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**To:** Members of House Judiciary Committee

**From:** Maryland State Bar Association Family Law Section Council

**Date:** February 22, 2024

**Subject:** **House Bill 1071:**  
Family Law – Grandparent Visitation

**Position:** **OPPOSE**

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The Maryland State Bar Association (MSBA) Family Law Section Council (FLSC) **opposes House Bill 1071 – Family Law- Grandparent Visitation.**

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.

The FLSC acknowledges and appreciates that in certain limited circumstances the best interests of a child require the granting of grandparent visitation. Current jurisprudence, including Family Law Section 9-102 as it is currently written (and interpreted by case law to require a threshold showing of parental unfitness or exceptional circumstances before applying the best interests standard) provides a means for grandparents to pursue visitation.

The Supreme Court of the United States and the Court of Appeals have recognized that biological parents have a fundamental constitutional right to the care and custody of their children. Because parents have this constitutional right to raise their children free from unwarranted interference by the State, there is a substantive presumption that it is in the best interest of children to remain in the custody and care of their parents. Before a Maryland Court can consider granting access rights to a third party or grandparent, the Court must make a finding of either unfitness of

the parents or find that exceptional circumstances exist. HB 1071 may not fully comply with these constitutional standards.

The current laws in place allow for the consideration and granting of grandparent visitation by the Court, as well as the opportunity for De Facto parenthood, custody, or guardianship when appropriate. Therefore, the rights of a grandparent are not altered by the provisions of this bill.

The FLSC urges House Judiciary Committee, for the reasons stated above, to issue an unfavorable report on HB 1071.

Should you have any questions, please contact:

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