2026 July Board of Commissioners Meeting

Schedule	Friday, July 24, 2026 9:30 AM — 1:00 PM EDT
Venue	State Bar of Michigan
Organizer	Amy Owens

Agenda

1. Call to Order

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
Friday, July 24, 2026
Michael Franck Building
AGENDA
9:30am

State Bar of Michigan Statement of Purpose

"The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state."

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

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1. **Call to Order** .... Lisa J. Hamameh, President

2. **Consent Agenda**

   2.1. Minutes
   - 2.1.1. June 12, 2026, Board Meeting*
   - 2.1.2. May 20, 2026, Executive Committee Meeting*

   2.2. President's Activities* ....
   Lisa J. Hamameh, President

   2.3. Executive Director's Activities* ....
   Peter Cunningham, Executive Director

   2.4. Finance and Audit Committee – FY2026 Financial Reports through May 2026* ....
   David C. Anderson, Treasurer

   2.5. Professional Standards Committee ....
   Suzanne C. Larsen, Secretary
   - 2.5.1. Client Protection Fund Claims (CPF)*
   - 2.5.2. Unauthorized Practice of Law Claims (UPL)*

   2.6. Appointments ....
   Lisa J. Hamameh, President
   - 2.6.1. Institute for Continuing Legal Education (ICLE) Recommendations – Takura Nyamfukudza*

   2.7. Public Policy – Model Jury Instructions* ....
   Erika L. Bryant, President-Elect

3. **Board Secretary Election**
   - 3.1. Aaron V. Burrell*
   - 3.2. Joshua A. Lerner*
   - 3.3. James W. Low*
   - 3.4. Gerard V. Mantese*

4. **Upcoming Events – SBM Event Calendar**

LEADERSHIP REPORTS

5. **President's and Executive Director's Report** ....Lisa J. Hamameh, President
   Peter Cunningham, Executive Director
   - 5.1. Michigan Supreme Court Commissions Updates
   - 5.2. BOC Retreat Update
   - 5.3. SBM Presentation – Public Policy

6. **Discussion : Challenges & Opportunities for the Profession and Justice System : CLEAR Report***

7. **Representative Assembly Report** ....Nicole A. Evans, Chairperson

8. **Young Lawyers Section Report** .... Jacob Eccleston, Chairperson

COMMISSIONER COMMITTEES

9. **Public Policy**.. Erika L. Bryant, President-Elect
   - 9.1. Court Rules*
   - 9.2. Legislation*
   - 9.3. ADR Section Proposals*

10. **Audit and Finance** ....David C. Anderson, Treasurer
    - 10.1. Finance Report
    - 10.2. FY 2027 Budget*

11. **Professional Standards** ....Suzanne C. Larsen, Secretary

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12. **For the Good of the Public and the Profession**
    - 12.1. Comments or Questions from Commissioners
    - 12.2. Public Comment
      Any member of the public who wishes to address the commissioners during public comment must sign up before 9:30 a.m. on the date of the meeting using the "Public Comment Sign Up" sheet available at the front desk of the State Bar Building.

13. **Adjournment**

*Materials included with the agenda.

2. Consent Agenda

For Approval

2.1. Minutes

Presented by Lisa J. Hamameh

2.1.1. June 12, 2026, Board Meeting*

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS MEETING MINUTES

President Hamameh called the meeting to order at 8:38 a.m. on Friday, June12, 2026, in the Grand Pavilion Room at the Grand Hotel on Mackinac Island, Michigan.

Commissioners present:

David C. Anderson, Treasurer
Hon. Karl A. Barr
Darnell Barton
Erika L. Bryant, President-Elect
Aaron V. Burrell
Hon. B. Chris Christenson
Alena Clark
Hon. Ponce Clay
Patrick J. Crowley
Tanisha Davis
Sherriee L. Detzler
Robert A. Easterly
Jacob G. Eccleston
Nicole A. Evans
Lisa J. Hamameh, President
Thomas H. Howlett, Vice-President
Elizabeth A. Kitchen-Troop
Suzanne C. Larsen, Secretary
Joshua A. Lerner
James L. Liggins, Jr.
James W. Low
Ashley E. Lowe
Elizabeth L. Luckenbach
Silvia A. Mansoor
Gerard V. Mantese
Moheeb H. Murray
Thomas P. Murray, Jr.
Gerrow D. "Gerry" Mason
Nicholas M. Ohanesian
Hon. David A. Perkins
Hon. Kristen D. Simmons
Lisa W. Timmons

Commissioners absent:

Claudnyse D. Holloman
Douglas B. Shapiro

Consent Agenda

The Board received the minutes from the April 24, 2026, Board meeting.
The Board received the minutes from the February 11, 2026, Executive Committee meeting.
The Board received the minutes from the April 13, 2026, Executive Committee meeting.
The Board received the recent activities of the president.
The Board received the recent activities of the executive director.
The Board received the FY 2026 financial reports through April 2026.
The Board received the Strategic Planning and Engagement Section Bylaw Amendments.

President Hamameh asked if any items needed to be removed from the consent agenda. There were none.

A motion was offered and approved to accept the consent agenda.

Upcoming Events

President Hamameh shared the link to the SBM Events Calendar and highlighted several upcoming events.

President and Executive Director's Report: Lisa Hamameh, President and Peter Cunningham, Executive Director

President's Report

President Hamameh highlighted recent activities since the last Board meeting and noted that outlying counties really appreciate attendance from the commissioners. President Hamamah asked if commissioners are invited that they do their best to attend.

Executive Director's Report

Michigan Supreme Court Commissions Updates

Justice For All Commission

Mr. Cunningham provided an update on the Legal Practitioner Pilot Program, noting its anticipated impact on the FY2027 budget. He reported that the court-appointed steering committee is finalizing its recommendations for a proposed pilot program, with implementation anticipated in 2027, pending Supreme Court approval. SBM staff continue to work with SCAO and the Justice for All Commission on development of the Character and Fitness portal and expansion of SBM's regulatory responsibilities. Current recommendations contemplate legal practitioners as affiliate members of the State Bar of Michigan, allowing the Board to set a license fee for legal practitioners up to the amount attorneys are charged.

2026 SBM Officer Election Update

President Hamameh provided an update on the officer election and announced the five candidate submissions: Aaron V. Burrell, Gerard V. Mantese, James W. Low and Joshua A. Lerner, Gerry Mason. President Hamameh noted that Gerry Mason is tentatively on the slate but will only be eligible if he is reappointed as a Commissioner by the Supreme Court prior to the July officer election.

2026 SBM Election Update

Amy Owens, Sr. Executive Assistant, provided an update on the SBM elections indicating out of 41,236 ballots sent out, 5,243 have been returned which is a 12.71% return rate.

Staff Updates

Director Cunningham introduced Katie Stanley, Director of Outreach and Engagement.

Closed Session

A motion was offered and approved that the Board enter a closed discussion to consider a proposed contract with Adna Technologies. The Board went into closed session at 8:58 a.m. The Board returned to open session at 9:22 a.m. A motion was offered and approved to approve the proposed contract with Adna Technologies.

Representative Assembly (RA) Report: Nicole A. Evans, Chairperson

Chair Evans reported that the first meeting of the Representative Assembly was held on April 25th in Lansing where the RA approved four proposals.

Chair Evans also congratulated Commissioner James L. Liggins for being selected to receive the Michael Franck Award from the Representative Assembly.

Young Lawyers Section (YLS) Report: Jacob Eccleston, Chairperson

Mr. Eccleston thanked the BOC officers who attended the YLS vs BOC challenge and reported on recent events, including a Mother's Day legal resource event and a financial security seminar.

COMMISSIONER COMMITTEES

<u>Public Policy:</u> Erika L. Bryant, President-Elect
President-Elect Bryant provided the report for the Public Policy committee.

<u>Legislation</u>

1. **HB 5281** (Harris) Financial institutions: other; third-party litigation funding transparency; provide for. Creates new act.

A motion was offered and approved that this legislation is *Keller*-permissible.

A motion was offered and approved with one opposition to oppose the legislation HB 5281 as drafted.

2. **Mandatory Minimums Legislation**
HB 5831 (Steele) Crimes: terrorism; penalties for acts of terrorism; modify. Amends sec. 543f of 1931 PA 328 (MCL 750.543f).
HB 5907 (St. Germaine) Criminal procedure: sentencing; mandatory sentencing for certain crimes in the vehicle code; require. Amends secs. 601b, 602a, 617 & 625 of 1949 PA 300 (MCL 257.601b et seq.).
HB 5908 (Hoadley) Criminal procedure: sentencing; mandatory sentencing for certain crimes in the riots act; require. Amends sec. 4 of 1968 PA 302 (MCL 752.544).
HB 5909 (Wozniak) Criminal procedure: sentencing; mandatory sentencing for certain crimes in the Medicaid false claim act; require. Amends sec. 6 of 1977 PA 72 (MCL 400.606).
HB 5910 (Wozniak) Criminal procedure: sentencing; mandatory sentencing for certain crimes in the social welfare act; require. Amends sec. 60 of 1939 PA 280 (MCL 400.60).
HB 5911 (Bruck) Criminal procedure: sentencing; mandatory sentencing for certain crimes in the identity theft act; require. Amends sec. 9 of 2004 PA 452 (MCL 445.69).
HB 5912 (Johnsen) Criminal procedure: sentencing; mandatory sentencing for certain crimes regarding contraband in jails; require. Amends secs. 2, 2a, 3 & 5 of 1981 PA 7 (MCL 801.262 et seq.).
HB 5913 (Johnsen) Criminal procedure: sentencing; mandatory sentencing for certain crimes regarding contraband in prisons; require. Amends secs. 1, 3, 3a & 5 of 1909 PA 17 (MCL 800.281 et seq.).
HB 5914 (Schuette) Criminal procedure: sentencing; mandatory sentencing for certain crimes in the public health code; require. Amends (See bill)
HB 5915 (Kuhn) Criminal procedure: sentencing; mandatory sentencing for certain crimes in the sex offender registration act; require. Amends sec. 9 of 1994 PA 295 (MCL 28.729).
HB 5916 (Kuhn) Criminal procedure: sentencing; mandatory sentencing for certain crimes in the revised judicature act; require. Amends sec. 2950 of 1961 PA 236 (MCL 600.2950).
HB 5917 (Pavlov) Criminal procedure: sentencing; mandatory sentencing for certain crimes; require. Amends & repeals (See bill).
HB 5918 (Pavlov) Criminal procedure: sentencing guidelines; sentencing guidelines for certain crimes; update. Amends (See bill).

A motion was offered and approved that the legislation is Keller-permissible.

A motion was offered and approved with one abstention to oppose the legislation to the extent that the bills would limit judicial discretion by imposing a mandatory minimum sentence of incarceration.

3. **SB 909** (Chang) Civil procedure: remedies; wrongful imprisonment compensation act; modify evidence requirements. Amends secs. 2, 4, 5 & 7 of 2016 PA 343 (MCL 691.1752 et seq.).

A motion was offered and approved that the legislation is *Keller*-permissible.

A motion was offered and approved to support SB 909.

Strategic Planning and Engagement Committee (SPEC): Thomas H. Howlett, Vice President

Bar Journal Recommendations
Commissioner Lerner provided an analysis of the Michigan Bar Journal's operations and strategic value. He noted that the Net Promoter Score for the Michigan Bar Journal is zero, the increasing costs associated with mailing a print magazine, and the increasing preference among attorneys for digital communications. (Only 27% of new attorneys opt for print.) Based on this analysis, the Strategic Planning and Engagement Committee is making the following recommendations:

- Reduce frequency from 11 issues to 8 issues per year starting in January 2027 with one issue per year being mailed to all members.
- Require members to annually opt-in to receive the print version.
- Send the email/online version of the Michigan Bar Journal to all members.
- Pursue online publication for Supreme Court notices to free up space for additional editorial content in each issue.
- Transition the Bar Journal Committee to an Editorial Board to focus their mission on improving the content featured in the Michigan Bar Journal.

A motion was offered and approved to adopt the five recommendations presented to the board.

Liberty Bell Award
Tom Howlett presented the Hispanic Center of West Michigan as the nominee for the Liberty Bell award.

A motion was offered and approved to accept the Hispanic Center of West Michigan for the Liberty bell award for 2026.

Partner Programs
Ms. Robin Eagleson, Director of Lawyer Services, presented on two new partner programs:

Lexara is a multifaceted legal services company that provides comprehensive client intake solutions and AI consulting services for law firms. The discount for State Bar of Michigan members is 20% off the standard subscription rate for Lexara Engage. SBM will earn a royalty payment equal to 15% of gross revenue generated through the partnership arrangement.

A motion was offered and approved to accept Lexara as a partner program.

Smith.ai is a 24/7 virtual receptionist and business communications platform that combines AI-Driven technology with live, North America-based agents. The platform manages inbound and outbound calls, website chat and SMS communications, while offering services such as lead screening, appointment scheduling and payment collection as well as live receptionist support. The discount for the State Bar of Michigan members is $100 off the first month of service. Royalty to SBM is a 10% lifetime commission with a potential increase to 15% once $10,000 in revenue has been reached.

A motion was offered and approved to accept Smith.ai as a partner program.

<u>2026-2027 Committee Jurisdiction Resolution</u>
Vice President Howlett presented the proposed committee jurisdictions for the 2026-2027 bar year, highlighting two changes from the current committee jurisdictions. Most notably the current Michigan Bar Journal Committee is being discontinued and being replaced by the Michigan Bar Journal Editorial Board.

A motion was offered and approved to adopt the 2026-2027 committee resolution.

<u>Finance and Audit:</u> David C. Anderson, Treasurer
Treasurer Anderson reviewed the financial results through the reporting period, noting we are favorable to budget.

Treasurer Anderson reminded the Commissioners of the budget meeting scheduled for June 25 via Zoom and invited all Commissioners to attend.

<u>FY 2027 Preliminary Budget Summary</u>
Peter Cunningham presented the FY 2027 preliminary budget summary providing a reminder that the final budget would be presented to the Board at the July 24 BOC meeting.

<u>Professional Standards:</u> Suzanne C. Larsen, Secretary
Secretary Larsen indicated she had no new items to report as the committee had not met since the last BOC meeting.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

<u>Comments or questions from Commissioners</u>
Commissioner Mason invited Commissioners to the American Indian Law Section's Annual Conference on August 13 and 14 in Mt. Pleasant.

Commissioner Clark invited everyone to attend a virtual trans awareness panel on June 25, from 6:00-7:30pm that the LGBTQ+ Law Section is hosting.

President-Elect Erika Bryant thanked everyone who nominated a colleague or someone they knew for an SBM award and encouraged everyone to submit nominations for next year as well.

Commissioner Timmons invited all to attend the Annual President's Dinner, hosted jointly by the Wolverine Bar Association, the Association of Black Judges of Michigan, the Black Women Lawyers of Michigan and the Wolverine Bar Foundation, on June 25 at Greektown Casino in Detroit.

Commissioner Barton updated the Commissioners on the Journey for Attorney program indicating that a pitch deck promoting the program would be coming soon. Mr. Barton also noted they would be conducting interviews on the porch this evening for an upcoming YLS podcast. Lastly, Mr. Barton stated that NTAC would be coming in November and asked that the BOC members sign up and participate as judges.

Commissioner Mantese provided a reminder that on March 31, an executive order was issued that would change how people can send in mail-in ballots and noted this presents a significant threat to our democracy. Public comments are due on July 2.

Comments or questions from the public
None

Adjournment
The meeting was adjourned at 11:30 a.m.

2.1.2. May 20, 2026, Executive Committee Meeting*

State Bar of Michigan
Executive Committee Virtual Meeting
Wednesday, May 20, 2026
4:00 p.m.

President Hamameh called the meeting to order at 4:00 p.m.

Members Present: President Lisa J. Hamameh, President-Elect Erika Bryant, Vice-President Thomas H. Howlett, Treasurer David C. Anderson, Secretary Suzanne C. Larsen, Representative Assembly Chair-Elect Alena Clark, Commissioner Sherriee L. Detzler, Commissioner Robert A. Easterly, Representative Assembly Chair Nicole A. Evans, Commissioner James L. Liggins Jr.

State Bar Staff Present: Peter Cunningham, Executive Director; Amy Owens, Senior Executive Assistant; Assistant Executive Director; Kari Thrush, Assistant Executive Director; Marjory Raymer, Director of Communications

Minutes:
A motion was offered and supported to approve the February 11, 2026, and the April 24, 2026, meeting minutes. The motion was approved.

President and Executive Director's Report
President Hamameh spoke about current events she attended including the Wolverine Barristers' Ball where President-Elect Erika Bryant was awarded the Excellence in Leadership Award. Ms. Hamameh also attended Brunch for Bars describing it as a strong event and spoke at the Judicial Memorial Plaque Dedication Ceremony (receiving local legal news coverage) honoring five deceased judges. In addition, President Hamameh attended the St. Clair County Bar Association annual meeting; the 50-Year Honoree Luncheon, which she described as a truly remarkable event; the U.S. Courts Committee Bench Bar Event attended by Michigan Supreme Court justices and federal judges; and the YLS vs. BOC competition, where the BOC won the championship belt, which will be displayed at the June meeting.

Peter Cunningham spoke about Brunch for Bars stating it was one of the best bar events he has ever attended. He noted the strong participation, meaningful connections and the engagement of the attendees from the Upper Peninsula, particularly their interest in participating with the State Bar on solutions.

Mr. Cunningham also talked about the Probate and Estate Planning Institute, where remarks were focused on Legal Deserts and RA recommendations. There was immediate volunteer interest in career panels at law schools featuring rural attorneys.

