

**State Bar of Michigan
Criminal Jurisprudence and Practice Committee
Thursday, October 9, 2014 – 1 to 3 PM
State Bar of Michigan Building, 306 Townsend Street, Lansing, MI**

DRAFT MINUTES

Committee Members: Ryan Lee Berman, Wilson D. Brott, Nichole Jongsma Derks, Thomas E. Evans, Nimish R. Ganatra, J. Kevin McKay, Julia A. Powell, Richmond M. Riggs, Jonathan Sacks, Gretchen Schlaff, Samuel R. Smith III

SBM Staff: Peter Cunningham, Carrie Sharlow

Excused Absences: Donna McKneelen, Julia F. Norton, Susan F. Reed, Lee A. Somerville, Michael A. Tesner, Bruce A. Timmons

1. Call to Order & Welcome – The meeting was called to order at 1 PM.
2. 2014-2015 Committee Year
 - a. Member Introductions
 - b. Member Expectations
 - i. Attendance
 - ii. Quorum
 - iii. Liaison Assignments
3. *Keller v. California* – Peter Cunningham offered an explanation of the committee’s policy limits due to *Keller*.
4. New Business
 - a) [HB 5561](#) Criminal procedure, evidence; Crimes, homicide. Criminal procedure; evidence; certain requirements for retention of evidence; establish. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 23 to ch. XVI.

The committee voted to table the bill to track for action and eventual Keller discussion should the bill be reintroduced next year.

- b) [HB 5692](#) Criminal procedure; sentencing guidelines; sentencing guidelines commission; restore. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding secs. 32 & 33 to ch. IX.

There is already an existing bill that the committee and Bar has supported regarding the commission.

This bill is not going anywhere. Rep. Haveman bill has a good chance of moving.

What are the differences between this bill and the Haveman bill? This bill has the CJ on the sentencing commission; legislators on commission are different.

The committee voted unanimously to not take a position on this bill.

- c) [SB 1050](#) Criminal procedure, DNA; Law, sunset. Criminal procedure; DNA; filing deadline for petition seeking review of DNA evidence; extend sunset. Amends sec. 16, ch. X of 1927 PA 175 (MCL 770.16).

The committee voted unanimously (10 voting) to support the bill.

- d) [M CRIM JI 23.3 Larceny from the Person](#)
Submission deadline: November 1, 2014

The committee voted unanimously (10 voting) to support the amendment to M CRIM JI 23.3.

- e) [M CRIM JI 20.4 Complainant Thirteen, Fourteen, or Fifteen Years of Age](#)
[\[NEW\] M CRIM JI 20.14b Complainant Sixteen, Seventeen or Eighteen Years of Age](#)
[\[NEW\] M CRIM JI 20.14c Complainant At Least Sixteen But Less Than Twenty-Six Years of Age Receiving Special Education Services](#)
[\[NEW\] M CRIM JI 20.14d Complainant Over Sixteen Years Old and Attending Day Care or Residing in Foster Care](#)
Submission deadline: November 1, 2014

The committee voted unanimously (10 voting) to support the amendments to M CRIM JI 20.4, and the new rules to 20.14b, 20.14c, and 20.14d.

- f) [\[NEW\] M CRIM JI 17.36 Torture](#)
Submission deadline: December 1, 2014

The committee voted unanimously (10 voting) to support the new M CRIM JI 17.36.

- g) [\[AMENDED\] M Crim JI 20.1 Criminal Sexual Conduct in the First Degree](#)
[\[NEW\] M Crim JI 20.30b Defendant Seventeen Years of Age or Older and Victim Under the Age of Thirteen](#)
[\[NEW\] M Crim JI 3.32 Special Verdict Form \(Single Count\)](#)
Submission deadline: January 1, 2015

The committee voted unanimously (10 voting) to support the amendments to M CRIM JI 20.1, and the new rules to 20.30b and 3.32.

- h) [\[AMENDED\] M Crim JI 7.9 The Meanings of Mental Illness, Intellectual Disability and Legal Insanity](#)
[\[AMENDED\] M Crim JI 7.11 Legal Insanity; Mental Illness; Intellectual Disability; Burden of Proof](#)
Submission deadline: January 1, 2015

The committee voted unanimously (11 voting) to support the amendments to M CRIM JI 7.9 and 7.11.

5. Reports

- a. Criminal Law Section – No updates to present.
 - b. Michigan Indigent Defense Commission – The Commission has met once in September and will meet next week.
 - c. *Cunningham* – HB 5785 – Peter Cunningham offered background on the position taken by the Board of the Commissioners. This item will be added to the reports section of the agenda.
6. Future Meeting Dates
- November 13, 2014
 - December 11, 2014
 - January 8, 2015
 - February 12, 2015
 - March 12, 2015
 - April 16, 2015
 - May 14, 2015