

**STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES**

President Buchanan called the meeting to order at 9:05 a.m. on Friday, June 11, 2021, via a hybrid format. Board members were in person in the Theater Room at the Grand Hotel or were attending via videoconference.

Commissioners present:

Danielle Mason Anderson
David C. Anderson
Kristina A. Bilowus
Robert J. Buchanan, President
Erika L. Butler
Hon. B. Chris Christenson
Thomas P. Clement
Josephine A. DeLorenzo
Robert A. Easterly
Lisa J. Hamameh
James W. Heath, Vice President
Thomas H. Howlett
Sarah E. Kuchon
Suzanne C. Larsen
James W. Low
Gerrow D. “Gerry” Mason

E. Thomas McCarthy Jr.
Joseph P. McGill, Treasurer
Valerie R. Newman
Takura N. Nyamfukudza
Nicholas M. Ohanesian
Samantha J. Orvis
Hon. David A. Perkins
Barry R. Powers
Daniel D. Quick, Secretary
Chelsea M. Rebeck
Thomas G. Sinas
Dana M. Warnez, President-Elect
Hon. Erane C. Washington
Mark A. Wisniewski
Ryan Zemke

Commissioners absent:

Hon. Clinton Canady III

State Bar staff present:

Janet Welch, Executive Director
Margaret Bossenbery, Executive Coordinator
Nancy Brown, Assistant Executive Director
Gregory Conyers, Program Director, Diversity Development Program
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations
Darin Day, Program Director, Outreach
Michelle Erskine, Research Assistant & Event Specialist
Tatiana Goodkin, Chief Financial Officer
Kathryn Hennessey, General Counsel
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel
Molly Ranns, Director, Lawyers & Judges Assistance Program
Carrie Sharlow, Administrative Assistant
Janna Sheppard, Administrative Assistant
Kari Thrush, Program Director, Lawyer Services
Anne Vrooman, Program Director, Research & Development

Consent Agenda:

The Board received the minutes from the April 23, 2021, Board meeting.
The Board received the minutes from the April 6 and May 11, 2021, Executive Committee meetings.
The Board received the recent activities of the president.
The Board received the recent activities of the executive director.
The Board received the draft FY 2021 financial reports through April 2021.

Mr. Buchanan asked the Board if any items needed to be removed from the consent agenda. There were none.

A motion was offered and supported to approve the consent agenda. The motion was approved.

LEADERSHIP REPORTS

President and Executive Director's Report: Robert J. Buchanan, President and Janet K. Welch, Executive Director

Mr. Buchanan recognized Past Presidents Buiteweg and Keefe and RA Past Chairs Cunningham and Radke.

Officer Election

Mr. Buchanan stated that the deadline for submitting applications for the treasurer position was June 8 and that he received an application from Ms. Hamameh. The election of officers takes place at the July Board meeting.

2021-2022 Committee Resolution

Ms. Welch recognized the work of the Strategic Planning Committee and Ms. Hennessey in preparing the resolution and explained the major amendments from last year. A motion was offered to approve the 2021-2022 Committee Resolution. The motion was seconded and approved.

Committee Reports

Strategic Planning Committee

Mr. Howlett provided the Board with an update on the work of the Strategic Planning Committee.

Executive Director Search Work Group

Ms. Warnez provided the Board with an update of the work of the Executive Director Search work group.

Operations, Structure, and Governance Special Committee

Mr. Quick provided the Board with an update on the work of the Operations, Structure, and Governance Special Committee.

Representative Assembly (RA) Report: Chelsea Rebeck, Chairperson

Ms. Rebeck reported that at its April meeting the RA approved the proposed fee increase and that she is looking forward to the September meeting which may be in a hybrid format.

Young Lawyers Section (YLS) Report: Samantha Orvis, Chairperson

Ms. Orvis provided the Board with an update on past and upcoming programs and activities of the YLS.

Ms. Orvis mentioned that the Board will receive information from Ms. Bilowus regarding the annual BOC v YLS Challenge. She stated that it will be a health and wellness challenge for the entire summer.

COMMISSIONER COMMITTEES

Finance: Joseph P. McGill, Chairperson

Mr. McGill reviewed the FY 2020 financial results through April 2021.

FY 2022 Budget Assumptions

Mr. McGill reported that officer and Finance Committee approval of the FY22 budget assumptions. He reviewed the highlights of the budget assumptions with the Board.

Mr. McGill asked Ms. Welch to review the memo she provided the Board regarding “Outstanding FY22 Budget Assumption Issues.” She stated that staff have been informed that the State Bar building would not be open fully until September and that the executive and senior management team is studying which elements of remote work might be continued indefinitely.

Audit: Joseph P. McGill, Chairperson

Mr. McGill reported that the auditors will begin interim testing in August.

Professional Standards: Daniel D. Quick, Chairperson

Mr. Quick reported that there is no report for this meeting.

Communications and Member Services (CAMS): James W. Heath, Chairperson

Mr. Heath reported that the committee had not met but stated that President Buchanan has placed the Rule of Law work group under the jurisdiction of the CAMS committee, and CAMS will review the subject matter at the July meeting.

Public Policy: Dana M. Warnez, Chairperson

Court Rules

ADM File No. 2002-37: Proposed Amendment of MCR 1.109

The proposed amendment of MCR 1.109 would address e-filing issues relating to updating authorized user accounts and e-service of documents that are returned as undeliverable to a registered email address.

