

**STATE BAR OF MICHIGAN  
2013-2014 COMMITTEE ANNUAL REPORT**

**Article VI §6, Bylaws of the State Bar of Michigan**

*No later than May 1 of each year, the chair of each committee and subentity of the Bar, with the assistance of the staff liaison, shall report to the Executive Director on a form provided by the State Bar on the activities and accomplishments of the committee or subentity.*

**Committee Name:**

Criminal Jurisprudence & Practice Committee

**Jurisdiction:**

Review proposed court rules and statutes related to criminal procedure and practice in state courts and make recommendations concerning improvements in the operation of criminal law and procedure to promote the fair, speedy and efficient administration of criminal justice, including the establishment and operation of systems for the representation of indigent persons charged with criminal offenses.

**Chair(s) and Committee Members:**

Officer	Name	Address	Telephone	Email
Co-chair	Nichole Jongsma Derks	Foster Swift Collins & Smith PC; 151 Central Ave; Holland, MI 49423-2831	616.796.2516	<a href="mailto:nderks@fosterswift.com">nderks@fosterswift.com</a>
Co-chair	J. Kevin McKay	63rd District Court; 1950 E. Beltline Ave NE; Grand Rapids, MI 49525-7075	616.632.7795	<a href="mailto:Kevin.mckay@kentcountymi.gov">Kevin.mckay@kentcountymi.gov</a>
Staff Liaison	Peter Cunningham	State Bar of Michigan; 306 Townsend St.; Lansing, MI 48933-2012	517.346.6325	<a href="mailto:pcunningham@mail.michbar.org">pcunningham@mail.michbar.org</a>

Member/Advisor/Other	Member/Advisor/Other
Ryan Lee Berman, Member	Julie A. Powell, Member
Mary Alexis Bowen, Member	Jonathan Sacks, Member
Thomas P. Clement, Member	Gretchen A. Schlaff, Member
Nimish R. Ganatra, Member	Samuel R. Smith, III, Member
Daniel Corrigan Grano, Member	Michael A. Tesner, Member
James W. Heath, Member	Bruce A. Timmons, Member
Donna McKneelen, Advisor	
Julia F. Norton, Member	

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**Committee Meeting Schedule:**

Please attach any additional information needed regarding Committee meetings as an addendum.

Meeting Type	Date	Location
Committee Meeting	May 16, 2013	State Bar of Michigan Offices
Committee Meeting	June 20, 2013	State Bar of Michigan Offices
Committee Meeting	October 10, 2013	State Bar of Michigan Offices
Committee Meeting	November 14, 2013	State Bar of Michigan Offices
Committee Meeting	December 12, 2013	State Bar of Michigan Offices
Committee Meeting	January 9, 2014	Teleconference only
Committee Meeting	February 13, 2014	State Bar of Michigan Offices
Committee Meeting	March 13, 2014	State Bar of Michigan Offices

**Resources provided by the State Bar of Michigan in support of committee work:**

The committee receives staff support from Peter Cunningham and Carrie Sharlow. The State Bar covers meeting expenses.

**Committee Activities:**

Over eight meetings, the Committee took the following public policy positions:

1. [2012-11 - Proposed Amendment of MCR 6.302](#)  
**Oppose.**
2. [2013-12 - Proposed Amendment of Rule 7.313 of the Michigan Court Rules](#)  
**Support.**
3. [2013-18 - Proposed New Rules 2E.001 \*et seq.\* of the Michigan Court Rules](#)  
[2013-18 - Proposed Administrative Order No. 2013-\\_\\_\\_\\_\\_](#)  
[2013-18 - Draft Standards for E-filing](#)  
**Support with the recommended amendment that the filing deadline listed in MCR 2E.001 be changed from 5 PM to 11:59 PM, in line with the deadline of the Federal Courts.**
4. [2013-18 - Proposed Amendments of Rules 3.210, 3.215, and 6.104 of the Michigan Court Rules and Proposed New Rule 8.124 of the Michigan Court Rules](#)  
[2013-18 – Proposed Administrative Order No. 2013-\\_\\_\\_\\_\\_](#)  
**Support with amendment.**
5. [2013-28 - Proposed Amendment of Rule 2.510 of the Michigan Court Rules](#)  
**Support.**
6. [HB 4083](#) (Lori) Law enforcement; other; Michigan crime stoppers act; create, and provide for criminal assessments to fund crime stopper activities. Creates new act.  
**Oppose.**
7. [HB 4570](#)(Cotter) Courts, juries; Higher education, students. Courts; juries; eligibility to postpone jury service of students; expand to include full-time higher education students under certain circumstances. Amends sec. 1335 of 1961 PA 236 (MCL 600.1335).

