

**State Bar of Michigan
Criminal Jurisprudence and Practice Committee
Thursday, April 28, 2011, 2 PM
at the State Bar of Michigan Building**

Teleconference 1-877-352-9775, Passcode 9152168764#

Minutes

Committee Members: Hon. David A. Hoort, Nichole Jongsma Derks, Abed E. Hammoud, J. Kevin McKay, Donna McKneelen, Barry Franklin Poulson
SBM Staff: Elizabeth Lyon, Carrie Sharlow

1. Call to Order & Welcome – The meeting was called to order at 2:08 P.M.
2. Approval of Minutes – These will be sent out for an e-vote.
3. Old Business
 - a. Juvenile Competency

[SB 0246](#) (Schuitmaker) Juveniles; criminal procedure; juvenile competency standards; revise. Amends sec. 1, ch. XIA of [1939 PA 288](#) (MCL 712A.1) & adds secs. 18n, 18o, 18p, 18q, 18r & 18s to ch. XIA.
Status: 03/09/11 Referred to Senate Judiciary

[SB 0247](#) (Schuitmaker) Juveniles; criminal procedure; juvenile competency and culpability; clarify. Amends secs. 498d, 498e & 498h of [1974 PA 258](#) (MCL [330.1498d](#) et seq.) & adds secs. 1060, 1060a, 1060b, 1060c, 1062, 1064, 1066, 1068, 1070, 1072 & 1074.
Status: 03/09/11 Referred to Senate Judiciary

[HB 4555](#) (Lipton) Juveniles; criminal procedure; juvenile competency and culpability; clarify. Amends secs. 498d & 498h of [1974 PA 258](#) (MCL [330.1498d](#) et seq.) & adds secs. 1060, 1060a, 1060b, 1060c, 1062, 1064, 1066, 1068, 1070, 1072 & 1074.
Status: 04/14/11 Referred to House Judiciary

[HB 4556](#) (Lipton) Juveniles; criminal procedure; juvenile competency standards; revise. Amends sec. 1, ch. XIA of [1939 PA 288](#) (MCL 712A.1) & adds secs. 18n, 18p, 18o, 18q, 18r & 18s to ch. XIA.
Status: 04/14/11 Referred to House Judiciary

Position for E-vote: Adopt the same position as the Criminal Law Section supporting the legislation but with a requested amendment that if a forensic mental health examiner is not available, the court should appoint another qualified person for the competency exam.

4. New Business

- a. [ADM File No. 2011-05 Proposed Amendments of Rules 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.9, 1.13, 1.14, 1.15, 1.16, 1.17, 3.2, 4.1, 4.3, 5.2, and 8.4 of the Michigan Rules of Professional Conduct](#)

The proposed amendments of MRPC 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.9, 1.13, 1.14, 1.15, 1.16, 1.17, 3.2, 4.1, 4.3, 5.2, and 8.4 would incorporate language from the comments of these rules into the rule itself.

Issued: March 22, 2011

Commend Period Expires: July 1, 2011

Public Hearing: To be scheduled

The committee shall circulate the document again and soliciate remarks from its members and pass these along to the Ethics Committee.

- b. [HB 4472](#) (Pscholka) Corrections; parole; appointment of legal counsel for prisoner based upon appeal of parole by victim or prosecutor; prohibit under certain circumstances. Amends sec. 34 of [1953 PA 232](#) (MCL [791.234](#)).

Status: 04/14/11 Referred to House Judiciary

Position for e-vote: the committee votes to oppose the bill because it takes away the discretion of the judge in appointing counsel for the prisoner.

- c. Michigan Supreme Court Terms
Letter from Civil Procedure & Courts Committee

Position for e-vote: the committee votes to support the recommendation that the Supreme Court year be based on the calendar year.

- d. Proposed MCL 712.A.11 – Consent Calendar

The committee will table the matter and wait to see the upcoming legislation.

5. Committee Reports

- a. Medical Marijuana Subcommittee
b. Criminal Law Section

The CLS is hosting a Policy Conference on June 17-19, 2011 at the Grand Hotel on Mackinac Island. This year's topic is Michigan's Medical Marihuana Act. For information, contact Charles Marr (marrlaw@msn.com or 248.596.1599).

- c. Public Defense Update

The same appears to continue to receive across the board support.

- d. Custodial Interrogation Recording Task Force

The legislation has been passed by the Senate (38-0) and is now under consideration by the House.

6. Adjournment.

NOTE:

Due to the lack of quorum, an e-vote was sent out. The final votes were as follows:

Juvenile Competency (SB 0246 – SB 0247; HB 4555 – HB 4556): 13 members in favor of the motion, 0 against
HB 4472: 12 members in favor of the motion, 1 against
Michigan Supreme Court Terms: 11 members in favor of the motion, 1 against