Also discussed was a new source of non-dues revenue with the Oakland County Bar Association (OCBA). OCBA has requested informational and strategic legislative support rather than lobbying services. A proposal has been presented for Nathan Triplett to attend OCBA monthly meetings to provide Lansing updates, answer questions and offer strategic guidance without engaging lobbying activities on OCBA's behalf. The arrangement would serve as a pilot program at a cost of $1200 per quarter, with the possibility of expanding similar limited services to other bar associations in the future.

Representative Assembly (RA) Report

Chair Evans discussed first RA meeting of the year where four proposals were discussed and passed. Ms. Evans also announced award recipients noting that the Michael Frank Award went to Commissioner James L. Liggins and the Unsung Hero Award being presented to Samuel H. Pietsch and Rita O. White.

Bar Journal Recommendations from SPEC

Vice President Tom Howlett indicated the Bar Journal recommendations will be included as an agenda item at the June BOC meeting; however, he thought it was important for the Executive Committee to be aware of the proposed recommendations in advance.

Mr. Howlett provided background regarding the recommendations noting that the Michigan Bar Journal has been identified as the Bar's most expensive programs and currently has a net promoter score of zero, meaning that although people get it, it has an equal number of detractors from promoters. He further noted that the cost per issue is approximately $33,000, while revenue generated per issue is approximately $15,000, resulting in a net loss for each issue published and distributed by mail. In addition, current trends reflect a decline in the number of members who prefer to receive physical copies.

Recommendations:

- Reduce the number of issues that the bar journal publishes from 11 to 8 with one new/different issue mailed to every member to promote Bar activities/programs. This will save approximately $39,000 a year.
- Implement an annual opt-in to receive the printed bar journal. This would be tied to the members' license renewal but may take a year to implement.
- Email the online version of the journal to all members which currently does not happen.
- With help from the Michigan Supreme Court, clarify and potentially reduce/eliminate the need to publish administrative orders and similar materials in the journal as these items consume a significant number of pages.
- Transition from the current Bar Journal standing committee to an "Editorial Board" that would advise and consult with staff on the content of the Bar Journal but serve as a sounding board on the articles, quality, content, etc. With this change there would be a reduction in size to about 15 people with a committee jurisdiction change that all Board members would receive. While there may be pushback on the change, the hope is this could reset expectations and improve collaboration.

Vice President Howlett shared a memo that will go to both SPEC and the Board regarding the recommendations. The memo will be included in the June BOC packet along with slides that Josh Lerner will present to the Board.

President-Elect Erika Bryant raised a concern with imbalance on all committees and long serving members. She would like to see us strike a more even-handed balance to retain institutional knowledge while also holding the door open for new volunteers.

June 12, 2026, Board Agenda

The Committee discussed the June 12 Board meeting agenda. A motion was offered and supported to approve the June 12, 2026, draft Board agenda with the following amendments:

- Change start time to 8:30am
- Add the SBM calendar link to the “Upcoming Events” section
- Add the “Liberty Bell Award” to the SPEC section
- Reorder SPEC so Bar Journal Recommendations are addressed before Committee Jursidication Changes
- Add “Section Bylaw Amendments” to the consent agenda

Adjournment

The meeting was adjourned at 5:01 p.m.

2.2. President's Activities*

Presented by Lisa J. Hamameh

President Lisa J. Hamameh
President's Activities
June 13 through July 24, 2026

Date	Event	Location
June 19	MAMA/GLS Joint Summer Conference	Petoskey
July 8	SBM Executive Committee Meeting	Zoom
July 17	Board Officers Dinner	Clarkston
July 24	Board of Commissioners Meeting	Lansing

2.3. Executive Director's Activities*

Presented by Peter Cunningham

Executive Director Peter Cunningham Activities
June 13 through July 24, 2026

Date	Event
June 15	Meeting with James Liggins regarding strategic planning
June 15	NCBP-NABE DEI Joint Plenary Prep Call
June 17	ADNA Onboarding Project Kickoff Meeting
June 18	Call with Chief Justice Cavanagh
June 18	Justice For All Commission (JFA) Executive Team Meeting
June 18	Erika Bryant Presidential Onboarding
June 22	Bar Leadership Event Planning
June 23	Meeting with Lisa Hamameh and Erika Bryant
June 24	Meeting with James Liggins and ABA Center for Bar Leadership regarding strategic planning
June 25	Finance and Audit Committee – FY2027 Budget Meeting
June 26	Meeting with MSU Law School regarding support of NSF grant on statewide artificial intelligence hub
June 29	Michigan Association of Bar Executives Meeting
June 30	Interview with Kalamuna on SBM Website
July 6	Commission on Well-Being in the Law Executive Team Meeting
July 7	Meeting with Lisa Hamameh and Suzanne Larson on UP Tour Logistics
July 8	SBM Executive Committee Meeting
July 9	JFA Executive Team Meeting
July 9	NCBP-NABE DEI Joint Plenary Prep Call
July 9	Call with Jeff Kirkey from ICLE
July 10	Commission on Fairness and Public Trust Executive Team Meeting
July 14	State Planning Body Meeting
July 16	Call with Chief Justice Cavanagh

July 21	JFA Resource Committee Meeting
July 21	Professional Standards Committee Meeting
July 22	Public Policy Committee Meeting
July 23	JFA Executive Team Meeting
July 24	Board of Commissioners Meeting

2.4. Finance and Audit Committee - FY2026 Financial Reports through May 2026*

Presented by David C. Anderson

State Bar of Michigan Financial Results Summary

For the Eight Months Ended May 31, 2026
Fiscal Year 2026

<u>Administrative Fund - Summary of Results as of May 31, 2026</u>

Operating Revenues	$8,863,257
Operating Expenses	(8,411,783)
Operating Income (Loss)	451,474
Non-Operating Income (Loss)	982,787
Change in Net Position	$1,434,261
Net Position, October 1, 2025	$18,394,134
Net Position, May 31, 2026	$19,828,396

As of May 31, 2026, Net Position *excluding* net assets restricted for retiree healthcare was $14,857,921, an increase of $1,025,963 since the beginning of the year and favorable to budget by $1,071,710.

YTD Operating Revenue variance – $269,334, <u>favorable to</u> budget (3.1%):

- License fee and related revenue was higher than budget by $29,800 (0.4%) due to higher late fees, partially offset by lower delinquent dues and lower reinstatement fees.
- Other operating revenue was higher than budget by $239,534 (15.4%) primarily due to higher Bar Journal, Character & Fitness, E-Journal, Lawyer Referral Services, Lawyer Services, Print and Design, IAP, and Digital revenues, partially offset by lower Great Lakes Legal Conference revenues.

YTD Operating Expense variance - $767,064, <u>favorable to</u> budget (8.4%):

Labor Operating Expenses - $356,269, favorable (5.8%)

- Salaries expenses were lower than budget by $256,583 (5.5%) due to vacancies.
- Employee Benefits & Payroll Taxes were lower than budget by $99,686 (6.4%) due to vacancies and timing of some expenses.

Non-Labor Operating Expenses - $410,795, favorable (13.6%)

- Division 1 - $85,819, favorable (20.7%) primarily due to lower IAP, UPL, Outreach, and Character & Fitness expenses, and higher Diversity expenses.

- Division 2 - $273,948, favorable (18.0%) primarily due to lower IT, Facilities, Bar Journal, Digital, 50 Year Event, Inauguration and Awards Lunch, Research, Lawyer Services, Lawyers & Judges Assistance Program, and General Communications expenses.

- Division 3 - $51,029, favorable (4.8%) primarily due to lower Human Resources, Finance, General Counsel, Executive Office, Representative Assembly, and Administration expenses, partially offset by higher Board of Commissioners expenses.

YTD Non-Operating Revenue Budget Variance - $518,451, favorable to budget (111.7%):

- Investment income is favorable to budget by $35,312 (7.6%) due to higher interest rates and investment balances.
- Retiree Health Care Trust had a net investment income of $483,140 (this amount is not budgeted).

Cash and Investment Balance

As of May 31, 2026, cash and investment balances net of *due to Sections, ADS, Client Protection Fund, and Retiree Health Care Trust* were $15,779,673, an increase of $2,110,643 from the beginning of the year primarily due to collection of license fees.

SBM Entities Retiree Health Care Trust

As of May 31, 2026, the SBM retiree health care trust investments were $5,418,140, an increase of $408,299 since the beginning of the year. The change was due to investment income of $492,201, disbursements of $74,841 and investment advisor and custodian fees of $9,061.

Capital Budget

Year-to-date capital expenditures totaled $261,950, or 47% of the FY 2026 amended capital expenditures budget of $555,330.

Client Protection Fund

The Net Position of the Client Protection Fund as of May 31, 2026, totaled $3,023,749, a decrease of $273,581 from the beginning of the year. Claims expenses totaled $638,319.

SBM Membership

As of May 31, 2026, the active, inactive, and emeritus membership in good standing totaled 47,438, an increase of 216 attorneys since the beginning of the year. The number of active fee-paying attorneys decreased by 274. Since the beginning of this fiscal year, 787 new attorneys joined SBM, compared to 769 during the same period of FY 2025.

FY 2026 Forecast

Excluding income from the SBM Entities Retiree Healthcare Trust—which is neither budgeted nor forecasted—the State Bar of Michigan (SBM) projects an increase in net position of $715,744, with a favorable year-end budget variance of **$1,024,668.**

- **License fees and related revenues** are projected to be above budget by **$72,170,** primarily due to higher late fees and license fees.
- **Other operating revenues** are expected to be above budget by **$320,017,** primarily due to higher Character & Fitness, print and online advertising, partner programs, lawyer referral services, grant, and pro-hac-vice revenues.
- **Salaries and benefits** are forecasted to be **$297,516** below budget, with salaries $166,858 under budget and benefits $130,658 under budget, reflecting vacancies. The projection does not include the State of Michigan's year-end allocation for pension and retiree healthcare benefits for eligible participants.
- **Non-labor operating expenses** are anticipated to be **$299,653** below budget, primarily due to lower IAP, Digital, Bar Journal, Research, Finance, 50 Year Event, LJAP, Facilities, General Counsel, Print & Design, HR, UPL, and Character & Fitness expenses. Board of Commissioners' expenses are expected to be above budget due to higher travel and meeting expenses.
- Interest income is projected to be above budget by **$35,312**, reflecting higher-than-budgeted interest rates and cash balances.
- Capital expenditures are forecasted at **$555,330**, as budgeted.

STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND

Unaudited and For Internal Use Only

FINANCIAL REPORTS
May 31, 2026

FY 2026

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan
Statement of Net Position
May 31, 2026

Financial Row	Current Period (As of May 2026)	Prior Month (As of Apr 2026)	Variance	Variance %	Beginning of FY (As of FY 2025)
ASSETS AND DEFERRED OUTFLOWS OF RESOURCES					
Assets					
Cash	$ 865,445	$ 790,445	$ 75,000	9.5%	$ 1,536,471
Investments	$ 18,338,919	$ 19,171,927	$ (833,007)	(4.3%)	$ 15,095,629
Due from (to) CPF	$ (500)	$ 4,654	$ (5,154)	(110.7%)	$ 14,118
Due from (to) Sections	$ (3,429,687)	$ (3,554,248)	$ 124,561	(3.5%)	$ (2,933,667)
Due from (to) ADS	$ 5,495	$ (12,455)	$ 17,950	(144.1%)	$ (43,520)
Net Administrative Fund Cash and Investment Balance	**$ 15,779,673**	**$ 16,400,323**	**$ (620,650)**	**(3.8%)**	**$ 13,669,030**
Accounts Receivable	$ 317,051	$ 296,473	$ 20,578	6.9%	$ 221,664
Prepaid Expenses	$ 320,518	$ 263,242	$ 57,276	21.8%	$ 370,218
Capital Assets, Net	$ 3,043,134	$ 3,058,555	$ (15,421)	(0.5%)	$ 3,110,581
SBM Retiree Health Care Trust	$ 5,418,140	$ 5,259,303	$ 158,837	3.0%	$ 5,009,841
Total Assets	**$ 24,878,516**	**$ 25,277,895**	**$ (399,380)**	**(1.6%)**	**$ 22,381,333**
Deferred Outflows of Resources Related to Pensions	$ 14,807	$ 14,807	$ -	0.0%	$ 14,807
Deferred Outflows of Resources Related to OPEB	$ 878,755	$ 878,755	$ -	0.0%	$ 878,755
Total Deferred Outflows of Resources	**$ 893,563**	**$ 893,563**	**$ -**	0.0%	**$ 893,563**
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	**$ 25,772,078**	**$ 26,171,458**	**$ (399,380)**	**(1.5%)**	**$ 23,274,895**
LIABILITIES, DERERRED INFLOWS OF RESOURCES AND NET POSITION					
Liabilities					
Accounts Payable	$ 104,306	$ 16,169	$ 88,137	545.1%	$ 520,342
Accrued Expenses	$ 818,319	$ 817,220	$ 1,099	0.1%	$ 848,383
Deferred Revenue	$ 3,483,426	$ 4,305,570	$ (822,145)	(19.1%)	$ 1,959,429
GASB 96 Subscription Liability	$ 108,063	$ 108,063	$ -	0.0%	$ 123,037
Net Pension Liability	$ 82,698	$ 82,698	$ -	0.0%	$ 82,698
Net OPEB Liability	$ 126,297	$ 126,297	$ -	0.0%	$ 126,297
Total Liabilities	**$ 4,723,108**	**$ 5,456,016**	**$ (732,908)**	**(13.4%)**	**$ 3,660,186**
Deferred Inflows of Resources					
Deferred Inflows of Resources Related to Pensions	$ 20,452	$ 20,452	$ -	0.0%	$ 20,452
Deferred Inflows of Resources Related to OPEB	$ 1,200,123	$ 1,200,123	$ -	0.0%	$ 1,200,123
Total Deferred Inflows of Resources	**$ 1,220,575**	**$ 1,220,575**	**$ -**	**0.0%**	**$ 1,220,575**
Total Liabilities and Deferred Inflows	**$ 5,943,683**	**$ 6,676,591**	**$ (732,908)**	**(11.0%)**	**$ 4,880,761**
Net Assets					
Invested in Capital Assets, Net of Related Debt	$ 2,935,071	$ 2,950,493	$ (15,421)	(0.5%)	$ 2,987,544
Restricted for Retiree Health Care Trust	$ 4,970,475	$ 4,811,638	$ 158,837	3.3%	$ 4,562,176
Unrestricted	$ 11,922,849	$ 11,732,736	$ 190,113	1.6%	$ 10,844,415
Total Net Position	**$ 19,828,396**	**$ 19,494,867**	**$ 333,529**	**1.7%**	**$ 18,394,134**
TOTAL LIABILITIES, DERERRED INFLOWS OF RESOURCES AND NET POSITION	**$ 25,772,078**	**$ 26,171,458**	**$ (399,380)**	**(1.5%)**	**$ 23,274,895**
Net Position Excluding Impacts of Retiree Health Care Trust	$ 14,857,921	$ 14,683,229	$ 174,692	1.2%	$ 13,831,958

State Bar of Michigan
Income Statement
May 31, 2026

Financial Row	Actual (Oct 2025 - May 2026)	Budget YTD (Oct 2025 - May 2026)	Budget Variance	Budget Variance %	Last YTD Actuals (Oct 2024 - May 2025)	Actuals Variance	Actuals Variance %
Operating Revenues							
License Fees and Related	**$ 7,072,691**	**$ 7,042,891**	**$ 29,800**	**0.4%**	**$ 7,126,790**	**$ (54,099)**	**(0.8%)**
Other Operating Revenues							
Division 1							
Character & Fitness	$ 386,470	$ 331,200	$ 55,270	16.7%	$ 350,030	$ 36,440	10.4%
Diversity	$ 1,395	$ 600	$ 795	132.5%	$ 1,590	$ (195)	(12.3%)
Ethics	$ 3,225	$ 2,336	$ 889	38.1%	$ 3,400	$ (175)	(5.1%)
IAP	$ 209,040	$ 198,250	$ 10,790	5.4%	$ 211,560	$ (2,520)	(1.2%)
Lawyer Referral Services	$ 120,876	$ 103,464	$ 17,412	16.8%	$ 109,865	$ 11,011	10.0%
UPL	$ -	$ -	$ -	0.0%	$ 203	$ (203)	(100.0%)
Total - Division 1	**$ 721,006**	**$ 635,850**	**$ 85,156**	**13.4%**	**$ 676,648**	**$ 44,358**	**6.6%**
Division 2							
50 Year Event	$ 4,880	$ 6,000	$ (1,120)	(18.7%)	$ 6,915	$ (2,035)	(29.4%)
Bar Journal	$ 204,021	$ 133,760	$ 70,261	52.5%	$ 163,386	$ 40,635	24.9%
Digital	$ 46,257	$ 41,336	$ 4,921	11.9%	$ 28,587	$ 17,670	61.8%
E Journal	$ 55,308	$ 26,000	$ 29,308	112.7%	$ 34,014	$ 21,294	62.6%
Great Lakes Legal Conference	$ 36,751	$ 40,000	$ (3,249)	(8.1%)	$ 39,205	$ (2,454)	(6.3%)
Lawyer Services	$ 109,236	$ 96,516	$ 12,720	13.2%	$ 167,446	$ (58,210)	(34.8%)
Lawyers & Judges Assistance Program	$ 49,529	$ 46,833	$ 2,696	5.8%	$ 56,649	$ (7,120)	(12.6%)
Practice Management Resource Center	$ -	$ 1,000	$ (1,000)	(100.0%)	$ 586	$ (586)	(100.0%)
Print and Design	$ 15,723	$ 4,920	$ 10,803	219.6%	$ 20,236	$ (4,513)	(22.3%)
Total - Division 2	**$ 521,704**	**$ 396,365**	**$ 125,339**	**31.6%**	**$ 517,023**	**$ 4,681**	**0.9%**
Division 3							
Administration	$ 547,856	$ 518,817	$ 29,039	5.6%	$ 521,445	$ 26,411	5.1%
Total - Division 3	**$ 547,856**	**$ 518,817**	**$ 29,039**	**5.6%**	**$ 521,445**	**$ 26,411**	**5.1%**
Total Other Operating Revenues	**$ 1,790,566**	**$ 1,551,032**	**$ 239,534**	**15.4%**	**$ 1,715,116**	**$ 75,450**	**4.4%**
Total Operating Revenues	**$ 8,863,257**	**$ 8,593,923**	**$ 269,334**	**3.1%**	**$ 8,841,906**	**$ 21,351**	**0.2%**
Operating Expenses							
Division 1							
Character & Fitness	$ 21,923	$ 28,969	$ (7,046)	(24.3%)	$ 16,492	$ 5,431	32.9%
Client Protection Fund	$ 12,429	$ 13,844	$ (1,415)	(10.2%)	$ 34,440	$ (22,011)	(63.9%)
Diversity	$ 31,530	$ 26,590	$ 4,940	18.6%	$ 24,399	$ 7,131	29.2%
Ethics	$ 1,368	$ 3,360	$ (1,992)	(59.3%)	$ 3,719	$ (2,351)	(63.2%)
IAP	$ 8,036	$ 51,035	$ (42,999)	(84.3%)	$ 7,256	$ 779	10.7%
Justice Initiatives	$ 129,266	$ 133,223	$ (3,957)	(3.0%)	$ 129,650	$ (384)	(0.3%)
Lawyer Referral Services	$ 5,902	$ 7,092	$ (1,190)	(16.8%)	$ 7,283	$ (1,382)	(19.0%)
Outreach	$ 116,692	$ 141,470	$ (24,778)	(17.5%)	$ 64,236	$ 52,456	81.7%
UPL	$ 2,335	$ 9,715	$ (7,380)	(76.0%)	$ 3,157	$ (822)	(26.0%)
Total - Division 1	**$ 329,479**	**$ 415,298**	**$ (85,819)**	**(20.7%)**	**$ 290,632**	**$ 38,847**	**13.4%**