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**Support.**

8. [HB 4583](#)(Johnson) Children, parental rights; Family law, parenting time; Crimes, criminal sexual conduct; Crimes, crimes against minors; Criminal procedure, sentencing. Children; parental rights; immediate termination of parental rights and visitation rights for parent or legal guardian upon sentencing for criminal sexual conduct or other sex crimes; allow. Amends sec. 19b, ch. XA of 1939 PA 288 (MCL 712A.19b).

[HB 4584](#)(Johnson) Family law, parenting time; Children, parental rights; Crimes, criminal sexual conduct; Crimes, crimes against minors; Criminal procedure, sentencing guidelines. Family law; parenting time; immediate termination of a grandparenting time order upon sentencing for certain criminal sexual conduct; allow. Amends sec. 7b of 1970 PA 91 (MCL 722.27b).

**Oppose.**

9. Mental Health Courts

**Support.**

10. [HB 5012](#) (Kowall) Crimes; prostitution; minors engaged in prostitution; create presumption of coercion under certain circumstances. Amends sec. 451 of 1931 PA 328 (MCL 750.451).

**Support with the removal of presumption and the addition of court adjudication before the transfer to the Department of Human Services for programs.**

11. [HB 5018](#) (Leonard) Criminal procedure, expunction; State agencies (existing), attorney general. Criminal procedure; expunction; requirement for attorney general review of a set-aside application; eliminate. Amends sec. 1 of 1965 PA 213 (MCL 780.621).

[HB 5019](#) (Johnson, J.) Juveniles, criminal procedure; Criminal procedure, expunction; State agencies (existing), attorney general. Juveniles; criminal procedure; requirement for attorney general review of a set-aside application; eliminate. Amends sec. 18e, ch. XA of 1939 PA 288 (MCL 712A.18e).

**Oppose.**

12. [HB 5020](#)(Jenkins) Courts, other; Crimes, intoxication or impairment; Law, sunset. Courts; other; DWI/sobriety court interlock pilot project; eliminate sunset. Amends sec. 304 of 1949 PA 300 (MCL 257.304).

[HB 5021](#)(Lauwers) Courts, other; Crimes, intoxication or impairment; Law, sunset. Courts; other; DWI/sobriety court interlock pilot project; eliminate sunset. Amends sec. 1084 of 1961 PA 236 (MCL 600.1084).

**Support.**

13. [HB 5025](#)(Heise) Criminal procedure, expunction; Crimes, prostitution. Criminal procedure; expunction; victim of human trafficking to set aside certain prostitution convictions; allow under certain circumstances. Amends secs. 1, 2 & 4 of 1965 PA 213 (MCL 780.621 et seq.).

**Support.**

14. [HB 5026](#)(Heise) Juveniles, other; Courts, family division; Courts, jurisdiction. Juveniles; other; court jurisdiction over dependent juveniles in danger of substantial physical or psychological harm; allow. Amends sec. 2, ch. XA of 1939 PA 288 (MCL 712A.2).

**Support HB 5026 with the amendment to limit it to human trafficking victims.**

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15. [HB 5055](#)(Johnson, J.) Criminal procedure, warrants; Criminal procedure, arrests; Courts, district court. Criminal procedure; warrants; defraying of costs incurred by local unit of government in executing bench warrants; allow. Amends sec. 1f, ch. IX of 1927 PA 175 (MCL 769.1f).

**Oppose.**

16. [HB 5078](#) (Haveman) Criminal procedure, sentencing guidelines. Criminal procedure; sentencing guidelines; sentencing guidelines commission; reestablish. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding secs. 32 & 33 to ch. IX.

**Support.**

17. [HB 5127](#)(Geiss) Criminal procedure, sentencing; Education, financing; State agencies (existing), education. Criminal procedure; sentencing; assessment fee for conviction of a misdemeanor or felony; create, and earmark into a safe and secure schools fund. Amends sec. 1j, ch. IX of 1927 PA 175 (MCL 769.1j).

