

2019/2020 At the Capitol

The results of all Board and Assembly votes on proposals to support or oppose legislation will be posted on the State Bar website as soon as possible after the vote and published in the next *Michigan Bar Journal*. A comprehensive list of all State Bar positions can be found on the website at www.michbar.org/publicpolicy/home.

The vote by which the position on a bill was adopted will be listed, if not unanimous. Any member who would like more information concerning the rationale for positions taken can refer to the website at www.michbar.org/publicpolicy/home or contact Peter Cunningham at the State Bar of Michigan, 306 Townsend St., Lansing, MI 48933-2012, (800) 968-1442. For the most current status information, visit www.michiganlegislature.org.

HB 5106 (Schroeder) Criminal procedure: evidence; Criminal procedure: defenses; Crimes: domestic violence. Criminal procedure; evidence; use of expert testimony for domestic violence in criminal cases; allow. Amends 1927 PA 175 (MCL 760.1-760.69) by adding sec. 27d to ch. VIII.

POSITION: Oppose because this issue is more appropriately addressed in court rules.

HB 5169 (Hernandez) Torts: nonmedical malpractice; Torts: civil procedure; Civil procedure: civil actions; Occupations: architects, professional engineers, and surveyors. Torts; nonmedical malpractice; affidavit of merit; require for malpractice action against architect or professional engineer. Amends 1961 PA 236 (MCL 600.101-600.9947) by adding sec. 2912i.

POSITION: Oppose.

(Abstentions in the Board of Commissioners vote: David C. Anderson, Joseph J. Baumann, and Joseph P. McGill.)

In the Hall of Justice

Amendments of Rules 1.109, 3.206, 3.931, and 3.961 of the Michigan Court Rules (ADM File No. 2019-12)—Court Records Defined; Document Defined; Filing Standards; Signatures; Electronic Filing and Service; Access; Initiating a Case; Initiating Delinquency Proceedings; Initiating Child Protective Proceedings (See *Michigan Bar Journal* October 2019, p 75.)

STATUS: Comment Period Expires 1/1/20;

Public Hearing to Be Scheduled

POSITION: Support the proposed amendments with the following amendments:

1. Tribal courts should be listed in the Case Inventory Addendum and included in the list of courts to be notified.
2. MCR 3.931 and 3.961 should be amended to reference the proper service rule for delinquency and child protection proceedings, MCR 3.920(l) (rather than the service provision for domestic relations proceedings, MCR 3.203).

Proposed Alternative Amendments of Rule 6.508 of the Michigan Court Rules (ADM File No. 2014-46)—Procedure; Evidentiary Hearing; Determination (See *Michigan Bar Journal* November 2019, p 74.)

STATUS: Comment Period Expires 1/1/20;

Public Hearing to Be Scheduled

POSITION: Support amending Rule 6.508 as presented below:

- (2) alleges grounds for relief which were decided against the defendant in a prior appeal or proceeding under this subchapter, unless the defendant establishes that a retroactive change in the law has undermined the prior decision; **for purposes of this provision, a court is not precluded from considering previously decided claims in the context of a new claim for relief, such as in determining whether new evidence would make a different result probable on retrial, or if the previously decided claims, when considered together with the new claim for relief, create a significant possibility of actual innocence.**

Proposed Amendments of Rule 6.302 and 6.610 of the Michigan Court Rules (ADM File No. 2018-29)—Pleas of Guilty and Nolo Contendere; Criminal Procedure Generally (See *Michigan Bar Journal* October 2019, p 74.)

STATUS: Comment Period Expires 1/1/20;

Public Hearing to Be Scheduled

POSITION: Oppose.

Proposed Amendment of Rule 8.301 of the Michigan Court Rules (ADM File No. 2018-24)—Powers of Register of Probate, Deputy Registers, and Clerks (See *Michigan Bar Journal* October 2019, p 74.)

STATUS: Comment Period Expires 1/1/20;

Public Hearing to Be Scheduled

POSITION: Support.

Model Criminal Jury Instructions

M Crim JI 2.26, 3.1, and 3.6—Maintaining an Open Mind; Duties of Judge and Jury; Witnesses—Credibility (See *Michigan Bar Journal* November 2019, p 62.)

STATUS: Comment Period Expires 2/1/20

POSITION: Support with an additional amendment as presented below in bold:

... and not be influenced by a witness's disability, gender, **gender identity**, race, religion, ethnicity, sexual orientation, age, national origin, or socioeconomic status.