Financial Row	Actual (Oct 2025 - May 2026)	Budget YTD (Oct 2025 - May 2026)	Budget Variance	Budget Variance %	Last YTD Actuals (Oct 2024 - May 2025)	Actuals Variance	Actuals Variance %
Division 2							
50 Year Event	$ 34,341	$ 48,200	$ (13,859)	(28.8%)	$ 14,208	$ 20,133	141.7%
Bar Journal	$ 248,359	$ 287,200	$ (38,841)	(13.5%)	$ 246,056	$ 2,303	0.9%
Digital	$ 118,283	$ 151,740	$ (33,457)	(22.0%)	$ 75,239	$ 43,044	57.2%
E Journal	$ 14,379	$ 11,465	$ 2,914	25.4%	$ 10,621	$ 3,758	35.4%
Facilities	$ 252,121	$ 295,644	$ (43,523)	(14.7%)	$ 257,145	$ (5,024)	(2.0%)
General Communications	$ 14,489	$ 19,820	$ (5,332)	(26.9%)	$ 14,378	$ 110	0.8%
Great Lakes Legal Conference	$ 479	$ 750	$ (271)	(36.1%)	$ 433	$ 47	10.8%
IT	$ 478,590	$ 589,288	$ (110,698)	(18.8%)	$ 441,057	$ 37,533	8.5%
Inauguration and Awards Lunch	$ 18,922	$ 25,000	$ (6,078)	(24.3%)	$ 19,333	$ (411)	(2.1%)
Lawyer Services	$ 18,247	$ 23,657	$ (5,410)	(22.9%)	$ 16,019	$ 2,229	13.9%
Lawyers & Judges Assistance Program	$ 17,932	$ 23,286	$ (5,354)	(23.0%)	$ 35,772	$ (17,841)	(49.9%)
Practice Management Resource Center	$ 9,169	$ 13,986	$ (4,817)	(34.4%)	$ 1,249	$ 7,920	634.2%
Print and Design	$ 17,913	$ 21,464	$ (3,551)	(16.5%)	$ 31,111	$ (13,197)	(42.4%)
Research	$ 6,600	$ 12,272	$ (5,672)	(46.2%)	$ 766	$ 5,834	761.3%
Total - Division 2	**$ 1,249,824**	**$ 1,523,772**	**$ (273,948)**	**(18.0%)**	**$ 1,163,385**	**$ 86,439**	**7.4%**
Division 3							
Administration	$ 69,662	$ 73,407	$ (3,745)	(5.1%)	$ 63,730	$ 5,932	9.3%
Board of Commissioners	$ 57,695	$ 44,136	$ 13,559	30.7%	$ 39,963	$ 17,731	44.4%
Executive Office	$ 28,415	$ 38,084	$ (9,669)	(25.4%)	$ 21,648	$ 6,767	31.3%
General Counsel	$ 19,827	$ 29,954	$ (10,127)	(33.8%)	$ 3,116	$ 16,712	536.4%
Governmental Relations	$ 55,358	$ 56,314	$ (956)	(1.7%)	$ 52,901	$ 2,457	4.6%
Representative Assembly	$ 21,591	$ 26,500	$ (4,909)	(18.5%)	$ 20,900	$ 691	3.3%
Human Resources							
Payroll Taxes	$ 318,843	$ 354,260	$ (35,417)	(10.0%)	$ 321,259	$ (2,416)	(0.8%)
Benefits	$ 1,129,952	$ 1,194,221	$ (64,269)	(5.4%)	$ 1,155,979	$ (26,027)	(2.3%)
Human Resources - Other	$ 41,251	$ 63,328	$ (22,077)	(34.9%)	$ 54,916	$ (13,665)	(24.9%)
Total Human Resources	$ 1,490,046	$ 1,611,809	$ (121,763)	(7.6%)	$ 1,532,154	$ (42,108)	(2.7%)
Finance							
Finance	$ 422,521	$ 442,153	$ (19,632)	(4.4%)	$ 390,167	$ 32,354	8.3%
Depreciation	$ 303,896	$ 297,368	$ 6,528	2.2%	$ 294,555	$ 9,341	3.2%
Total Finance	$ 726,417	$ 739,521	$ (13,104)	(1.8%)	$ 684,722	$ 41,695	6.1%
Total - Division 3	**$ 2,469,010**	**$ 2,619,725**	**$ (150,715)**	**(5.8%)**	**$ 2,419,134**	**$ 49,877**	**2.1%**
Salaries	**$ 4,363,469**	**$ 4,620,052**	**$ (256,583)**	**(5.6%)**	**$ 4,368,224**	**$ (4,755)**	**(0.1%)**
Total Operating Expenses	**$ 8,411,783**	**$ 9,178,847**	**$ (767,064)**	**(8.4%)**	**$ 8,241,375**	**$ 170,408**	**2.1%**
Net Operating Income (Loss)	**$ 451,474**	**$ (584,924)**	**$ 1,036,398**	**(177.2%)**	**$ 600,531**	**$ (149,057)**	**(24.8%)**
Non Operating Revenue (Expense)							
Investment Income	$ 499,648	$ 464,336	$ 35,312	7.6%	$ 523,206	$ (23,559)	(4.5%)
Non-Operating Expenses	$ -	$ -	$ -	0.0%	$ (4,466)	$ 4,466	(100.0%)
Investment Income - Retiree HC Trust (Net)	$ 483,140	$ -	$ 483,140	0.0%	$ 108,978	$ 374,161	343.3%
Total Non Operating Revenue (Expense)	**$ 982,787**	**$ 464,336**	**$ 518,451**	**111.7%**	**$ 627,719**	**$ 355,069**	**56.6%**
Increase (Decrease) in Net Assets	**$ 1,434,261**	**$ (120,588)**	**$ 1,554,849**	**(1,289.4%)**	**$ 1,228,249**	**$ 206,012**	**16.8%**

State Bar of Michigan
Summary Report
May 31, 2026

Financial Row	Actual YTD (Oct 2025 - May 2026)	Budget YTD (Oct 2025 - May 2026)	Variance	Percentage	Prior YTD Actual (Oct 2024 - May 2025)
Operating Revenue					
License Fees, Dues and Related	$ 7,072,691	$ 7,042,891	$ 29,800	0.4%	$ 7,126,790
All Other Op Revenue	$ 1,790,566	$ 1,551,032	$ 239,534	15.4%	$ 1,715,116
Total Operating Revenue	**$ 8,863,257**	**$ 8,593,923**	**$ 269,334**	**3.1%**	**$ 8,841,906**
Operating Expenses					
Labor Operating Expenses					
Salaries	$ 4,363,469	$ 4,620,052	$ (256,583)	(5.6%)	$ 4,368,224
Benefits and Payroll Taxes	$ 1,448,795	$ 1,548,481	$ (99,686)	(6.4%)	$ 1,477,238
Total Labor Operating Expenses	**$ 5,812,264**	**$ 6,168,533**	**$ (356,269)**	**(5.8%)**	**$ 5,845,462**
Non Labor Operating Expenses					
Division 1 Non Labor Operating Expenses	$ 329,479	$ 415,298	$ (85,819)	(20.7%)	$ 290,632
Division 2 Non Labor Operating Expenses	$ 1,249,824	$ 1,523,772	$ (273,948)	(18.0%)	$ 1,163,385
Division 3 Non Labor Operating Expenses	$ 1,020,215	$ 1,071,244	$ (51,029)	(4.8%)	$ 941,896
Total Non Labor Operating Expenses	**$ 2,599,519**	**$ 3,010,314**	**$ (410,795)**	**(13.6%)**	**$ 2,395,913**
Total Operating Expenses	**$ 8,411,783**	**$ 9,178,847**	**$ (767,064)**	**(8.4%)**	**$ 8,241,375**
Operating Income (Loss)	**$ 451,474**	**$ (584,924)**	**$ 1,036,398**	**(177.2%)**	**$ 600,531**
Non Operating Revenue (Expenses)					
Investment Income	$ 499,648	$ 464,336	$ 35,312	7.6%	$ 523,206
Investment Income - Ret HC Trust	$ 483,140	$ -	$ 483,140	0.0%	$ 108,978
Loss on Disposal on Capital Asset	$ -	$ -	$ -	0.0%	$ (4,466)
Total Non Operating Revenue (Expenses)	**$ 982,787**	**$ 464,336**	**$ 518,451**	**111.7%**	**$ 627,719**
Increase (Decrease) in Net Position	$ 1,434,261	$ (120,588)	$ 1,554,849	(1,289.4%)	$ 1,228,249
Net Position Beginning of Year	$ 18,394,134	$ 18,394,134	$ 0	0.0%	$ 16,076,928
Net Position End of Period	**$ 19,828,396**	**$ 18,273,546**	**$ 1,554,850**	**8.5%**	**$ 17,305,177**
Change in Net Position Excluding Ret HC Trust Investment Income (Loss)	$ 951,122	$ (120,588)	$ 1,071,710	(888.7%)	$ 1,119,271

State Bar of Michigan Administrative Fund
Revenues, Expenses and Net Assets
FY 2026 Year-End Forecast
May 31, 2026

	FY 2026 Year-End Forecast	FY 2026 Budget	Variance	%	FY 2025 Actual
Operating Revenue					
- License Fees, Dues & Related	10,534,990	10,462,820	72,170	0.7%	10,608,925
- All Other Op Revenue	2,306,010	1,985,993	320,017	16.1%	2,251,801
Total Operating Revenue	**12,841,000**	**12,448,813**	**392,187**	**3.2%**	**12,860,726**
Operating Expenses					
Labor-related Operating Expenses					
Salaries	6,566,569	6,733,427	(166,858)	(2.5%)	6,318,510
Benefits and Payroll Taxes	2,099,449	2,230,107	(130,658)	(5.9%)	1,650,817
Total Labor-related Operating Expenses	**8,666,018**	**8,963,534**	**(297,516)**	**(3.3%)**	**7,969,327**
Non-labor Operating Expenses					
Division 1	448,892	534,520	(85,628)	(3.5%)	418,933
Division 2	2,264,350	2,433,924	(169,574)	(31.7%)	1,978,406
Division 3	1,477,809	1,522,259	(44,450)	(2.9%)	1,393,791
Total Non-labor Operating Expenses	**4,191,050**	**4,490,703**	**(299,653)**	**(6.7%)**	**3,791,129**
Total Operating Expenses	**12,857,068**	**13,454,237**	**(597,169)**	**(4.4%)**	**11,760,457**
Operating Income (Loss)	**(16,068)**	**(1,005,424)**	**989,356**	**(98.4%)**	**1,100,269**
Non-operating Revenue (Expenses)					
Investment Income	731,812	696,500	35,312	5.1%	753,304
Investment Income - Ret HC Trust*		-	-	N/A	487,290
Loss on Disposal of Capital Assets	-	-	-	N/A	(4,466)
Net Non-operating Revenue (Expenses)	**731,812**	**696,500**	**35,312**	**5.1%**	**1,236,128**

	FY 2026 Year-End Forecast	FY 2026 Budget	Variance	%	FY 2025 Actual
Increase (Decrease) in Net Position	**715,744**	**(308,924)**	**1,024,668**	**(331.7%)**	**2,336,396**

Operating Revenue Forecast:

- License fees and related - Expecting to be higher than budget (+$72k) primarily due to higher license fees and late fees.
- All other operating revenue - Expecting to be higher than budget (+$320k) primarily due to higher C&F (+$66k), Bar Journal (+$61k), E Journal (+$26k), credit card (+$12k), pro-hac-vice (+$14k) and legal pactitioner grant revenue(+$72k).

In addition, higher revenues are forecasted in Lawyer Services (+$21k), Print & Design (+$9k), Lawyer Referral Services (+$17k), and IAP (+$9k).

Labor Operating Expenses Forecast:

- Salaries - Expecting to be lower than budget (-$167k) primarily due to vacancies.
- Benefits & PR Taxes - Expecting to be lower than budget (-$131k). This estimate does not include the impacts of the state of Michigan allocation

Non-labor Operating Expenses Forecast:

Division 1

- Expecting to be under budget (-$86k) primarily due to significantly lower IAP (-$55k), UPL (-$9k), C&F (-$8k), Ethics (-$7k), Justice Initiatives (-

Division 2

- Expecting to be under budget (-$170k) primarily due to lower Digital (-$54k), Bar Journal (-$39k), Research (-$19k), 50 Year Event (-$14k), LJAP (-$13k), Facilities (-$12k), and Print & Design (-$9k) expenses.

Division 3

- Expecting to be under budget (-$44k) primarily due to lower Finance (-$17k), General Counsel (-$11k), Human Resources (-$9k), Representative Assembly (-$5k), and Administration (-$4k) expenses.
- BOC is expected to be higher than budget (+$5k) due to travel and meeting expenses.
- Credit card processing fees expenses may change with the adoption of AMEX corporate card program. Depreciation estimate may change due to new building capex projects.

Non-Operating Income forecast:

- Investment Income - Expecting to be higher than budget (+$35k) due to higher interest rates and investment balances.
- Retiree Health Care Trust Investment Income of $483k is not budgeted. Portfolio is marked to market.

State Bar of Michigan
Administrative Fund
FY 2026 Capital Expenditures
May 31, 2026

CAPITAL EXPENDITURES	**FY 2026 YTD Actual**	**FY 2026 Amended Budget**	**FY 2026 Forecast**	**Comments**	**Forecast to Budget Variance**
FACILITIES, FURNITURE & OFFICE EQUIPMENT					
Breaker units and electrical panel upgrade in the building	$ 79,630	$ 79,630	$ 79,630	As amended in April 2026	$ -
Heating & Cooling Thermostats	29,200	52,040	52,040	As amended in April 2026	$ -
Heating & Cooling Fan Boxes	-	118,980	118,980	As amended in April 2026	$ -
TOTAL FACILITIES, FURNITURE & OFFICE EQUIPMENT	**$ 108,830**	**$ 250,650**	**$ 250,650**		**$ -**
INFORMATION TECHNOLOGY					
Website, Application and Software Development:					
Website Rebuild (FY 2026 Phase 2)	$ -	$ 75,000	$ 75,000	As amended in April 2026	-
Receivership /Interim Administrator Program Data Portal	4,412	31,600	4,500		(27,100)
Applicant Wizard	3,701	-			
Bar Cards	6,380	-	6,380		6,380
Michigan Bar Journal Upgrade	4,853	-	-		-
Sync Portal for Windows	16,982	-	20,000	Servers migration	20,000
E-commerce Store	23,269	10,000	30,000		20,000
E-commerce Events	35,023	32,460	36,000		3,540
E-commerce License Fee Updates	17,596	40,600	30,000		(10,600)
e-Services Application to Court e-Filing (mi-File)	1,085	20,000	2,000		(18,000)
Firm Administration and Billing	-	11,000	7,000		(4,000)
Legal Practitioner	34,762	-	35,000		35,000
Server Migration	1,706		2,000		
Website Functionality Enhancements	-	12,680	12,680		-
Character & Fitness Module	-	34,800	15,000		(19,800)
Volunteer Application Updates	-	19,140	19,120		(20)
Consumer Portal (LRS)	3,352	17,400	10,000		(7,400)
TOTAL INFORMATION TECHNOLOGY	**$ 153,120**	**$ 304,680**	**$ 304,680**		**$ -**
TOTAL CAPITAL EXPENDITURES	**$ 261,950**	**$ 555,330**	**$ 555,330**		**$ -**

STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND

Unaudited and For Internal Use Only

FINANCIAL REPORTS
May 31, 2026

FY 2026

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

Client Protection Fund
Comparative Statement of Net Assets
May 31, 2026

Financial Row	As of May 2026	As of Apr 2026	Variance	Variance %	As of FY 2025
Assets					
Cash-Checking	$ 17,638	$ 2,304	$ 15,334	665.6%	$ 5,537
Savings	$ 26,439	$ 1,685	$ 24,753	1,468.7%	$ 90,972
Investments	$ 3,186,502	$ 3,268,914	$ (82,412)	(2.5%)	$ 3,305,563
Account Receivable	$ 34,389	$ 28,736	$ 5,653	19.7%	$ 24,757
Due (To) From SBM	$ 500	$ (4,654)	$ 5,154	(110.7%)	$ (14,118)
Total Assets	**$ 3,265,467**	**$ 3,296,985**	**$ (31,518)**	**(1.0%)**	**$ 3,412,711**
Liabilities and Fund Balance					
Liabilities					
Claims Payable	$ 29,684	$ 55,024	$ (25,341)	(46.1%)	$ -
Deferred Revenue	$ 212,035	$ 263,025	$ (50,990)	(19.4%)	$ 115,381
Total Liabilities	**$ 241,718**	**$ 318,049**	**$ (76,331)**	**(24.0%)**	**$ 115,381**
Fund Balance Beginning of Year	$ 3,297,330	$ 3,297,330	$ -	0.0%	$ 3,125,627
Net Income (Expense) Year to Date	$ (273,581)	$ (318,394)	$ 44,813	(14.1%)	$ 171,703
Total Fund Balance	**$ 3,023,749**	**$ 2,978,936**	**$ 44,813**	**1.5%**	**$ 3,297,330**
Total Liabilities and Fund Balance	**$ 3,265,467**	**$ 3,296,985**	**$ (31,518)**	**(1.0%)**	**$ 3,412,711**

Client Protection Fund
Income Statement
May 31, 2026

Financial Row	CY (Oct 2025 - May 2026)	PY (Oct 2024 - May 2025)	Variance
Income			
License Fees	**$ 417,167**	**$ 413,184**	**$ 3,984**
Other Operating Revenues			
42965 - Claims Recovery	$ 18,806	$ 16,350	$ 2,456
42966 - Claims Recovery Collection Fees	$ (2,091)	$ (985)	$ (1,106)
42970 - Contributions Received	$ 20,223	$ 29,082	$ (8,859)
40055 - Pro Hac Vice Fees	$ 11,040	$ 9,555	$ 1,485
Total - Other Operating Revenues	$ 47,978	$ 54,001	$ (6,023)
Total Income	**$ 465,145**	**$ 467,185**	**$ (2,040)**
Expenses			
65285 - Bank Service Fees	$ 379	$ 280	$ 99
69060 - SBM Administrative/Service Fees	$ 180,664	$ 175,200	$ 5,464
71005 - Claims Payments	$ 638,319	$ 355,994	$ 282,325
Total Expenses	**$ 819,362**	**$ 531,474**	**$ 287,888**
Investment Income			
49010 - Interest & Dividends	$ 13,860	$ 8,438	$ 5,422
49015 - Gain or Loss on Investment JPM Brokerage	$ 66,775	$ 84,946	$ (18,171)
Total Investment Income	**$ 80,635**	**$ 93,384**	**$ (12,749)**
Increase or Decrease in Net Posisiton	$ (273,581)	$ 29,095	$ (302,676)
Net Position, Beginning of Year	$ 3,297,330	$ 3,125,627	$ 171,703
Net Position, End of Period	**$ 3,023,749**	**$ 3,154,722**	**$ (130,974)**

Monthly SBM Attorney and Affiliate Report - May 31, 2026

FY 2026

Attorneys and Affiliates In Good Standing	September 30 2018	September 30 2019	September 30 2020	September 30 2021	September 30 2022	September 30 2023	September 30 2024	September 30 2025	May 31 2026	FY Increase (Decrease)
Active	42,342	42,506	42,401	42,393	42,395	41,985	41,427	41,430	41,363	(67)
Less than 50 yrs serv	40,973	41,036	40,559	40,504	40,680	40,115	39,399	39,222	38,948	(274)
50 yrs or greater	1,369	1,470	1,842	1,889	1,715	1,870	2,028	2,208	2,415	207
Voluntary Inactive	1,169	1,139	1,192	1,097	1,072	1,106	1,262	1,195	1,161	(34)
Less than 50 yrs serv	1,142	1,105	1,149	1,055	1,030	1,059	1,217	1,151	1,112	(39)
50 yrs or greater	27	34	43	42	42	47	45	44	49	5
Emeritus	2,204	2,447	2,727	3,033	3,306	3,733	4,245	4,597	4,914	317
Total Attorneys in Good Standing	**45,715**	**46,092**	**46,320**	**46,523**	**46,773**	**46,824**	**46,934**	**47,222**	**47,438**	216
Fee-paying Attorneys (Active & Inactive less than 50 yrs of Serv)	**42,115**	**42,141**	**41,708**	**41,559**	**41,710**	**41,174**	**40,616**	**40,373**	**40,060**	(313)
Affiliates										
Legal Administrators	10	10	8	5	2	2	4	4	4	-
Legal Assistants	401	393	317	219	214	194	195	210	243	33
Total Affiliates in Good Standing	**411**	**403**	**325**	**224**	**216**	**196**	**199**	**214**	**247**	33

Total Attorneys and Former Attorneys in the Database

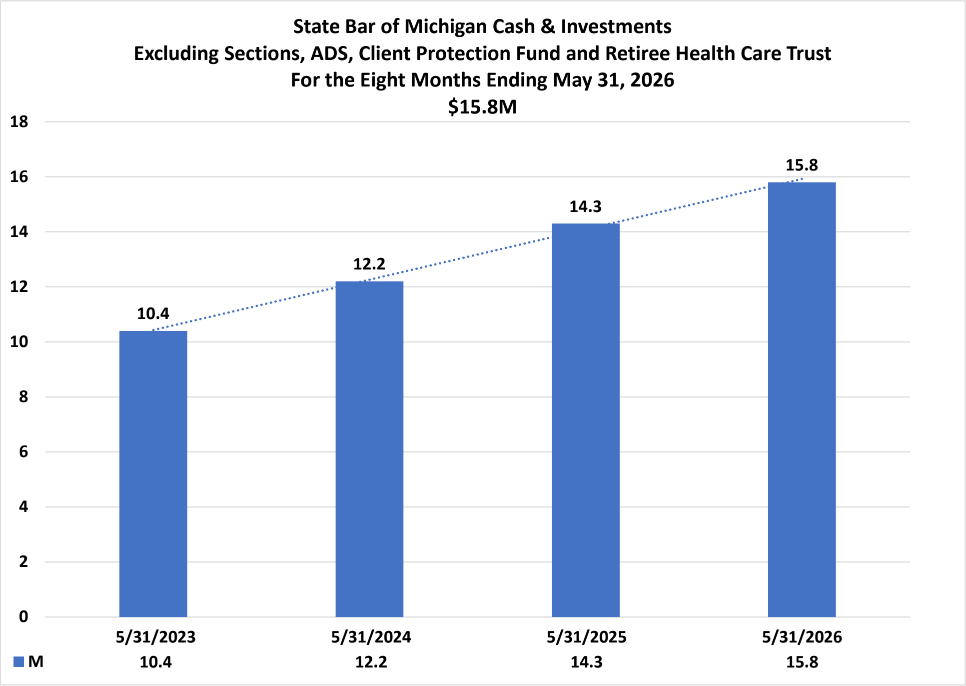
State Bar of Michigan Attorney and Affiliate Type	September 30 2018	September 30 2019	September 30 2020	September 30 2021	September 30 2022	September 30 2023	September 30 2024	September 30 2025	May 31 2026	FY Increase (Decrease)
Attorneys in Good Standing:							(558)			
ATA (Active)	42,342	42,506	42,401	42,393	42,395	41,985	41,427	41,430	41,363	(67)
ATVI (Voluntary Inactive)	1,169	1,139	1,192	1,097	1,072	1,106	1,262	1,195	1,161	(34)
ATE (Emeritus)	2,204	2,447	2,727	3,033	3,306	3,733	4,245	4,597	4,911	314
Total Attorneys in Good Standing	**45,715**	**46,092**	**46,320**	**46,523**	**46,773**	**46,824**	**46,934**	**47,222**	**47,435**	213
Attorneys Not in Good Standing:					116	236	241	94	257	
ATN (Suspended for Non-Payment of Dues)	6,072	6,246	6,416	6,472	6,588	6,824	7,065	7,159	7,416	257
ATDS (Discipline Suspension - Active)	439	440	445	449	454	456	466	478	476	(2)
ATDI (Discipline Suspension - Inactive)	19	24	25	25	25	25	27	29	29	-
ATDC (Discipline Suspension - Non-Payment of Court Costs)	15	16	16	14	14	15	15	15	14	(1)
ATNS (Discipline Suspension - Non-Payment of Other Costs)	95	98	100	102	106	104	111	110	108	(2)
ATS (Attorney Suspension - Other)*	1	1	2	-	-	-	-	-	-	-
ATR (Revoked)	583	596	613	623	634	645	647	660	665	5
ATU (Status Unknown - Last known status was inactive)**	2,070	2,070	2,070	2,070	2,047	2,047	2,047	2,047	2,047	-
Total Attorneys Not in Good Standing	**9,294**	**9,491**	**9,687**	**9,755**	**9,868**	**10,116**	**10,378**	**10,498**	**10,755**	257
Other:										
ATSC (Former special certificate)	155	157	158	164	167	170	173	175	178	3
ATW (Resigned)	1,689	1,798	1,907	2,036	2,143	2,282	2,428	2,574	2,687	113
ATX (Deceased)	9,287	9,524	9,793	10,260	10,664	10,958	11,212	11,594	11,792	198
Total Other	**11,131**	**11,479**	**11,858**	**12,460**	**12,974**	**13,410**	**13,813**	**14,343**	**14,657**	314
Total Attorneys in Database	**66,140**	**67,062**	**67,865**	**68,738**	**69,615**	**70,350**	**71,125**	**72,063**	**72,847**	784

* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

** ATU is a new status added in 2010 to account for approximately 2,600 attorneys who were found not to be accounted for in the iMIS database
The last known status was inactive and many are likely deceased. We are researching these attorneys to determine a final disposition.

N/R - not reported

Notes: Through May 31, 2026 a total of 787 new attorneys joined SBM, compared to 769 new attorneys who joined SBM through May 31, 2025.



As of May 31, 2026, the cash and investment balance in the State Bar Admin Fund net of *due to Sections, ADS, Client Protection Fund, and Retiree Health Care Trust* was $15,779,673 an increase of $2,110,643 from the beginning of the year primarily due to collection of license fees and other revenues.

Summary of Cash and Investment Balances by Financial Institution

Sunday, May 31, 2026

Bank Rating	Assets	Financial Institution		Amount	Interest Rate
		SBM Chase Checking	$	262,776	
		SBM Chase Credit Card	$	22,668	
		SBM Chase E Checking	$	2,671	
		SBM Chase Payroll	$	(1,493)	
		ADS Chase Checking	$	61,436	
		ADS Chase Petty Cash	$	4,561	
		CPF Chase Checking	$	17,638	
4	$3.8 trillion	**** Chase Total**	**$**	**370,256**	
		SBM Horizon Bank Money Market	$	9	
		SBM Horizon ICS	$	557,277	3.47%
5	$6.4 billion	**Horizon Bank Total w/CD**	**$**	**557,286**	
		SBM Fifth Third Commercial Now	$	3,135	
5	$214 billion	**Fifth Third Total**	**$**	**3,135**	
		MSUFCU Savings & MM	$	5	0.05%
		MSUFCU Checking	$	10,924	
		MSUFCU Total	**$**	**10,929**	
4	$8.4 billion	**MSUFCU Total w/CDs**	**$**	**1,717,254**	
		CASE Cr Un	$	5	
5	$0.4 billion	**CASE Cr Un Total w/CD**	**$**	**59,267**	
		Grand River Bank	$	-	
5	$0.5 billion	**Grand River Bank Total w/CD**	**$**	**766,316**	
		MI Schools & Govt Cr Un	$	5	
5	$4.3 billion	**MI Schools & Govt Cr Un w/CD**	**$**	**974,622**	
		FNBA	$	1,499,852	
4	$6.7 billion	**FNBA Total w/CDs**	**$**	**1,499,852**	
		SBM Flagstar Savings	$	4,710	2.45%
3	$88 billion	**Flagstar Total w/CD**	**$**	**204,710**	
		SBM Flagstar ICS Checking	$	2,753	2.20%
		ADS Flagstar ICS Checking Account	$	3,882	2.20%
		CPF Flagstar ICS Checking	$	26,439	2.20%
		Flagstar Bank FDIC Insured with CDARs	**$**	**6,209,596**	

Fund Summary		
Client Protection Fund	$	3,230,578
State Bar Admin Fund (including Sections)	$	19,204,365
Attorney Discipline System	$	5,493,888
SBM - Retiree Health Care Trust	$	5,418,140
ADB - Retiree Health Care Trust	$	1,874,914
AGC - Retiree Health Care Trust	$	5,619,037
Total	**$**	**40,840,922**

State Bar Admin Fund Summary

Cash and Investments	$	19,204,365
Less:		
Due (to)/from Sections	$	(3,429,687)
Due (to)/from ADS	$	5,495
Due (to)/from CPF	$	(500)
Due to Sections and CPF	$	(3,424,692)
Net Administrative Fund	$	15,779,673
SBM Average Weighted Yield:		**3.70%**
ADS Average Weighted Yield:		**3.61%**
CPF Average Weighted Yield:		**3.80%**

Notes:

- All amounts are based on reconciled book balance and interest rates as of
- Actual unreconciled Chase balance per statements was $418,180.12(**).
- Funds held in bank accounts are FDIC insured up to $250,000 per bank.
- ICS and CDARS are invested in multiple banks up to the FDIC limit for each bank and are FDIC insured.
- Bank star rating from Bauer Financial.
- Average weighted yields exclude retiree health care trusts.
- Funds held in SBM Entities Trust with Schwab are invested in Tbills and government money market funds (3%), bond mutual funds 34%), and equity mutual funds (63%). Not FDIC insured.

Asset size & ratings from Bauer Financial were updated on 6/30/26 (based on 3/31/26 data)

SBM US Treasuries & Gov Money Market		Amount	Interest Rates	Maturity
91282CKS9	$	275,000	4.93%	05/31/26
912797TZ0	$	377,695	3.51%	06/09/26
912797QX8	$	324,673	3.55%	06/11/26
912797TD9	$	507,129	3.45%	06/18/26
912797TE7	$	245,405	3.44%	06/25/26
91282CCJ8	$	439,000	3.63%	06/30/26
912797UN5	$	423,459	3.54%	07/07/26
91282CHM6	$	245,225	3.59%	07/15/26
91282CLB5	$	500,527	4.30%	07/31/26
91282CHU8	$	596,698	3.82%	08/15/26
91282CLH2	$	588,994	3.62%	08/31/26
91282CHY0	$	246,602	3.59%	09/15/26
91282CLP4	$	424,615	3.89%	09/30/26
912797SA6	$	222,239	3.50%	10/01/26
91282CLS8	$	570,713	4.10%	10/31/26
91282CKA8	$	468,951	3.51%	02/15/27
91282CMV0	$	300,097	3.88%	03/31/27
91282CMY4	$	295,681	3.58%	04/30/27
91282CNE7	$	249,924	3.89%	05/31/27
91282CNL1	$	314,459	3.75%	06/30/27
91282CNV9	$	249,023	3.63%	08/31/27
91282CPL9	$	495,684	3.48%	11/30/27
US Gov MM Fund - SXX	$	428,683	3.25%	
SBM US Treasuries & Gov Money Market Total	**$**	**8,790,475**		

CPF US Treasuries & Gov Money Market		Amount	Interest Rates	Maturity
912797QX8	$	149,849	4.06%	06/11/26
91282CLB5	$	350,369	4.07%	07/31/26
912797RG4	$	288,076	4.30%	08/06/26
912797UD7	$	160,232	3.78%	03/18/27
91282CMV0	$	209,067	3.52%	03/31/27
912797UX3	$	241,272	3.88%	05/13/27
91282CNE7	$	799,756	3.95%	05/31/27
91282CNL1	$	249,570	3.95%	06/30/27
US Gov MM Fund - GXX	$	211,838	3.10%	
CPF US Treasuries & Gov Money Market Total	**$**	**2,660,030**		

ADS US Treasuries & Gov Money Market		Amount	Interest Rates	Maturity
91282CKS9	$	399,000	3.57%	05/31/26
912797UB1	$	299,334	3.53%	06/23/26
912797UP0	$	298,704	3.55%	07/14/26
91282CLB5	$	330,348	3.98%	07/31/26
912797RG4	$	496,682	3.78%	08/06/26
91282CLH2	$	296,997	3.60%	08/31/26
91282CLP4	$	199,819	3.89%	09/30/26
91282CLS8	$	200,250	4.10%	10/31/26
91282CMH1	$	327,651	3.74%	01/31/27
91282CNE7	$	249,924	3.88%	05/31/27
91282CNL1	$	199,656	3.75%	06/30/27
91282CNV9	$	249,023	3.63%	08/31/27
US Gov MM Fund - SXX	$	568,643	3.25%	
ADS US Treasuries & Gov Money Market Total	**$**	**4,116,032**		
US Treasuries & Gov Money Market Total	**$**	**15,566,537**		-
(not FDIC insured)				

