

**Public Policy Position
HB 4173**

The Criminal Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 2,332 members. The Criminal Law Section is not the State Bar of Michigan and the position expressed herein is that of the Criminal Law Section only and not the State Bar of Michigan. The State Bar's position is to support HB 4173, specifically the (H-1) substitute, with the following amendments:

- The membership of the Commission should be altered to ensure that it is balanced, and representative of the interests and stakeholders involved in, and impacted by, sentencing policy. Similar to the Joint Task Force on Jail and Pretrial Incarceration. The (H-1) membership is too heavily weighted toward law enforcement and prosecutors, while leaving out or underrepresenting other valuable perspectives.
- The Chair of the Commission should not be the Commission's "chief of staff", nor should the Chair be a paid position.
- The Legislature should also give consideration to language charging the Commission with making recommendations as to the extent to which sentencing guidelines should or should not apply to habitual offenders and the extent to which sentencing guidelines should apply to probation violations or be modified if applied to probation violations.

The Criminal Law Section has a public policy decision-making body with 13 members. On April 18, 2023, the Section adopted its position after a discussion and vote at a scheduled meeting. 13 members voted in favor of the Section's position, 0 members voted against this position, 0 members abstained, 0 members did not vote.

Support with Recommended Amendments

Explanation:

The Criminal Law Section supports the legislation in general and agrees that the Criminal Justice Commission should undoubtedly be reestablished. However, the Section is concerned about the scope of the Commission's work and the proposed composition of the body.

It seems the authority of the commission has been eroded since the first one was disbanded.

The chair should not be paid. It piqued the interest of several members that the chair of the commission will be paid. Also, the fact that the chair will be a Chief of Staff who is appointed by the Governor and paid by the legislature did not sit well with the majority. It seemed as though the designee for that position has already been selected.

There are too many seats on there for police and prosecutors. It should look more like the Joint Taskforce on Jail and Pretrial Incarceration. Not all defense attorneys are members of CDAM. So, important points of view will be missed if there are no public defenders on there. Currently, most of CDAM's members are people in private practice. Additionally, victims rights representatives should be included.

The Commission should address the habitual offender statute and applicability of guidelines to probation violations. Both are important facets of sentencing and both today are probably exacerbating higher sentences than are warranted.

We recommend the following amendments:

The Chair of the Commission should not be the Commission's "chief of staff" nor should the Chair be a paid position;

The Commission should determine the extent to which guidelines should or should not apply to habitual offenders; and

The Commission should determine the extent to which guidelines should apply to probation violations or be modified if applied to probation violations.

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