**Oppose.**

18. [HB 5154](#) (Leonard) Criminal procedure; preliminary examination; certain rules and procedures for conducting a preliminary examination; revise. Amends secs. 4, 7, 11a, 11b & 13, ch. VI of 1927 PA 175 (MCL 766.4 et seq.).

[HB 5155](#) (Walsh) Courts; district court; probable cause conferences in felony and misdemeanor cases; clarify district court's jurisdiction. Amends secs. 8311 & 8511 of 1961 PA 236 (MCL 600.8311 & 600.8511) & repeals sec. 2167 of 1961 PA 236 (MCL 600.2167).

**Support the proposed substitute bill of HB 5154 as drafted by the Criminal Defense Attorneys of Michigan and Criminal Law Section workgroup.**

**Support HB 5155 with the removal of Section 8511(H).**

19. [HB 5238](#) (Kowall) Criminal procedure; expunction; set-aside of certain criminal records for victims of human trafficking; provide for. Amends secs. 1, 2 & 4 of [1965 PA 213](#) (MCL [780.621](#) et seq.).

**Support.**

20. [HB 5246](#) (Rogers) Criminal procedure; warrants; use of electronic video equipment for issuance of warrants; allow for law enforcement officials. Amends sec. 1, ch. IV of [1927 PA 175](#) (MCL [764.1](#)).

**Oppose.**

21. [HB 5270](#) (McMillin) Law enforcement, investigations; Law enforcement, communications. Law enforcement; investigations; electronic video recording of child interrogations; require. Amends 1975 PA 238 (MCL 722.621 - 722.638) by adding sec.

[HB 5271](#) (Kosowski) Criminal procedure, evidence; Children, protection. Criminal procedure; evidence; consideration of videorecorded statements in certain proceedings; allow. Amends sec. 2163a of 1961 PA 236 (MCL 600.2163a).

[HB 5272](#) (Hooker) Children, protection; Courts, probate court; Criminal procedure, evidence. Children; protection; videorecorded statements; allow to be used in child protective services hearings, increase fines for improper release of, and require to retain for certain period of time. Amends sec. 17b, ch. XIIA of 1939 PA 288 (MCL 712A.17b).

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**Support these bills with a suggested amendment that the video recording be returned to the custodian for the required period of time rather than the court.**

22. [HB 5383](#) (Lauwers) Criminal procedure; evidence; expert witness testimony concerning chemical testing and custody of evidence by video communication; allow at preliminary examination and trial for certain prosecutions, and provide for release subject to conditions reasonably necessary for the protection of the public under certain circumstances. Amends sec. 1, ch. III, sec. 6b, ch. V & sec. 22, ch. VIII of [1927 PA 175](#) (MCL [763.1](#) et seq.).

**Oppose.**

23. [SB 0518](#) (Proos) Traffic control, traffic regulation; Courts, other. Traffic control; traffic regulation; use of vehicle boots for failure to satisfy certain court obligations; allow. Amends sec. 4803 of 1961 PA 236 (MCL 600.4803).

**Oppose.**

24. [SB 0519](#) (Proos) Civil procedure, other; Courts, other; Crime victims, compensation; Criminal procedure, other; Family law, child support. Civil procedure; other; fines, costs, and other indebtedness to courts; require SCAO to establish a database, and require civil litigants to check database before paying or collecting on a judgment. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 1477.

**Oppose.**

25. [SB 0558](#) (Schuitmaker) Mental health, other; Corrections, alternatives; Criminal procedure, mental capacity. Mental health; other; program to divert persons with serious mental illness from justice system to treatment; establish. Amends 1974 PA 258 (MCL 330.1001 - 330.2106) by adding sec. 207a & repeals sec. 207 of 1974 PA 258 (MCL 330.1207).

**Support in concept.**

26. [SB 0591](#)(Proos) Criminal procedure, expunction; Criminal procedure, other. Criminal procedure; expunction; setting aside criminal conviction on grounds of being a victim of human trafficking; allow under certain circumstances. Amends secs. 1, 2 & 4 of 1965 PA 213 (MCL 780.621 et seq.).

**Support SB 0591 with the recommended amendment that the expunction only apply to prostitution.**

**Future Goals and Activities:**

The committee will continue its public policy work and continue to look into various special projects as the need arises.