

CRIMINAL LAW SECTION

Respectfully submits the following position on:

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SB 246 & SB 247

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The Criminal Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Criminal Law Section only and is not the position of the State Bar of Michigan.

The State Bar's position on this matter is to support the bills, with amendments requested by the Criminal Law Section regarding the qualified person to perform a competency exam.

The total membership of the Criminal Law Section is 2,186.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 12. The number who voted in favor to this position was 10. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of section:

Criminal Law Section

Contact person:

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Bill number:

[SB 246](#) (Schuitmaker) Juveniles; criminal procedure; juvenile competency standards; revise. Amends sec. 1, ch. XIIA of [1939 PA 288](#) (MCL 712A.1) & adds secs. 18n, 18o, 18p, 18q, 18r & 18s to ch. XIIA.

[SB 247](#) (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.

Date position was adopted:

April 19, 2011

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

12

Number who voted in favor and opposed to the position:

10 Voted for position

0 Voted against position

2 Abstained from vote

0 Did not vote

Position:

Support in Principle

Explanation of the position, including any recommended amendments:

While the Section sees this legislation as necessary in filling a gap in the juvenile system, we are not in favor of only social workers doing the competency evaluations. The Section has an issue with the qualifications of the examiners, and feel an amendment is required, stating that if a forensic mental health examiner is not available, the court should appoint another qualified person for the competency exam.

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?2011-SB-0246>

<http://legislature.mi.gov/doc.aspx?2011-SB-0247>