CDARS Financial Institution		Amount	Interest Rates	Maturity
SBM Flagstar CDARS	$	300,000	3.74%	06/04/26
SBM Flagstar CDARS	$	467,950	3.54%	09/24/26
SBM Flagstar CDARS	$	300,000	3.54%	10/08/26
SBM Flagstar CDARS	$	350,000	3.62%	12/04/26
SBM Flagstar CDARS	$	325,000	3.53%	01/14/27
SBM Flagstar CDARS	$	500,000	3.60%	03/04/27
SBM Flagstar CDARS	$	500,000	3.54%	01/13/28
SBM Flagstar CDARS	$	762,043	3.74%	02/03/28
SBM Flagstar CDARS	$	265,605	3.62%	02/17/28
SBM Flagstar CDARS	$	451,475	3.62%	02/17/28
SBM Flagstar CDARS	$	120,000	4.18%	05/18/28
CPF Flagstar CDARS	$	103,989	3.54%	09/25/26
CPF Flagstar CDARS	$	100,000	3.54%	10/08/26
CPF Flagstar CDARS	$	110,000	3.50%	11/19/26
CPF Flagstar CDARS	$	212,484	3.62%	02/17/28
ADS Flagstar CDARS	$	350,000	3.74%	06/04/26
ADS Flagstar CDARS	$	207,978	3.54%	09/25/26
ADS Flagstar CDARS	$	250,000	3.56%	02/18/27
ADS Flagstar CDARS	$	300,000	3.60%	03/04/27
ADS Flagstar CDARS	$	200,000	3.62%	02/18/28
CDARS Total	**$**	**6,176,522**		

CDs Financial Institution		Amount	Interest Rates	Maturity
SBM-CD MSU Federal Credit Union	$	271,191	4.00%	06/02/26
SBM-CD MSU Federal Credit Union	$	282,543	4.00%	06/02/26
SBM-CD MSU Federal Credit Union	$	282,543	4.00%	06/02/26
SBM-CD MSU Federal Credit Union	$	282,543	4.00%	06/02/26
SBM-FNBA	$	250,000	4.29%	10/29/26
SBM-FNBA	$	250,000	3.95%	10/29/26
SBM-FNBA	$	210,000	4.29%	10/31/26
SBM-Flagstar	$	200,000	3.77%	11/12/26
SBM-Grand River	$	261,314	3.83%	03/22/27
SBM-Grand River	$	250,000	3.83%	03/22/27
MI Schools & Govt Cr Un	$	200,000	4.05%	04/14/27
MI Schools & Govt Cr Un	$	516,244	4.05%	04/16/27
MI Schools & Govt Cr Un	$	258,373	4.05%	04/24/27
SBM-Grand River	$	255,003	3.95%	04/30/27
SBM-FNBA	$	267,640	4.10%	06/29/27
SBM-FNBA	$	266,377	4.10%	06/30/27
SBM-FNBA	$	255,835	4.10%	06/30/27
SBM-CASE Credit Union	$	59,262	3.50%	07/08/27
SBM-CD MSU Federal Credit Union	$	587,506	3.70%	08/12/27
CDs Total	**$**	**5,206,372**		
Total Cash & Investments	**$**	**27,928,831**		
Total Amount of Cash and Investments not FDIC-insured	**$**	**19,644,838**	**70.3%**	
(includes Tbills and Gov MM held at JPM)				
SBM Entities Retiree Healthcare Trust (Schwab)				
SBM - Ret Healthcare Trust	$	5,418,140		
ADB - Ret Healthcare Trust	$	1,874,914		
AGC - Ret Healthcare Trust	$	5,619,037		
SBM Entities Retiree Healthcare Trust Total	**$**	**12,912,091**		
Total Investments	**$**	**40,840,922**		

2.5. Professional Standards Committee

Presented by Suzanne C. Larsen

2.5.1. Client Protection Fund Claims (CPF)*

STATE BAR OF MICHIGAN

TO: Board of Commissioners

FROM: Professional Standards Committee

DATE: July 24, 2026, BOC Meeting

RE: Client Protection Fund Claims for Consent Agenda

Rule 15 of the Client Protection Fund Rules provides that "claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant." To protect CPF claim information as required in the Rule, and to avoid negative publicity about a lawyer subject to a claim, which has been denied and appealed, the CPF Report to the Board of Commissioners is designated "confidential."

CONSENT AGENDA
CLIENT PROTECTION FUND

Claims recommended for payment:

a) Consent Agenda

Claim No	Amt Recommended	Claim No	Amt Recommended
CPF 4233	$6,580	**CPF 4401**	$3,913.75
CPF 4331	$1,200	**CPF 4404**	$3,218.75
CPF 4361	$4,500	**CPF 4414**	$9,700
CPF 4362	$500	**CPF 4437**	$2,827.50
CPF 4363	$4,815	**CPF 4453**	$2,000
CPF 4365	$3,012.50	**CPF 4480**	$4,025
CPF 4382	$1,000	**CPF 4481**	$5,006.25
CPF 4388	$5,000	**CPF 4494**	$1,500
CPF 4396	$2,407.50	**CPF 4322**	$1,800
		TOTAL	**$63,006.25**

b) Supporting documentation is provided separately.

The Professional Standards Committee recommends payment of these claims by the State Bar of Michigan Client Protection Fund:

CPF 4233
***Total Loss:* $6,580**

Claimant retained Respondent for representation in a lawsuit involving an easement dispute pursuant to a fee agreement which provided for a retainer of $2,500. Respondent then requested two additional sums for research being conducted by their "staff," of $1,820 and $2,260, bringing the total paid by Claimant to Respondent to $6,580. However, Respondent did not have any staff and did not complete any legal services.

After payments were made, Claimant was unable to contact Respondent. Plaintiff's attorney then reached out to Claimant to inform Claimant they also were unable to contact Respondent. Concerned about Respondent's wellbeing, Claimant contacted law enforcement for a well person check. Law enforcement advised that they spoke with Respondent and Respondent was fine.

The evening before mediation, Respondent finally contacted Claimant and advised they would attend mediation and prepare a proposed settlement. However, Respondent failed to do so.

Per the Register of Actions from the Court, Respondent never actually filed an appearance on Claimant's behalf. Opposing counsel in the matter ended up assisting Claimant to complete the matter as the Court was going to hold them in contempt for Respondent's failure to draft and submit a non-exclusive easement agreement to the Court.

The ADB had issued a suspension, and later a disbarment against Respondent. Consequently, the AGC decided not to move forward with filing the Formal Complaint against Respondent and instead closed all other pending matters that were not included in their previous investigations/grievances.

Respondent received $6,580 from Claimant for legal services which were not provided and Respondent ultimately abandoned Claimant's matter. Pursuant to **CPF Rule 7(A)(1)** Respondent's failure to refund an unearned fee is a reimbursable loss. Therefore, this claim was recommended for approval in the amount of $6,580.

CPF 4331
***Total Loss:* $1,200**

Claimant retained Respondent to assist in opening a Probate Estate for Claimant's deceased spouse and paid a $2,000 non-refundable fee for the representation. Claimant also paid the Inventory and Publishing Fee. Respondent opened the Probate Estate then unexpectedly passed away 20 days later.

After Respondent's passing, an Interim Administrator was appointed to finalize the case. However, the Interim Administrator took no action and then passed away as well. Claimant was required to retain new counsel to complete the Estate.

Respondent provided some legal services including opening the Estate. However, due to Respondent's unexpected passing, Respondent was unable to complete the full services they were retained to do under the non-refundable agreement. In the fee agreement, services were to be billed at $200 per hour and Respondent completed approximately two hours of legal services, thus earning $800. Therefore, this claim was recommended for reimbursement in the amount of $1,200 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4361
***Total Loss:* $4,500**

Claimant retained Respondent for representation in a divorce matter and paid a non-refundable fee of $4,500 for the first 11.4 hours of legal services and agreed to pay an additional $395 per hour thereafter.

Respondent unexpectedly passed away approximately 2 weeks after being retained by Claimant and before providing any legal services. Respondent's Interim Administrator advised that Respondent's records show that Respondent was unable to complete any of the legal services under the contract due to their untimely passing. Therefore, the claim was recommended for approval in the amount of $4,500 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4362
***Total Loss:* $500**

Claimant retained Respondent for representation in an Adverse Possession lawsuit. The fee agreement provides for a flat fee of $10,000 for the representation. Claimant also paid an additional $1,300 for a survey.

The parties to the case agreed to a survey at Claimant's expense. As Claimant already paid Respondent for the Survey almost a year before, Claimant relied on Respondent to secure the survey. However, Respondent failed to timely secure the survey, resulting in a Show Cause and Order to pay $500 in sanctions to opposing counsel. Respondent agreed to pay the sanctions as Respondent caused the delay but failed to do so. Therefore, Claimant paid the $500 sanctions award.

Claimant asserts that Respondent failed to investigate the matter, including contacting necessary witnesses. Moreover, Respondent failed to respond to numerous emails and text messages both from Claimant, the Court and opposing counsel. Claimant attempted to secure subsequent counsel; however, Respondent did not respond to multiple requests to transfer the file.

Unbeknownst to Claimant, Respondent had adjourned the trial and was negotiating a settlement that was not consistent with Claimant's directions. Respondent did not provide a copy of the proposed settlement to their client for approval. Claimant continued to attempt to contact Respondent to no avail. Respondent eventually reached a settlement without Claimant’s consent.

The claim was recommended for reimbursement in the amount of $500. Due to Respondent's negligence, Claimant was required to pay sanctions in the amount of $500. Pursuant to **CPF Rule 8(A)**, the Committee determined that reimbursement of the $500 paid in sanctions reduced the flat fee from $10,000 to $9,500, making the $500 an unearned fee, thus compensable pursuant to **CPF Rule 7(A)(1)**.

CPF 4363
Total Loss: **$4,815**

Claimant retained Respondent for representation in a divorce matter pursuant to a written fee agreement. The agreement provides for a non-refundable minimum fee of $6,000 for 15.2 hours, to be billed against at $395 per hour.

Respondent filed the Complaint for Divorce, an Ex Parte Status Quo Motion, and a Default Application, but then unexpectedly passed away. Respondent’s Interim Administrator acknowledges that Respondent drafted some documents but did not file and serve them on the opposing party or file them with Court.

However, the Court’s register of actions in the matter does reflect a record of some work being completed by Respondent. Unfortunately, there was no billing statement/record maintained by Respondent like they had in other similar matters. Therefore, it could not be determined how much time Respondent actually expended on the matter. If it were to be assumed Respondent spent an hour per entry on the register, Respondent completed 3 hours of work. Three hours at $395 per hour, equates to $1,185 earned by Respondent.

The claim was recommended for reimbursement of $4,815 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4365
Total Loss: **$3,012.50**

Claimant retained Respondent for representation in a divorce matter. Pursuant to the written fee agreement, Claimant paid the non-refundable engagement fee of $4,000 which entitled Claimant to 10 hours of legal services at $395 per hour.

After billing 2.5 hours of legal services, Respondent unexpectedly passed away and was unable to complete the representation. Respondent earned $987.50 of the engagement fee. Though the fee was non-refundable and earned upon receipt, the Committee determined the fee was excessive, thus, reimbursable by the Fund. Respondent's Interim Administrator confirmed that Respondent only provided 2.5 hours, did not have an IOLTA, and that Respondent's business account had insufficient funds and is unable to refund Respondent's clients.

This claim is recommended for reimbursement in the amount of $3,012.50 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4382
Total Loss: **$1,000**

Claimant retained Respondent for representation in a post judgment custody and parenting time matter. The written fee agreement provides for a $2,000 minimum non-refundable fee to be billed against at $395 per hour, which Claimant paid in full.

Though the fee agreement states that the retainer is non-refundable and considered earned upon receipt, the Committee determined the fee was excessive. The billing records provided by the Interim Administrator reflect that Respondent billed only one hour on the new, post judgment matter, earning $395 of the $2,000 remitted. Therefore, there is a balance remaining of $1,605.

This claim was recommended for reimbursement in the amount of $1,000 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4388
***Total Loss:* $5,000**

Claimant retained Respondent for representation in a divorce matter, pursuant to a written non-refundable fee agreement. Claimant met with Respondent for a free consultation, then decided to retain Respondent and paid $5,000 for representation. However, Respondent passed away four days later, without providing any legal services.

As the fee is non-refundable and considered earned upon receipt, Respondent did not have an IOLTA. Respondent's Interim Administrator confirmed there were insufficient funds in the firm's business account, therefore, the Interim Administrator is unable to provide refunds to Respondent's clients.

Though the fee was non-refundable, the Committee determined it was excessive. This claim is recommended for reimbursement in the amount of $5,000 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4396
***Total Loss:* $2,407.50**

Claimant retained Respondent for representation in connection with a post judgment motion to modify parenting time pursuant to a fee agreement that provides for a minimum engagement of $3,000 to be billed against at $395 per hour, which Claimant paid in full.

After exchanging only three emails with the client and only being retained 4 days prior to taking time off, Respondent passed away while on vacation. As the fee was non-refundable and earned upon receipt, Respondent did not deposit the money into an IOLTA, therefore, there are no funds available to be refunded from Respondent's account. The Interim Administrator confirmed that Respondent did not complete any work on the matter before unexpectedly passing away. However, the Committee determined that Respondent likely spent 1.5 hours on the matter before passing away, therefore Respondent earned $592.50 of the $3,000.

Though non-refundable fees are legal, the Committee determined that this was an excessive fee. This claim was recommended for reimbursement in the amount of $2,407.50 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4401
***Total Loss:* $3,913.75**

Claimant retained Respondent for representation in connection with a custody and parenting time complaint. Pursuant to a written nonrefundable fee agreement, Claimant paid $5,000 to be billed against at $395 per hour.

Less than a month after being retained, Respondent unexpectedly passed away. Prior to passing away, Respondent spent 2.75 hours on the file, earning $1,086.25, leaving a balance due to Claimant of $3,913.75.

While the fee paid by Claimant was non-refundable and considered earned upon receipt, the Committee determined the fee was excessive, therefore, reimbursable by the Fund. This claim is recommended for reimbursement in the amount of $3,913.75 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4404
***Total Loss:* $3,218.75**

Claimant retained Respondent for representation in a divorce matter. The engagement agreement provides for a minimum non-refundable engagement fee of $5,000 to be billed against at $375 per hour.

Respondent provided 4.75 hours of legal services on the matter before Claimant requested Respondent withdraw the matter and request a dismissal without prejudice to attempt to work on the marriage for their children. At this point, of the $5,000 paid to Respondent by Claimant, Respondent had earned $1,781.25.

Eventually, Claimant decided to re-initiate the divorce, and in doing so attempted to contact Respondent. This is when Claimant discovered that Respondent had passed away. As the fee was non-refundable and considered earned upon receipt, Respondent did not deposit the money into an IOLTA, therefore, there are no funds available to be refunded from Respondent's account. The Interim Administrator confirmed that Respondent only provided 4.75 hours of work on the matter. Though non-refundable fees are legal, the Committee determined that this was an excessive fee due to the services not being fully provided before Respondent's death.

The claim is recommended for reimbursement in the amount of $3,218.75 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4414
***Total Loss:* $9,700**

Claimant retained Respondent to assist in a property dispute matter. Respondent advised Claimant that Claimant would also need a Durable Power of Attorney (POA) for financial matters so Claimant’s family member could assist with any potential litigation. Claimant retained Respondent for the property dispute matter and to draft the POA. Respondent was paid the retainer of $1,500 to be billed against at $300 per hour.

Respondent drafted the POA, and it was implemented. Thereafter, Respondent became uncommunicative. Later, Respondent apologized and advised they were dealing with personal issues but were ready to proceed with litigation. Respondent requested Claimant meet them at the property.

While at the property, the neighbor, who was at the center of the litigation, blocked Respondent's car in Claimant's driveway and the police were called. In response, Respondent advised that the litigation would be more costly than originally believed as the complexity of the matter had increased, requesting an additional $10,000 to begin suit. Claimant’s family member paid Respondent an additional $10,000. Shortly thereafter, Respondent completely abandoned the matter.

Claimant and their family attempted to contact Respondent, but their calls continuously went unanswered. Claimant then called Respondent from another phone number, which Respondent answered and advised they were working on the matter and would reach back out, but Respondent failed to do so. Claimant again contacted Respondent from another unknown number, which Respondent answered and advised the same. Claimant has not had any communication with Respondent since. Claimant eventually discovered Respondent was suspended from practicing law, which Respondent failed to inform Claimant of and failed to refund unearned fees.

Respondent was paid $1,500 for investigation into possible litigation and for the Durable Power of Attorney. Respondent provided a written analysis of the proposed litigation and the Durable Power of Attorney. Therefore, Respondent earned the initial $1,500.

Respondent received an additional $10,000 to proceed with litigation on behalf of Claimant. The Committee determined Respondent likely only spent 1 hour on the matter drafting a letter after receiving the additional $10,000 but eventually abandoned the matter. The Committee determined Respondent earned $300 of the $10,000. This claim was recommended for reimbursement in the amount of $9,700 pursuant to **CPF Rule 7(A)(1)**, as Respondent failed to return the unearned fee.

CPF 4437
***Total Loss:* $2,827.50**

Claimant retained Respondent for representation in a modification of spousal support matter. The written fee agreement provides for a nonrefundable minimum fee of $5,000 to be billed against at $395 per hour.

Respondent's billing records show that 5.5 hours of legal services were provided before Respondent's untimely passing. Thus, Respondent earned $2,172.50, leaving a balance due to Claimant in the amount of $2,827.50. While the fee is considered non-refundable and earned upon receipt, the Committee determined the fee was excessive, therefore, reimbursable by the Fund.

The claim is recommended for reimbursement in the amount of $2,827.50 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4453
***Total Loss:* $2,000**

Claimant retained Respondent for representation in a Family Court matter and remitted $2,000 for the representation. Respondent appeared at one hearing but left the casefile at the office causing an adjournment. Thereafter, Respondent abandoned the matter.

Eventually, the Attorney Discipline Board (ADB) suspended Respondent's license to practice law and ordered restitution, including $2,000 to Claimant. This claim was recommended for reimbursement in the amount $2,000 pursuant to **CPF Rule 7(A)(1)** as the fee was not earned nor refunded by Respondent, and **CPF Rule 10(D)(1)** as it is consistent with the Attorney Discipline Board's order of restitution.

