

**State Bar of Michigan  
Criminal Jurisprudence and Practice Committee  
Thursday, October 10, 2013 – 1 to 3 PM  
State Bar of Michigan Building, 306 Townsend Street, Lansing, MI**

**MINUTES**

Committee Members: Ryan Lee Berman, Mary Alexis Bowen, Thomas P. Clement, Nichole Jongsma Derks, Nimish R. Ganatra, Daniel Corrigan Grano, James W. Heath, J. Kevin McKay, Julia F. Norton, Jonathan Sacks, Gretchen A. Schlaff, Samuel R. Smith, Michael A. Tesner, Bruce A. Timmons (14)

Advisor: Donna McKneelen

SBM Staff: Peter Cunningham, Carrie Sharlow

1. Call to Order & Welcome – The meeting was called to order at 1:02 PM. The members introduced themselves.

Kevin and Nichole offered background on the committee handouts and liaison process.

2. New Business

- a. [2013-28 - Proposed Amendment of Rule 2.510 of the Michigan Court Rules](#)

The proposed amendments of MCR 2.510 would allow courts to authorize prospective jurors to complete and return questionnaires electronically, and would allow courts to create and maintain them electronically (i.e., in any medium authorized by court rules pursuant to MCR 1.109). The proposed change also would delete language in MCR 2.501(D) to clarify that the chief judge is responsible for initiation of the court's policies for summoning prospective jurors.

Issued: September 18, 2013

Comment period expiration: January 1, 2014

Liaison: Samuel R. Smith

**The committee supports the proposed amendment as the courts work towards becoming more electronic-friendly. However, the question was raised during the discussion of the proposed amendment that it might conflict with the current statutory requirements for retention of paper jury questionnaires.**

- b. [HB 4867](#) (Leonard) Criminal procedure; sentencing guidelines; offense variable 10 related to the exploitation of a vulnerable victim; expand definition of predatory conduct to include preoffense conduct directed at a law enforcement officer posing as a potential victim. Amends sec. 40, ch. XVII of [1927 PA 175](#) (MCL [777.40](#)).

Liaison: Thomas P. Clement

**The committee decided that this bill was not Keller permissible.**

- c. [HB 4893](#) (O'Brien) Children; protection; central registry records; require certain notifications to recipients regarding expungement, limit maintenance of records to

10 years, and add certain individuals to the list of those who may receive the confidential record. Amends secs. 2, 7 & 8d of [1975 PA 238](#) (MCL [722.622](#) et seq.).  
Liaison: Mary Alexis Bowen

**The committee decided that this bill was not Keller permissible.**

- d. [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. XIA of 1939 PA 288 (MCL 712A.18e).

Liaisons: Nimish R. Ganatra

The committee was in agreement that this is Keller permissible because the bill negatively affects the functioning of the court. First, the removal of the Attorney General in this process would create a good deal of extra work for the county prosecutor. Secondly, this would affect the information flow within the court system.

**The committee voted unanimously to oppose the bill.**

- e. [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).

Liaison: Ryan Lee Berman

**The committee voted unanimously to oppose SB 0518. While this gives the court another remedy to collect money owed, there are too many problems with this bill. First, the bill does not say who pays the cost of immobilization [the court or person owing the money] and how that will be paid. Second, what happens when the main driver of the vehicle is not the titled owner, and what about if a person has multiple vehicles? Finally, if a person depends on the vehicle to get to work, then the ability to pay the fine is removed when it is immobilized. This thwarts the whole intent of the bill.**

- f. [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.

Liaison: Daniel Corrigan Grano

**The committee voted thirteen to oppose the bill, one member abstaining.**

- g. [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).  
Liaison: Jonathan Sacks

**The committee will table this item to the November 14<sup>th</sup> meeting.**

### 3. Reports

- a. Criminal Law Section –  
Bruce Timmons is the Criminal Law Section liaison. The Section meets next week.
- b. Eyewitness Task Force –  
The task force has “wrapped-up” its work. Nancy Diehl and Valerie Newman have met with various police associations. MCOLES is including the task force reports in their training.
- c. Indigent Defense –  
The Michigan Indigent Defense Commission has been created by law. This is currently being formed. The governor has promised funding.

### 4. Adjournment – The committee adjourned at 2:10 PM.