

CRIMINAL JURISPRUDENCE & PRACTICE COMMITTEE

Respectfully submits the following position on:

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SB 0246, SB 0247, HB 4555, and HB 4556

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The Criminal Jurisprudence & Practice Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Criminal Jurisprudence & Practice Committee only and is not an official position of the State Bar of Michigan, nor does it necessarily reflect the views of all members of the State Bar of Michigan.

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

The total membership of the Criminal Jurisprudence & Practice Committee is 19.

The position was adopted after discussion and vote at a scheduled meeting and a further e-vote. The number of members in the decision-making body is 19. The number who voted in favor to this position was 14. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of committee:

Criminal Jurisprudence & Practice Committee

Contact persons:

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Bill Number:

[SB 0246](#) (Schuitmaker) Juveniles; criminal procedure; juvenile competency standards; revise. Amends sec. 1, ch. XIIIA of [1939 PA 288](#) (MCL 712A.1) & adds secs. 18n, 18o, 18p, 18q, 18r & 18s to ch. XIIIA.

[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.

[HB 4555](#) (Lipton) 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.

[HB 4556](#) (Lipton) Juveniles; criminal procedure; juvenile competency standards; revise. Amends sec. 1, ch. XIIIA of [1939 PA 288](#) (MCL 712A.1) & adds secs. 18n, 18o, 18p, 18q, 18r & 18s to ch. XIIIA.

Date position was adopted:

May 12, 2011

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting and a further e-vote

Number of members in the decision-making body:

19

Number who voted in favor and opposed to the position:

14 Voted for position
0 Voted against position
0 Abstaining
5 Did not vote

Position:

Adopt the position of the Criminal Law Section

Explanation of the position, including any recommended amendments:

The Committee voted to adopt the position taken by the Criminal Law Section which stated the following:

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>

<http://legislature.mi.gov/doc.aspx?2011-HB-4555>

<http://legislature.mi.gov/doc.aspx?2011-HB-4556>

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

Keller-permissible explanation:

The bills address a direct access to the court issue that is faced by juvenile defendants in the system. A competency determination will determine how a juvenile enters the system.