CPF 4480
***Total Loss:* $4,025**

Claimant retained Respondent for representation in a divorce matter. The written fee agreement provides for a non-refundable minimum fee of $6,000 to be billed against at $395 per hour, which Claimant paid in full. Respondent billed 5 hours on the file, earning $1,975 before Respondent's untimely passing, leaving a balance due to Claimant in the amount of $4,025.

As the fee was non-refundable and earned upon receipt, Respondent did not deposit the money into an IOLTA, therefore, there are no funds available to be refunded from Respondent’s account. The Interim Administrator confirmed that Respondent only provided 5 hours of work on the matter. Though non-refundable fees are legal, the Committee determined that this was an excessive fee due to the services not being fully provided before Respondent's death.

The claim is recommended for reimbursement in the amount of $4,025 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4481
***Total Loss:* $5,006.25**

Claimant retained Respondent for representation in a custody matter. The written fee agreement provides for a non-refundable minimum fee of $5,000 to be billed against at $395 per hour, which Claimant paid in full at the time of retention. Respondent billed 1.25 hours on the file, earning $493.75 before Respondent's untimely passing, leaving a balance due to Claimant in the amount of $4,506.25.

Though Respondent's fee was non-refundable and considered earned upon receipt, the Committee determined that the fee was excessive, therefore, reimbursable. Claimant also paid Respondent an additional $500 for filing fees. However, Respondent did not file anything with the Court in the matter, therefore, the filing fee should be returned to Claimant as well as the unearned $4,506.25. The claim is recommended for reimbursement in the amount of $5,006.25 pursuant to the discretionary provisions of **CPF Rule 8(A)** and under **CPF Rule 7(A)(1)**.

CPF 4494
***Total Loss:* $1,500**

Claimant retained Respondent for two matters after their parent's death; to open an Estate for their deceased parent and for an eviction of an occupant from their deceased parent's home. Respondent agreed to complete the services for a 'reduced fee' of $2,250, which Claimant paid. Respondent charged Claimant $750 for the eviction matter and $1,500 for the Estate. Claimant acknowledges that Respondent completed the services for the eviction and has no issues with the outcome.

Respondent stopped communicating with Claimant shortly after the eviction matter was completed. Respondent then abandoned the Estate matter that they were retained for over three years ago. There is no record from the Probate Court index that there has been an Estate filed to date for Claimant's parent, supporting that the matter has been abandoned by Respondent.

Of the $2,250 paid to Respondent, the Committee denied reimbursement of the $750 for the eviction matter as Respondent provided the agreed upon services to completion for this portion of the retainer. The claim is recommended for reimbursement of $1,500 for the portion of the retainer paid for the Estate pursuant to **CPF Rule 7(A)(1)** as Respondent abandoned the matter, therefore, the fee is unearned and is a reimbursable loss.

CPF 4322
***Total Loss:* $1,800**

Respondent was retained by Claimant for representation in a legal malpractice matter. Claimant paid Respondent $25,000, plus $5,000 to retain an expert witness. Eventually, Respondent was disbarred and ordered to pay restitution in the amount of $25,000, which Respondent paid. However, the disbarment order did not take into account the additional $5,000 paid to Respondent for the expert witness fees, which was never returned to Claimant.

Claimant then filed a small claims action, securing a default judgment in the amount of $5,570. This amount awarded to Claimant was for the remaining $5,000 Respondent failed to refund to Claimant for the retention of an expert witness for the malpractice case, plus damages and costs.

Respondent failed to fully refund the $5,570 awarded to Claimant by the Court. Claimant acknowledged that Respondent did provide a partial refund of $3,200 years ago through a third-party and is requesting a reimbursement of the outstanding $2,370 owed by Respondent. The Fund is only authorized to consider reimbursement for funds paid to Respondent by Claimant and cannot reimburse for additional damages and costs ordered by the Court.

Since Respondent has reimbursed Claimant $3,200 of the $5,000, the claim is recommended for reimbursement of $1,800 pursuant to **CPF Rule 7(A)(1)** as Respondent failed to refund the unearned costs advanced to them, which constitutes as a reimbursable loss. The claim is also recommended for reimbursement pursuant to **CPF Rule 7(A)(2)** as this loss constitutes as theft and the wrongful taking of money that came into the possession of the lawyer.

2.5.2. Unauthorized Practice of Law Claims (UPL)*

2.6. Appointments

Presented by Lisa J. Hamameh

2.6.1. Institute of Continuing Legal Education (ICLE) Recommendations - Takura Nyamfukudza*

2.7. Public Policy - Model Jury Instructions*

Presented by Erika L. Bryant

FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS

===

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by November 1, 2026. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

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PROPOSED

The Committee proposes two new jury instructions addressing crimes within the Prohibited Conduct at Institutions of Higher Education Act, MCL 752.581 *et seq*. The first, M Crim JI 25.10 (Failure to Depart from the Property of a Public Institution of Higher Education After Violating Rules), covers the offense set forth in MCL 752.581. The second, M Crim JI 40.14 (Entering on the Property of a Public Institution of Higher Education to Disrupt or to Damage Persons or Property), covers the offense set forth in MCL 752.582. These instructions are entirely new.

[NEW] M Crim JI 25.10 Failure to Depart from the Property of a Public Institution of Higher Education After Violating Rules

(1) The defendant is charged with the crime of failing to depart from the property of a public institution of higher education after violating rules. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was on the campus or property of a publicly owned and operated institution of higher education or in a building or structure of that institution.

(3) Second, that while present at the institution, the defendant violated the institution's rule prohibiting [*identify the rule and describe alleged rule violation*].

(4) Third, that the institution's chief administrator or [his / her] designee notified the defendant that [he / she] held the position of [*describe position held*].

(5) Fourth, that the institution's chief administrator or [his / her] designee also notified the defendant that [he / she] was in violation of the institution's rule prohibiting [*identify rule*] and directed the defendant to leave the campus, property, building, or structure of the institution.

(6) Fifth, that after being directed to leave, the defendant deliberately remained on the campus, property, building, or structure of the institution.

(7) Sixth, that by remaining, the defendant either created a clear and substantial risk of physical harm or injury to persons or damage to property of the institution or unreasonably disrupted or prevented the normal functions of the institution by occupying the space reserved for those functions or by using or threatening to use force to disrupt or prevent those functions.

[NEW] M Crim JI 40.14 Entering on the Property of a Public Institution of Higher Education to Disrupt or to Damage Persons or Property

(1) The defendant is charged with the crime of entering on the property of a public institution of higher education to disrupt or to damage persons or property. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant entered onto the property of a publicly owned and operated institution of higher education or in a building or structure of that institution.

(3) Second, that when the defendant entered onto the institution's property, [he / she] intended to create

[*Select from the following*:]

(a) a clear and substantial risk of physical harm or injury to persons or damage to the institution's property by [*describe alleged conduct that would create risk of injury or damage*].

(b) an unreasonable disruption or prevention of the institution's normal functions [by occupying the space reserved for those functions / through the use or threat of force].

(4) Third, that by [*describe alleged conduct that would create risk of injury or damage or cause disruption*], the defendant did create

[*Select from the following*:]

(a) a clear and substantial risk of physical harm or injury to persons or damage to the institution's property.

(b) an unreasonable disruption or prevention of the institution's normal functions [by occupying the space reserved for those functions / through the use or threat of force].

Public Policy Position
Model Criminal Jury Instructions 25.10 and 40.14

Support with Recommended Amendments

<u>Explanation</u>
The committee voted unanimously to support the proposed jury instructions with a couple amendments to more closely track the statute.

The jury instructions appear consistent with the statutes except that in M Crim JI 25.10 the jury instruction does not include that the rules must be properly promulgated which is required in the statute. This requirement should be included in one of the numbered sections or included in a new numbered section.

In M Crim JI 40.14, the jury instruction inserted "normal" function as opposed to "customary and lawful" functions. Inserting "customary and lawful" in lieu of "normal" in subsections (3)(b) or (4)(b) would be more consistent with the statute.

<u>Position Vote:</u>
Voted For position: 12
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 10

<u>Contact Persons:</u>
Alexandria L. Casperson CaspersonA@michigan.gov

3. Board Secretary Election

For Vote

State Bar of Michigan Board of Commissioners Officer Election Materials

July 2026

4. Upcoming Events

Presented by Lisa J. Hamameh and Peter Cunningham

5. President's and Executive Director's Report

Presented by Lisa J. Hamameh and Peter Cunningham

5.1. Michigan Supreme Court Commissions Updates

5.2. BOC Retreat Update

5.3. SBM Presentation - Public Policy

6. Discussion: Challenges & Opportunities for the Profession and Justice System: CLEAR Report*

Presented by Lisa J. Hamameh

Committee on Legal Education and Admissions Reform (CLEAR)

Report and Recommendations

July 27, 2025

AccessLex Institute

COSCA Conference of State Court Administrators

Conference of Chief Justices 1949

NCSC

Thomson Reuters Institute

MEMBERSHIP AND PARTNERS

CLEAR's membership is comprised of chief justices and court administrators from a diverse array of states across the country. CLEAR was made possible through a partnership with AccessLex Institute, Thomson Reuters Institute, and the National Center for State Courts. The National Center for State Courts provided staffing for the Committee.

CLEAR Membership

CHAIR

Chief Justice Gordon J. MacDonald
New Hampshire Supreme Court

VICE CHAIR

Justice C. Shannon Bacon
Supreme Court of New Mexico

EXECUTIVE COMMITTEE

Chief Justice Meagan A. Flynn
Supreme Court of Oregon

Chief Justice Steven R. Jensen
Supreme Court of South Dakota

Chief Justice Valerie Stanfill
Maine Supreme Judicial Court

Elisa Butler
State Court Administrator, Supreme Court of Wyoming

David K. Byers
Administrative Director of the Courts, Supreme Court of Arizona

Chief Justice Matthew B. Durrant
Supreme Court of Utah

Robert W. Horner
Administrative Director, Supreme Court of Ohio

Chief Justice Tom Parker (Retired)
Supreme Court of Alabama

Chief Justice Loretta H. Rush
Indiana Supreme Court

Chief Justice Nathan L. Hecht (Retired)
Supreme Court of Texas; ABA Council Liaison

EXECUTIVE SUMMARY

Overview

In alarming numbers, Americans cannot fully access our justice system. The consequences are directly felt by the people whose legal needs are not being adequately addressed. They are families and individuals in distress with their basic rights and needs hanging in the balance. The indirect consequences are also profound. State courts—where 70 million cases are filed every year and 98 percent of all litigation takes place—confront huge numbers of self-represented litigants every day. Meanwhile, public confidence in our courts and the justice system continues to decline.

The unmet legal need is staggering, affecting so many people who require help yet lack access to essential legal resources. Each year, tens of millions of people encounter difficult moments that intersect with the law: the care and custody of children and dependent adults, consumer issues, domestic violence, housing problems, probate needs, and many more. A significant portion of these people must address their legal issues without the support of an attorney. Many individuals are unaware of their rights or the existence of legal services, while others are deterred by high costs and complicated processes. This gap not only perpetuates a sense of injustice but also leaves many without the necessary tools to navigate legal complexities, undermining the very foundation of a fair and equitable justice system. Addressing this unmet need is critical to ensure that all individuals can secure their rights and access the legal support they deserve.

At the same time, the legal profession itself is undergoing profound changes. With fewer contested hearings, the growing use of artificial intelligence (AI) and other technologies, and declines in mentorship, new attorneys have fewer opportunities to hone their practice skills and learn from more experienced practitioners. The changing economics of practice sees clients less willing to pay for the training of new associates in private law firms and solo and small firm practitioners facing increasingly challenging financial realities. Public interest-minded law students continue to face other serious barriers, from persistent negative perceptions of public interest work, to unclear career pathways, to lower salaries and higher debt burdens as compared with private practice. This is all while public trust in the courts has remained diminished, with many people expressing a lack of confidence in our judicial system.[1]

For the past eighteen months, members of the Committee on Legal Education and Admissions Reform have crisscrossed the country engaging stakeholders to better understand why the legal profession is not meeting the needs of the American people. The challenges faced by the profession are systemic and multifaceted; so, too, must be the responses. Breaking down the institutional impediments to reform will require the many actors and stakeholders to be better aligned around their shared goals of equal access to justice for all.

State courts are well-positioned to lead efforts for systemic change through innovation and reform. While there is already much groundbreaking work happening across the country, there is great potential for even more. We were repeatedly impressed not only by the level of engagement and enthusiasm for this undertaking, but also the desire for urgent reform. While the challenges facing the profession are great, the commitment to addressing them collectively and creatively is even greater. The recommendations outlined in this report offer a roadmap for how state courts can lead in advancing the profession and ensuring that access to justice for all is a reality.

Our Work

Against this backdrop, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) established the Committee on Legal Education and Admissions Reform (CLEAR) in August 2023 to undertake a comprehensive examination of legal education, licensure, and entry into the practice of law in the United States. As the primary regulators of the legal profession in their respective jurisdictions, state supreme courts play a critical leadership role in ensuring that the public has access to competent legal representation. CLEAR's charge was to assess how legal education and licensure practices and processes can address the justice gap crisis and ensure public trust and confidence in the legal profession. While several states have been exploring and experimenting with licensing authorized justice practitioners (non-lawyers) in addition to lawyers, CLEAR's charge was restricted to the regulation of lawyers.

Over 18 months, CLEAR engaged in intensive factfinding to examine how legal education, licensure, and the training of new attorneys can respond to these challenges. This included:

WORKING GROUPS

CLEAR formed three working groups to examine the interrelated themes of practice readiness, bar admissions, and public service. Working Group members included law school deans, judges, public interest attorneys, clinical educators, academics, representatives from the private bar, public interest advocacy organizations, and others.

LISTENING SESSIONS

CLEAR also engaged directly with critical stakeholders from the legal profession, convening 12 listening sessions that brought together stakeholders from regional legal communities across the country to discuss how these issues manifest in unique ways in different places. At each listening session, CLEAR Executive Committee members interacted with these stakeholders to hear their stories and understand how issues of legal education, bar admissions, and access to justice gaps affect their work.

SURVEYS OF JUDGES, LAWYERS, AND LAW STUDENTS

CLEAR surveyed over 4,000 judges, 4,400 attorneys, and 600 law students, revealing widespread agreement that newly admitted lawyers often lack sufficient preparation in critical applied practice skills and a hunger for innovative pathways to licensure to practice law.

STAKEHOLDER INTERVIEWS

CLEAR conducted over 90 interviews with a diverse array of stakeholders from across the legal profession to gain in-depth insights into these issues. Interviews included college students seeking to understand the legal field, law students navigating their academic journeys, recent graduates working to pass the bar exam (sometimes after multiple attempts) or embarking on their first roles as new attorneys, clinical and doctrinal law faculty sharing their invaluable expertise, and supervising lawyers in a variety of professional settings.

NATIONAL CONVENING

CLEAR held the National Convening on the Future of Legal Education and Admissions in Cincinnati, Ohio, on March 14, 2025. The convening brought together representatives from CCJ and COSCA, AccessLex Institute, the American Bar Association (ABA) Council of the Section of Legal Education and Admissions, the Association of American Law Schools, the Law School Admission Council, the Law School Survey of Student Engagement, and the National Association for Law Placement. Attendees discussed the challenges facing the legal profession and identified shared goals to inform CLEAR's recommendations and to lay the foundation for future collaboration.

Aligning Stakeholders to Achieve Innovation and Reform

All this engagement revealed a pressing need to realign legal education and bar admissions with the realities of modern legal practice and public needs. It takes an integrated effort to create a new practice-ready lawyer. Just like interlocking gears that seamlessly turn together to power a machine, there are many stakeholders that must collaborate to produce practice-ready attorneys and address access to justice gaps. These include:

- **STATE SUPREME COURTS** (or a jurisdiction's equivalent highest court) serve as the regulators of the legal profession, setting bar admissions requirements including attendance at or graduation from law school (based on accreditation), the passing score for the bar exam, additional or alternative criteria for admission via innovative pathways, and conducting character and fitness reviews of candidates. State supreme courts also set portability rules, continuing legal education requirements, and other requirements for practicing lawyers in their jurisdictions.

  CCJ and COSCA serve as the associations of state court leadership, wherein state court leaders collaborate, share insights, and drive national progress in court administration.

- **ACCREDITORS** create uniform standards for law schools to meet the minimum education requirements for accredited law schools, including standards for experiential learning.[2] Most jurisdictions require graduation from a law school accredited by the ABA Council of the Section of Legal Education and Admissions to the Bar to qualify a candidate to be eligible for admission to the bar.

- **LAW SCHOOLS** and related organizations educate and train future lawyers. There are both public and private law schools, serving a wide range of geographic communities, educational priorities, financial means, and substantive and clinical specialties. Legal educators also report varying approaches to bar exam preparation and offerings of experiential learning (with or without client responsibility).

- **BAR EXAMINERS AND BAR ADMISSIONS OFFICES** protect the public by implementing policy decisions made by state supreme courts with respect to bar admissions. They develop, administer and score bar examinations and, in some jurisdictions, they have implemented and supervised innovative licensure pathways. They also enforce character and fitness standards for admission developed by state supreme courts.

  The National Conference of Bar Examiners (NCBE) produces the Uniform Bar Examination (UBE) which is currently used in most states and has developed the NextGen Uniform Bar Examination (NextGen) that will begin to be implemented in July 2026 and will fully replace the UBE in 2028.

- **THE PRACTICING BAR** not only teaches law students and new attorneys how to apply legal skills in practice, but its members also serve as models of the values and norms of the legal profession and form the legal community that will support them as they transition into practice.

  Legal employers and state and local bar associations often serve as organizational partners in the training of law students and new attorneys, from ba-sponsored mentorship programs to structured employer onboarding and training programs.