A motion was offered to support the proposed amendments to Rule 1.109(G)(1)(a) and (G)(3)(j) but oppose the proposed amendments to (G)(6)(a)(iv) concerning the treatment of undeliverable email. The motion was seconded and approved.

ADM File No. 2020-36: Proposed Amendments of MCR 3.903, 3.966, 3.975, and 3.976

The proposed amendments of MCR 3.903, 3.966, 3.975, and 3.976 would make procedural changes for cases involving the placement of foster care children in a qualified residential treatment program as required by state and federal statutory revisions.

A motion was offered to support the proposed amendments. The motion was seconded and approved.

ADM File No. 2021-09: Amendments of MCR 3.903 and 3.925

The amendments of MCR 3.903 and 3.925 make the rules consistent with MCL 712A.28(5)(d) by requiring that previously public juvenile case records be made nonpublic and accessible only to those with a legitimate interest. The effective date makes the rule change consistent with the statutory revision effective date in 2020 PA 362.

A motion was offered to support the amendments. The motion was seconded and approved.

ADM File No. 2021-09: Amendment of MCR 3.944

The amendment of MCR 3.944 incorporates new requirements for courts that detain juvenile status offender violators in secure facilities, in accordance with MCL 712A.15(3) and MCL 712A.18(1)(k). The effective date of these amendments is consistent with the effective date of the new statutory provisions included in 2020 PA 389.

A motion was offered to support the amendments Rules 3.903, 3.925, and 3.944, and recommend that Rule 3.944 include (1) more specific criteria about the qualifications of the person conducting the mental health or substance abuse assessment and (2) that the assessment is done in a culturally honoring manner. The motion was seconded and approved.

ADM File No. 2018-29: Proposed Amendments of MCR 6.302 & 6.610

The proposed amendments of MCR 6.302 and MCR 6.610 would eliminate the ability for a court to establish support for a finding that defendant is guilty of the offense charged as opposed to an offense to which defendant is pleading guilty or nolo contendere. The sentencing guidelines make clear that offense variables are to be scored on the basis of the “sentencing offense alone,” not the charged offense. Further, an “offense to which defendant is pleading” would include the charged offense (if defendant is pleading to the charged offense) as well as any other offense that may have been offered by the prosecutor, so the “charged offense” clause may well be unnecessary.

A motion was offered to oppose the proposed amendments and include the explanations to the questions posed by the Court from the Access to Justice Policy Committee position. The motion was seconded and approved.

Legislation

HB 4164 (Berman) Courts: records; online attorney access to court actions and filed documents without fees; provide for. Amends secs. 1985 & 1991 of 1961 PA 236 (MCL 600.1985 & 600.1991) & adds sec. 1991a.

A motion was offered that this legislation is Keller permissible. The motion was seconded and supported.

A motion was offered to support this proposed amendment with a recommendation to change the date of implementation from January 2023 to no earlier than January 2024 and to allow sections to submit comments.

A roll call vote was taken.

Yes: Bilowus, Christenson, DeLorenzo, Easterly, Hamameh, Heath, Larsen, McCarthy, McGill, Newman, Orvis, Perkins, Sinas, Warnez, Wisniewski, and Zemke

No: Anderson, Danielle; Anderson, David; Butler; Clement; Howlett; Kuchon; Low; Mason; Ohanesian; Quick; Rebeck; Washington; and Buchanan.

Abstain: Powers

The motion failed, 16 to 13, with 1 abstention.

A motion was offered to support the concept of making court records available electronically to the public and encourage the legislature and courts to work together to devise a way to make records accessible to the public as it improves functioning of the courts and increases access to justice.

A roll call vote was taken:

Yes: Anderson, Danielle; Anderson, David; Bilowus; Buchanan; Butler; Christenson; Clement; DeLorenzo; Easterly; Hamameh; Heath; Howlett; Kuchon; Larsen; Low; McCarthy; McGill; Newman; Ohanesian; Orvis; Perkins; Quick; Rebeck; Sinas; Warnez; Washington; Wisniewski; and Zemke

No: Mason

Abstain: Powers

The motion passed, 28 to 1, with 1 abstention.

HB 4195 (Hornberger) Family law: marriage and divorce; public disclosure of divorce filings; modify. Amends 1846 RS 84 (MCL 552.1 - 552.45) by adding sec. 6a.

A motion was offered that this legislation is Keller permissible. The motion was seconded and approved.

A motion was offered to rescind previous support of the bill from the previous legislative session (HB 5296), take no position on HB 4195, and allow sections to advocate their position. The motion was seconded and approved.

SB 408 (Victory) Civil procedure: other; new trial; revise procedure for granting. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 309a.

A motion was offered that this legislation is Keller permissible. The motion was seconded and approved.

A motion was offered to oppose this proposed legislation. The motion was seconded and approved.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or questions from Commissioners

There were none.

Comments or questions from the public

There were none.

A motion was offered to go into a closed session to discuss litigation. The motion was seconded and approved.

The Board went into closed session at 11:18 a.m. Ms. Welch, Mr. Cunningham, and Ms. Hennessey from the SBM staff were also asked to join the closed session.

The Board went into open session at 12:22 p.m.

Adjournment

The meeting was adjourned at 12:23 p.m.