

CRIMINAL JURISPRUDENCE & PRACTICE COMMITTEE

Respectfully submits the following position on:

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HB 5842 – HB 5846

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The Criminal Jurisprudence & Practice Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Criminal Jurisprudence & Practice Committee only and is not an official position of the State Bar of Michigan, nor does it necessarily reflect the views of all members of the State Bar of Michigan.

The State Bar position on this matter is to support the bills.

The total membership of the Criminal Jurisprudence & Practice Committee is 17.

The position was adopted after discussion and vote at a scheduled meeting and a further e-vote. The number of members in the decision-making body is 17. The number who voted in favor to this position was 11. The number who voted opposed to this position was 1. The number who abstained from voting was 1.

Report on Public Policy Position

Name of Committee:

Criminal Jurisprudence and Practice

Contact persons:

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Bill Numbers:

[HB 5842](#) (Heise) Courts; appointed counsel; Michigan indigent criminal defense commission; reestablish within the department of licensing and regulatory affairs.

[HB 5843](#) (Howrylak) Courts; appointed counsel; Michigan indigent defense commission; reestablish in the department of licensing and regulatory affairs.

[HB 5844](#) (Kesto) Courts; appointed counsel; Michigan indigent defense commission; reestablish in the department of licensing and regulatory affairs.

[HB 5845](#) (Guerra) Courts; appointed counsel; Michigan indigent defense commission; reestablish in the department of licensing and regulatory affairs.

[HB 5846](#) (LaGrand) Courts; appointed counsel; reference to autonomy; eliminate and establish a salary and expenses structure.

Date position was adopted:

September 20, 2016

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting, and a further e-vote.

Number of members in the decision-making body:

17

Number who voted in favor and opposed to the position:

11 Voted for position

1 Voted against position

1 Abstained from vote

4 Did not vote (absent)

Position:

Support

Explanation of the position, including any recommended amendments:

In June, the Michigan Supreme Court conditionally approved the first set of indigent defense standards in Administrative Order 2016-2, but the Court stipulated that before the standards could go into effect the legislature would have to address several constitutional concerns that the Court had with the Michigan Indigent Defense Commission Act. The State Bar of Michigan has previously supported both the MIDC Act and the first set of standards issued by the MIDC.

The committee voted to support these bills because they address the constitutional issues raised by the Supreme Court, and will allow the MIDC to begin to promulgate standards and work with local indigent systems to meet those standards.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2016-HB-5842>

<http://legislature.mi.gov/doc.aspx?2016-HB-5843>

<http://legislature.mi.gov/doc.aspx?2016-HB-5844>

<http://legislature.mi.gov/doc.aspx?2016-HB-5845>

<http://legislature.mi.gov/doc.aspx?2016-HB-5846>

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- ✓ The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller-permissible explanation:

House Bills 5842-46 concern the functioning of the MIDC and directly affect the availability of legal services to society and the functioning of the courts. The MIDC finances and oversees legal representation to indigent defendants in criminal proceedings and sets forth minimum standards of such representation, thereby increasing the availability and quality of legal services to some of the most vulnerable members of society. In turn, by managing the representation of indigent defendants and setting forth minimum standards of such representations, the MIDC improves the functioning of the courts by helping to ensure that defendants receive competent legal counsel.