- **NATIONAL, STATE, AND LOCAL ASSOCIATIONS** of public interest organizations are also instrumental in the landscape of legal education and licensure. Public interest associations often work to engage policymakers and the broader public on the issues that affect their clients and the attorneys that serve them. They also educate law students about public interest work generally as well as specific practice settings within public interest.

There is ample basis to be optimistic that such alignment can, in fact, lead to better results. Using their regulatory authority over the bar admissions process, state supreme courts have created innovative admissions pathways directed at issues such as increasing practice readiness and enhancing practice in the public interest. In addition, state supreme courts have and can play a critical role in encouraging mentorship opportunities for law students and new lawyers by experienced lawyers and judges. State supreme courts can also convene stakeholders at the local, regional, and national levels to share insights on best practices, identify areas for improvement and collaboration, and develop additional innovative strategies to promote effective, scalable, and affordable legal training, assessment, and professional development.

THEORY ISN'T ENOUGH. LAW STUDENTS NEED TO HAVE PRACTICAL EXPERIENCE OUTSIDE OF LAW SCHOOL."

—*CLEAR survey respondent*

Key Definitions

CLEAR defined several key terms that underpin many important recommendations. Prior to this report, stakeholders frequently used these terms with differing meanings. One of CLEAR's goals is to establish a baseline understanding of these important terms and their definitions, as follows:

PRACTICE READINESS

The knowledge, skills, and professional abilities that a new attorney must possess to practice independently at a novice level.

These competences fall into four broad categories:

(1) foundational knowledge and analytical skills,
(2) ethics and professionalism,
(3) communication and durable skills, and
(4) legal practice skills.

PUBLIC INTEREST

Includes civil legal aid attorneys, prosecutors, public defenders, government attorneys, and solo and small law firm attorneys who serve individuals' legal needs, particularly in underserved rural areas and for those with modest means.

Many practitioners in rural communities do a mixture of contract indigent defense cases, general civil and/or criminal practice, and significant pro bono service.[3] Broadly speaking, public interest is "people law," meaning the practice of law accessible to and responsive of people's legal needs.

BAR EXAM

A written exam approved by a state supreme court that is used to assess a lawyer's minimum competence to practice law.

The most common exam currently in circulation is the UBE, which has been adopted by 41 jurisdictions. The UBE is comprised of a series of multiple choice, essay, and performance exams. UBE scores are portable. Each state sets its score for passing the exam, and a test-taker may seek admission to other UBE states, subject to satisfaction of other admissions requirements.

The NextGen has been developed to test both legal knowledge and a practical application of skills in a more realistic legal setting.

INNOVATIVE LICENSURE PATHWAYS

In addition to the UBE or other traditional written bar exams, many jurisdictions have adopted other methods for assessing competence.

Currently, at least 13 states have enacted, or are considering, innovative pathways to licensure (Figure 1). Others are currently exploring what may work for their jurisdictions.

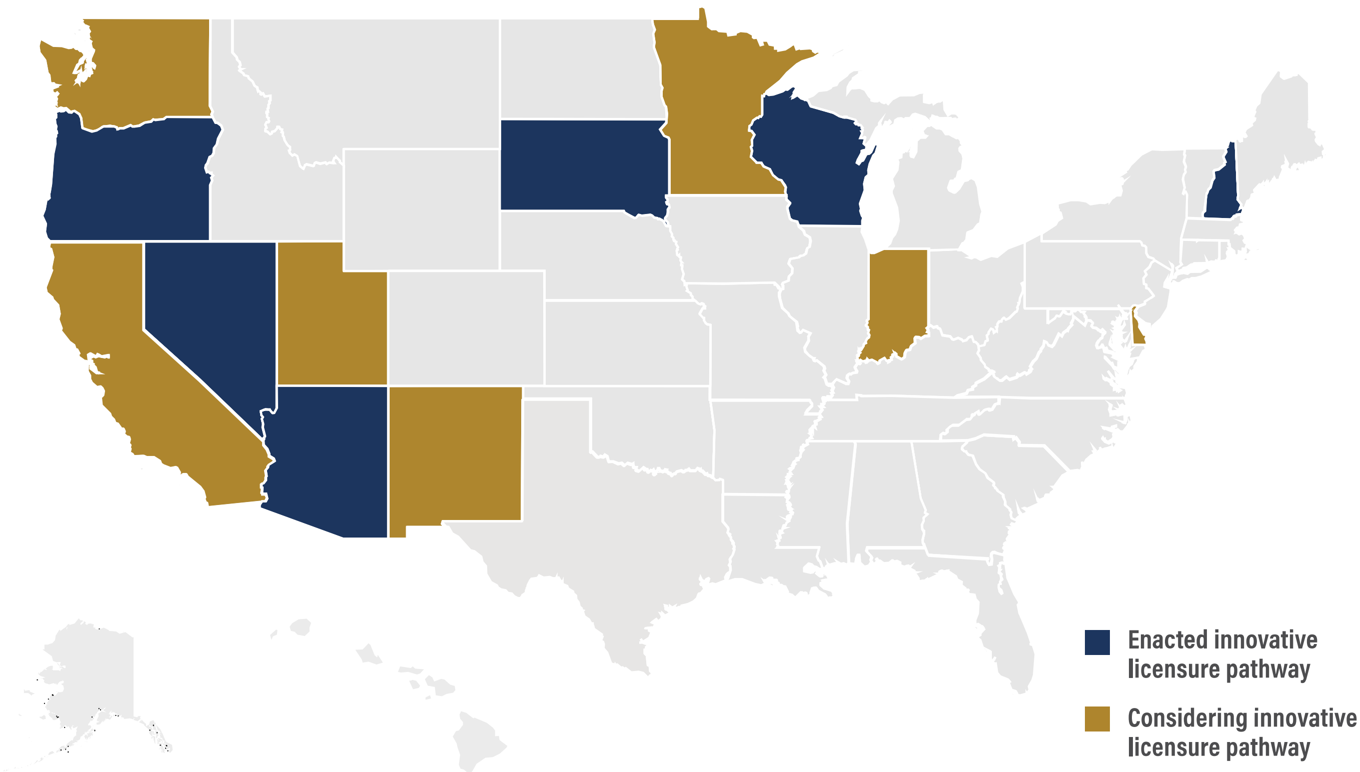
Many states are developing innovative licensing approaches that closely align with research identifying minimum competence in the legal profession, offering strong assurances of public protection. These models can assess essential entry-level skills in ways that traditional bar exams cannot. Experiential learning and field experience are recognized as the most effective methods for teaching practice skills, and these innovative pathways provide a new way to emphasize and evaluate a broader range of competencies relevant to legal practice.

The programs being implemented focus on three types: 1) curricular, 2) supervised practice, and 3) combined models:

- **Curricular Pathways** allow bar applicants to complete most, if not all, of the admission requirements while in law school. These options range from full diploma privilege to programs that require applicants to complete detailed curricular requirements and compile a portfolio of legal work that is evaluated by bar examiners.
- **Supervised Practice Pathways** allow applicants to demonstrate their competence while working under a licensed supervisor for a defined period.
- **Hybrid Pathways** combine written examinations with elements of curricular and supervised practice pathways.

A detailed landscape of programs nationwide is available on page 69.

Figure 1: Blue states have approved and enacted an innovative pathway to licensure. Gold states are in the process of considering innovative pathways to licensure.



Challenges Facing the Legal Profession

There are real and pressing challenges facing the legal profession that directly and urgently affect the people we serve. They should inform the scope of preparation new attorneys receive, the way we license, and the support we provide to new attorneys. The whole legal profession—from legal educators, to regulators, to the practicing bar—has an important role to play in equipping new lawyers with the skills, knowledge, and support they need as they begin their legal careers. These challenges include:

RISE OF SELF–REPRESENTED LITIGANTS

The justice gap represents a significant barrier to achieving equitable access to legal services. Many people find it increasingly difficult to obtain legal assistance due to a lack of available lawyers, rising costs of legal representation, and inadequate resources for civil legal services, prosecution, and criminal defense. Though family, probate and estate, housing, consumer, and criminal matters can be life-altering for those who experience them, most litigants are left to navigate a complex court system with inadequate or no legal assistance.[4] While attorneys play a central role in the adversarial legal system, too often we see "lawyer -less courts" where at least one party goes unrepresented and unassisted in highly consequential legal matters.[5]

INADEQUATE RESOURCES FOR PROVIDERS OF CIVIL LEGAL AID, CRIMINAL DEFENSE, AND PROSECUTION

Reports from across the country show that government agencies, public defender practices, and civil legal aid programs are losing their core assets—their attorneys who have dedicated their careers to public interest. Beginning in law school, students face numerous barriers to pursuing a career in public interest, from less predictable career paths as compared to private practice, to a perceived lack of prestige in many schools, to the prospect of managing educational loans on a public interest salary.

Each year, nearly a million people who seek help from civil legal aid providers are turned away due to the lack of resources to provide help.[6] Low-income Americans receive inadequate or no assistance whatsoever for 92 percent of their civil legal needs.[7] There are 1.3 million attorneys in the United States, but only 10,000 of them are legal aid attorneys.[8] Numerous cost-benefit studies show that legal aid services deliver far more in benefits than costs, but communities cannot reap these benefits without efforts to broaden the pool of willing and able attorneys to take on these important roles.[9] With the lowest salaries in the legal profession—less than half the median salary—civil legal aid organizations face intense competition with other public interest employers as they struggle to recruit and retain attorneys.[10]

Indigent defense systems nationwide are in crisis. With at least four of every five people accused of crimes unable to afford an attorney, public defender workloads are more than double the estimated reasonable capacity for effective representation.[11] These high caseloads are a major factor in public defender turnover and require public defenders to face the reality that they often cannot advocate effectively for their clients despite working long hours.[12] Adjusted for inflation, public defender salaries have remained stagnant for decades, with an average starting public defender salary of $59,700 in 2022.[13]

Prosecutors' offices across the country are also critically short-staffed. Although prosecutors have a higher average starting salary, e.g., $68,000 in 2020, they are still resigning at record numbers without new hires to replace them.[14]

> A PRACTICE IN A RURAL SPACE OFTEN LOOKS VERY DIFFERENT AND MANY OF US ARE SOLO ATTORNEYS THAT DON'T HAVE SUPERVISORS TO GUIDE US."
>
> —*CLEAR survey respondent*

SPREAD OF LEGAL DESERTS

The existence of legal deserts (often in rural communities) leaves many without any means to effectively navigate their legal needs. Although legal deserts are often most prevalent in rural areas, they can also be found in suburban and urban areas.[15] Over 50 percent of rural counties nationwide are considered legal deserts, with less than one lawyer per 1,000 people.[16] Rural communities not only struggle to find enough practicing lawyers, but also lack enough judges and government attorneys, leaving people living in rural communities with little access to critical legal infrastructure.[17]

Rural residents, who are more likely to stay in practice in rural areas, face barriers to accessing higher education and law school, while new attorneys who practice in rural areas often do not have the support that they need to balance the delicate economics to keep their practices afloat. Rural areas are served in large part by solo and small firm attorneys, who frequently combine their private practice with contract indigent defense, guardian ad litem, and sometimes prosecutorial work.[18] This rural legal scarcity is accelerated by consistent trends of rural attorneys who are retiring, but are not being replaced.[19] While the advancing age of the legal profession is even more heightened in rural areas, young attorneys also face other serious barriers to establishing lasting law practices in rural places.[20]

THE CHANGING LEGAL PROFESSION

The practice of law itself is changing, in both litigation and transactional work. With just 4% of state civil lawsuits and 3% of criminal cases going to trial, contested hearings are far less frequent than in the past.[21] New attorneys have fewer opportunities to hone the litigation skills that not only make them effective as court advocates, but also make them more effective in case evaluation, pretrial litigation, and negotiation.[22]

The rise of artificial intelligence (AI) is transforming traditional legal practices, diminishing many hands-on training experiences essential for skill development.[23] AI excels in tasks like legal research, writing, and drafting. It is effectively handling work typically assigned to associates, such as reviewing large volumes of documents and crafting memos.[24] While remote proceedings have enhanced access to courts for attorneys and clients, they also hinder new attorneys' training by reducing opportunities to observe experienced practitioners and learn courtroom procedures. [25] Although technology can improve efficiency and access to legal services, it is crucial that the training and support for the next generation of lawyers are responsive to these changes to ensure they can successfully navigate the evolving legal landscape.

Legal employers across the profession are reporting that they have less capacity to train new attorneys. The economic model of law firms, which once allowed for greater training costs and for new associates to gain practical experience working on client matters, is being replaced by a tighter market where clients are less willing to pay expenses related to new associate training.[26] This issue is further compounded by the struggles of public interest organizations, which are often overwhelmed with high caseloads, limiting their capacity to provide effective training and mentorship.

GENERATIONAL CHANGES AND AFTEREFFECTS OF THE COVID–19 PANDEMIC

The COVID-19 pandemic greatly hindered the educational and developmental skills of many students, creating significant disruptions that have led to gaps in knowledge and skill acquisition during crucial formative years.[27] At the same time, young lawyers face reduced opportunities for court observation and informal mentoring, exacerbated by the retirement of seasoned practitioners which has resulted in a loss of experienced mentors. This situation highlights the urgent need to address the long-term implications of these changes for this generation's readiness for both higher education and the workforce, emphasizing the importance of enhancing training and support.

MISALIGNMENT OF LEGAL EDUCATION, LICENSURE, AND LAW PRACTICE

Most law school graduates enter the legal profession, moving into diverse practice areas where preparedness is essential for effective client representation. In high-volume public defense, prosecution, solo and small firm practice, and civil legal aid offices, new attorneys must quickly adapt to their roles, often representing clients in court very soon after starting their careers. However, surveys reveal a concerning gap in practice skills; while new attorneys generally excel in areas like legal research and technology use, they often struggle with critical competencies such as client communication, legal writing specific to practice tasks, negotiations, and oral advocacy—skills that are typically developed through experiential learning opportunities like clinics and internships. Client contact is particularly important, as it helps new lawyers build the interpersonal skills necessary for maintaining effective relationships with clients and understanding their unique needs.

The role of bar licensure further complicates this issue. Noting that NexGen has yet to be implemented, the bar exam has not covered many practical realities of the profession. Although the bar exam is intended to assess minimum competence, many new attorneys and practicing lawyers alike believe it does not accurately reflect the skills needed for their daily responsibilities. Research indicates that extensive time dedicated to bar exam preparation is a key ingredient to passage, which proves difficult for candidates with other obligations, including job and caregiving responsibilities.[28]

These discrepancies pose a challenge to ensure that new attorneys are both competent and ready to engage with the communities they serve. Therefore, there is an urgent need for a reevaluation of both legal education and bar licensure to align them more closely with the practical skills required for successful legal practice.

THE ABSENCE OF COURT LEADERSHIP IN LEGAL EDUCATION AND ADMISSIONS

While there are, of course, exceptions, state supreme courts have not consistently or sufficiently led efforts around the regulation of the practice of law. This inconsistency has allowed others to fill the void, often without the consideration from or support by the judicial system. Collaboration across the legal profession is necessary to overcome entrenched structural impediments to innovation and reform, and state supreme courts must lead this effort.

CLEAR Recommendations for State Supreme Courts

RECOMMENDATION 1

Lead collaborative efforts to realign legal education, bar admissions, and new lawyers' readiness to practice with public needs.

State supreme courts are uniquely well-positioned to lead efforts to create a legal system that better addresses the legal needs of the communities they serve. Because innovation and reform are often hindered by existing and entrenched institutional impediments, state supreme courts should take a leadership role in fostering innovation and reform to realign legal education, bar admissions, and new lawyers' readiness to practice, meeting the legal needs of the public they serve.

RECOMMENDATION 2

Implement state-level strategies to improve practice readiness.

Due to the disconnect between the knowledge and skills most new lawyers have and those they need to be ready to practice, state supreme courts should lead in identifying and implementing specific strategies before and after lawyers are admitted to the practice of law.

RECOMMENDATION **2.1:** State supreme courts should increase opportunities for internships and externships, facilitate mentorship opportunities, and amend court rules to allow more students and recent graduates to appear under an attorney's supervision.

RECOMMENDATION **2.2:** State supreme courts should adopt CLE requirements to address practice readiness gaps, increase opportunities for law clerkships in state and local courts, and facilitate, encourage, and perhaps even require new lawyer mentorship opportunities.

RECOMMENDATION 3

Encourage law school accreditation that serves the public.

State supreme courts should encourage an accreditation process that promotes innovation, experimentation, and cost-effective legal education geared toward lawyers meeting the legal needs of the public.

RECOMMENDATION 4

Reduce reliance on external law school rankings.

In an increasingly competitive landscape, the emphasis on external rankings can often overshadow the core values and unique strengths of individual law schools and legal professionals. All stakeholders should reduce their reliance on external rankings, including those published by the U.S. News and World Report.

RECOMMENDATION 5

Encourage experiential learning that involves client responsibility.

Because experiential learning is imperative to train lawyers, both in law school and upon graduation, state supreme courts should encourage innovations and reforms in experiential learning that encourage greater client responsibility, through clinics, internships, externships or other practice settings, and through licensing requirements established in collaboration with legal educators.

RECOMMENDATION 6

Reform bar admissions processes to better meet public needs.

Because the bar admissions process—involving both a determination of competence and a successful character and fitness examination—plays a crucial role in the education and preparation of new lawyers, state supreme courts should encourage innovations and reforms to ensure that the bar admissions process aligns with the needs of the public they serve.

RECOMMENDATION **6.1:** State supreme courts should explore innovative pathways to licensure that enhance practice readiness and address access to justice.

RECOMMENDATION **6.2:** State supreme courts should develop passing scores for the NextGen UBE using evidence-based standard setting (psychometric standards).

RECOMMENDATION **6.3:** Because the bar exam causes economic and other hardships for many applicants, state supreme courts should consider allowing third-year law students to take the bar exam during law school, offering licensing exams in stages, and/or advocating for funding for applicants to cover preparation and living expenses during the study period.

