paternity – Surname (Maryland Paternal Naming Rights Act)

**Position:** **UNFAVORABLE**

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The Maryland State Bar Association (MSBA) Family Law Section Council (FLSC) **urges an unfavorable committee report on House Bill 1298 Family Law – Paternity – Surname (Maryland Paternal Naming Rights Act).**

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 1,200 attorney members.

House Bill 1298 creates a rebuttable presumption that a child be named with the father’s surname if the father has been determined by court order to be the father. HB 1298 ignores same sex couples, surrogacy, and assisted reproductive technology. The gendering in HS 1298 is prejudicial.

HB 1298 references the best interests of the child, but requires consideration of certain factors (p. 2, lines 10-17) that deviate from the best interests standard established in *Montgomery County v. Sanders* and *Taylor v. Taylor*. This creates legal confusion, especially when the General Assembly has yet to pass into law best interest factors.

Also troubling is the curtailment of Judges to deny a petition (p. 2, lines 18-20) when in the best interests of children. Is it best practice for Judges to state their reasons? Yes. Should a Judge be prohibited from denying a petition for not? No. Likewise, further efforts of the General Assembly to direct the training of Maryland’s Judiciary is concerning, especially when the required training in HB 1298 is on “the best interest standard” yet this body has yet to pass into law the best interest standard. This portion of HB 1298 puts the cart before the horse.



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For the above stated reasons, the FLSC **urges an unfavorable committee report for HB 1298.**

Should you have any questions, please contact:

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