CLEAR Recommendations for State Supreme Courts

RECOMMENDATION 6

(Continued)

RECOMMENDATION **6.4:** To support score portability—a current reality of the profession, and the expectation of lawyers in an increasingly interconnected world—state supreme courts should explore how to accept other jurisdictions' determinations of competence, whether by innovative or bar exam pathways.

RECOMMENDATION **6.5:** State supreme courts and their boards of bar examiners should engage in careful review of character and fitness requirements to streamline the process and focus on information that meaningfully predicts misconduct (as each state defines the term).

RECOMMENDATION 7

Support public service attorneys.

State supreme courts should work to support opportunities for lawyers to pursue careers in public service and to represent those currently underserved by the profession.

RECOMMENDATION **7.1:** State supreme courts should champion public interest lawyering by considering innovative pathways to licensure, supporting efforts to lower caseloads and support lawyer well-being, raising awareness and prestige of public interest careers, and advocating for strong public interest loan repayment assistance programs at the state and national levels and tax credit programs for public interest lawyers.

RECOMMENDATION **7.2:** State supreme courts should encourage all stakeholders to engage prospective and enrolled law students about the financial and professional implications of law school, especially related to salary, debt, public interest specialization programs and centers, and proactive individual assistance.

RECOMMENDATION 8

Encourage rural practice.

Because rural areas face the access to justice crisis acutely, often experiencing a critical shortage of attorneys to meet the legal needs of the community, state courts should work with stakeholders to expand opportunities for cost-effective rural education by promoting distance learning, exploring innovative pathways designed to address rural legal needs, and encouraging internship, externship, and law clerkships in rural communities.

RECOMMENDATION 9

Continue the work of CLEAR.

To assist state supreme courts with implementing the above recommendations, CCJ/COSCA should institutionalize the Committee on Legal Education and Admissions Reform (CLEAR) by establishing it as a joint standing committee of the conferences.

RECOMMENDATION **9.1:** CLEAR should continue to organize regular convenings among key stakeholders, regionally and locally, and among state supreme courts, bar examiners, and legal educators.

RECOMMENDATION **9.2:** CLEAR should facilitate and provide support to jurisdictions considering innovative pathways to bar admission.

RECOMMENDATION **9.3:** CLEAR should monitor the implementation of the Next Gen UBE and report to CCJ/COSCA about further refinement to the examination.

RECOMMENDATION **9.4:** Because score portability is a critical issue to the longevity and spread of innovative pathways, CLEAR should develop and recommend model standards and rules to state supreme courts.

MICHIGAN

BAR JOURNAL

Features

What the CLEAR report means for regulation of the legal profession

June 2026

by Chief Justice Megan K. Cavanagh | Michigan Bar Journal

After every administration of the bar exam, I have the privilege of sending a congratulatory email to all bar passers, encouraging them to reach out to their local bar association for a swearing-in ceremony. I also urge these soon-to-be lawyers to give back to their home communities and to provide their services pro bono to those who cannot afford them.

Every time I send that email, I wonder whether these bar passers are really ready to represent their clients as required by the Rules of Professional Conduct. For example, as enumerated in the preamble:

> A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.[1]

However, in the case of new lawyers, when the certificate of admission might only recently have been hung on the office wall, next to their law school diploma, what is that level of skill? Increasingly, I have come to believe that many of the recipients of that email are not ready. One second-year law student asked the question: "If you can 'think' like a lawyer, does that mean you can 'act' like a lawyer?"[2]

That's the question asked and answered in a report published last year by the Committee on Legal Education and Admissions Reform (the CLEAR report).[3] Endorsed by the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA), the report reflects a wide-ranging stakeholder analysis that included feedback from thousands of judges, attorneys, and law students.

What did CLEAR find? They found that the "legal profession is not meeting the needs of the American people."[4] The report identifies the huge unmet need — the justice gap — that denies millions of people access to our justice system and leaves them to navigate difficult issues ranging from domestic violence to landlord-tenant concerns without help from a lawyer. To compound the problem, the report notes that changes in the legal profession mean there are fewer attorneys who have the skill set or resources needed to meet these needs.

This crisis in our profession is not new. For example, a 2009 law review article clearly identified the problem:

> Many law schools tend to focus on legal analysis to the exclusion of other equally important skills, and therefore give students an incomplete understanding of legal practice. As a result, a common perspective among new lawyers is that law school taught them how to think like a lawyer, but if they wish to actually learn how to be a lawyer, they must do so after earning their degree.[5]

A 2011 analysis in the Sunday edition of *The New York Times* drilled into the problem, interviewing young law firm associates who had just spent three years and well over six figures on their degrees.

> What they did not get, for all that time and money, was much practical training. Law schools have long emphasized the theoretical over the useful, with classes that are often overstuffed with antiquated distinctions, like the variety of property law in post-feudal England.[6]

The New York Times analysis went on to note that while law schools are trying to expand programs that provide practical legal training, most faculty have little knowledge of the actual practice of law. At that time, the most recent study estimated that “nearly half of faculty members had never practiced law for a single day,” leading one recent graduate to note that: “What they taught us in law school is how to graduate from law school.”[7]

Fast-forward to today. The CLEAR report survey reveals much of the same. For example, in a survey of more than 4,000 judges nationwide, 54 percent responded “agree” or “strongly agree” when asked whether attorneys in their first five years of practice should receive further training before they are prepared to practice in their court.[8]

From the attorney perspective, there were also similar findings in the CLEAR report. For example, 68 percent of attorneys with less than five years of experience and nearly 58 percent of those with more than five years of experience said the bar exam was not a test of the skills needed in legal practice.[9] No doubt those less experienced lawyers wished that law school had taught them how to act like a lawyer and not just think like one.

What’s the solution? The CLEAR report provides a detailed blueprint that begins by aligning the many stakeholders who must play a role, ranging from state supreme courts to law schools to the practicing bar. In particular, CLEAR identifies state supreme courts, as regulators of the legal profession, as a key driver for the reforms needed to confront this crisis, train lawyers that act like lawyers, and address the justice gap. This is a challenge I enthusiastically accept, and I welcome the support of the State Bar as Michigan examines solutions that might work for us.

The report makes a wide range of recommendations. Uniformly implementing these recommendations across 56 independent jurisdictions that license American attorneys will be a challenging endeavor.[10] Nonetheless, I encourage members of the bar to read the report and review all of the recommendations. My focus in this article is on Recommendation 6: Reform bar admissions processes to better meet public needs.[11] However, I would stress that these recommendations must not be applied in a vacuum; they must be connected with other recommendations and targeted to address the justice gap.

Given the Supreme Court's role in licensing lawyers, the Court is ideally positioned to work with the Board of Law Examiners to reform how new lawyers are educated and prepared to practice. Indeed, this process has already commenced in Michigan. The Board of Law Examiners recently investigated alternative pathways to licensure, when informing the Court of its recommendation that Michigan adopt the NextGen UBE examination, commencing in July of 2028.[12] The Board will continue to investigate these alternatives. Moreover, the NextGen UBE examination is a step in the right direction. It is designed to better measure the skills new lawyers need to be successful, such as incorporation of more performance tests and short answers, essays, and tasks requiring the application of law and facts from a single fact pattern. The exam was developed by NCBE after years of focus groups and studies involving all areas of the legal profession. In short, the NextGen UBE examination is designed to better test practice skills.

Consistent with the activities ongoing in Michigan, the CLEAR recommendations include:[13]

- Exploring innovative pathways to licensure that enhance practice readiness and address access to justice. Currently, 13 states have either enacted or are considering these reforms. For example, the Washington Supreme Court has "adopted in concept" a pathway in which "students would take experiential law school courses, complete 500 hours of work as a licensed legal intern, and submit to bar examiners a portfolio" of that work.[14]
- Developing passing scores for the NextGen UBE using evidence-based standards. While public protection remains paramount, we must recognize that high passing scores can potentially screen out qualified candidates, contributing to the shortage of competent, licensed lawyers. For example, the report notes that from "2009 through 2018, California alone screened out more than 12,000 qualified candidates who would have passed the bar exam in other jurisdictions."[15] The Michigan Board of Law Examiners is working with a nationally renowned psychometrician to ensure that Michigan's cut score is reliable, evidence based, and not unduly rigid while protecting the public.
- Consider allowing third-year law students to take the bar exam during law school. This concept adopts a testing approach used by the medical profession in which students take exams in three stages, with the first two administered during medical school. Students can only take the last step if they pass the first two and graduate. The Nevada Supreme Court is looking at a three-stage testing approach that includes a "foundational knowledge" multiple-choice test that students could take after completing about half of the credits in the JD curriculum.[16] The second component is a "Lawyering Performance Examination" taken after graduation, while the "third component, 40-60 hours of supervised practice including client responsibility, could be completed either during law school or after graduation."[17]
- Supporting score portability by exploring how to accept other jurisdictions' determination of competence. The challenge in this case is that while virtually all states allow reciprocity, "there is no set portability or reciprocity for those who graduated through an innovative licensure program."[18] Clearly, this reality means that any new approach to licensing would need to have a portability component. Otherwise, participants would have to "sit for the bar exam if they want to practice in another state."[19] Michigan currently accepts experiential practice licensure for admission without examination as long as the applicant has practiced for three years where licensed and has no pending bar complaints.[20] Other states need to follow suit.

- Carefully reviewing character and fitness requirements to streamline the process and focus on information that meaningfully predicts misconduct. This evaluation is vitally important because the result has a direct impact on protecting the public; however, this recommendation is difficult because research tells us that the current process "provides minimal predictive value."[21] Moreover, we also know that many law students who might need mental health treatment do not seek help "due to concerns about bar admission."[22] This is a specific area of concern that we have taken steps to address. Michigan removed its mental health question from the State Bar application. Further, the Board of Law Examiners regularly emphasizes with law schools the importance of wellness and seeking menta health treatment. The Court and the Board of Law Examiners remain open to partnering with the State Bar in examining potential reforms of the evaluation process in a way that balances "public protection with fairness to candidates."23

These are just a sample of the 18 detailed recommendations in the report targeted at state supreme courts. Every day, my colleagues across the country are tackling this important work — in addition to their regular responsibilities hearing and deciding cases and supervising the administration of trial courts. For our part, Michigan is ready to lead so that new members of the bar can both think like lawyers and act like lawyers. I am committed to working with the State Bar, our Board of Law Examiners, and other stakeholders to reach this goal, increase access to justice, and keep our promise to protect the public.

ENDNOTES

1. MRPC 1.0, Preamble.

2. Garvin, *Making the Case*, Harvard Magazine (Sept 01, 2003) https://perma.cc/7AWE-TK8A (all websites visited May 26, 2026).

3. *Committee on Legal Education and Admissions Reform (CLEAR), Report and Recommendations*, National Center for State Courts (July 27, 2025) https://perma.cc/G45K-KA28.

4. *Id.* at p 5.

5. Krannich, Holbrook, & McAdams, *Beyond Thinking Like a Lawyer and the Traditional Legal Paradigm: Toward a Comprehensive View of Legal Education*, 86 Denver L Rev 381 (2009) .

6. Segal, *What They Don't Teach Law Students: Lawyering*, The New York Times (Nov 19, 2011) .

7. *Id.*

8. CLEAR Report, *supra* n 4 at p 22.

9. *Id.* at p 23.

10. Attorneys are licensed in the 50 states, the District of Columbia and 5 United States territories.

11. CLEAR Report, *supra* n 4 at p 15.

12. Woo, Schuette, & Lardner, *The NextGen Exam and Alternative Bar Admission Pathways*, The Regulatory Review (Jan 24, 2026) https://perma.cc/4FUU-9NAC.

13. CLEAR Report, *supra* n 4 at 15-16.

14 .*Id.* at p 78.

15. *Id.* at p 68.

16. *Id.* at p 62-63.

17. *Id.*

18. *Id.* at p 91.

19. *Id.*

20. *Admission Without Exam*, State Bar of Michigan https://perma.cc/Z8XQ-GJD4.

21. CLEAR Report, *supra* n 4 at p 90.

22. *Id.*

23. *Id.*

Chief Justice Megan K. Cavanagh is Chief Justice of the Michigan Supreme Court and has served on the court since 2019. She is a member of the CLEAR executive committee.

7. Representative Assembly Report

Presented by Nicole A. Evans

8. Young Lawyers Section Report

Presented by Jacob G. Eccleston

9. Public Policy

For Approval

Presented by Erika L. Bryant

9.1. Court Rules*

Order

Michigan Supreme Court
Lansing, Michigan

April 16, 2026

ADM File No. 2026-10

Addition of Rule 2.114 and
Amendment of Rule 7.209
of the Michigan Court Rules

On order of the Court, the following addition of Rule 2.114 and amendment of Rule 7.209 of the Michigan Court Rules are adopted, effective immediately. Concurrently, individuals are invited to comment on the form or the merits of the amendment during the usual comment period. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Immediate adoption of this proposal does not necessarily mean that the Court will retain the amendment in its present form following the public comment period.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

[New] Rule 2.114 Special Motions Under the Uniform Public Expression Protection Act

(A) Applicability. This rule applies to eligible causes of action under the Uniform Public Expression Protection Act, MCL 691.1853 *et seq*.

(B) Special Motion.

(1) Except as otherwise provided in this rule, a special motion must comply with the requirements of MCR 2.119 and must also include a statement that the motion is a special motion being filed pursuant to MCL 691.1853 *et seq*. and state the basis for the motion under MCL 691.1857.

(2) A special motion for expedited relief to dismiss an action or part of an action must be filed not later than 60 days after the party filing the motion is served with a complaint, cross-claim, counterclaim, third-party claim, or other pleading that asserts an eligible cause of action. The filing timeframe may be extended by the court for good cause shown.

(C) Stay of Proceedings.

(1) Upon filing a special motion, all proceedings between the moving party and the responding party, including discovery and any pending hearings or motions, are stayed.

(2) Upon motion by the moving party, the court may stay a hearing or motion involving another party, or discovery by another party, if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material to the special motion.

(3) A stay under subrules (C)(1) or (C)(2) remain in effect until entry of an order ruling on the special motion and expiration of the time under subrule (E) for the moving party to appeal the order.

(4) If a party appeals an order deciding the special motion, all proceedings between all parties in the action are stayed until the conclusion of the appeal. Stay on appeal is governed by MCR 7.209 and 7.305(J).

(5) During the stay, the court may allow limited discovery if a party shows that specific information is necessary to establish whether the party has satisfied or failed to satisfy a burden under MCL 691.1857(1) and the information is not reasonably available unless discovery is allowed.

(6) The stay does not affect a party's ability to voluntarily dismiss an action or part of an action, or move to sever a cause of action.

(D) Hearing.

(1) The court must hold a hearing on the special motion not later than 60 days after the motion is filed unless the court orders a later hearing date to accommodate limited discovery under subrule (C)(5) or for other good cause. If the court orders a later hearing date to accommodate limited discovery, the hearing must occur not later than 60 days after the court ordered the limited discovery, unless the court orders a later hearing for good cause shown.

(2) In ruling on a special motion, the court must consider the pleadings, the motion, and any reply or response to the motion, affidavits, depositions, admissions, or other documentary evidence.

(3) The court must rule on a special motion not later than 60 days after the hearing. The court must dismiss with prejudice an action, or part of an action, if the court finds the following:

(a) The moving party establishes the cause of action is an eligible cause of action under MCL 691.1852(1)(d); and

(b) The responding party fails to establish that the cause of action is not an eligible cause of action under MCL 691.1852(2); and

(c) Any of the following:

(i) The responding party fails to establish a prima facie case as to each essential element of the cause of action.

(ii) The moving party establishes that the responding party failed to state a cause of action on which relief can be granted.

(iii) The moving party establishes that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the action or part of the action.

(E) Appeal. The moving party may appeal as a matter of right from an order denying or granting, in whole or in part, a special motion. The appeal must be filed in accordance with MCR 7.204.

(F) Costs, Fees, and Expenses.

(1) Upon motion, the court must award court costs, reasonable attorney fees, and reasonable litigation expenses related to the special motion as follows:

(a) To the moving party if the moving party prevails on the motion. A voluntary dismissal with prejudice of the responding party's action, or part of an action, that is the subject of a special motion under this rule establishes that the moving party has prevailed for the purpose of this subrule.

(b) To the responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

(2) A voluntary dismissal without prejudice of a responding party's action, or part of an action, that is subject of a special motion under this rule does not affect a moving party's right to obtain a ruling on the motion or to seek costs, attorney fees, or expenses under this subrule.

(3) A motion for court costs, reasonable attorney fees, and reasonable litigation expenses is not subject to a stay under this rule.

Rule 7.209 Bond; Stay of Proceedings

(A)-(D) [Unchanged.]

(E) Stay of Proceeding by Trial Court.

(1)-(7) [Unchanged.]

(8) If a party appeals an order ruling on a special motion to expedited judicial review under MCL 691.1853, all proceedings between all parties in the action are stayed until the conclusion of the appeal. The stay does not apply to a motion under MCL 691.1860 for costs, attorney fees, and expenses, nor does it affect a party's ability to voluntarily dismiss an action or part of an action or to file a motion to sever the proceeding.

(F)-(I) [Unchanged.]

Staff Comment (ADM File No. 2026-10): The addition of MCR 2.114 provides a process for special motions under the Uniform Public Expression Protection Act (MCL 691.1853 *et seq*.), and the amendment of MCR 7.209 clarifies the availability and applicability of the stay during an appeal as contemplated by this new Act.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by August 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2026-10. Your comments and the comments of others will be posted under the chapter affected by this proposal.

SEAL OF THE MICHIGAN SUPREME COURT · LANSING ·

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 16, 2026

Clerk

Public Policy Position
ADM File No. 2026-10: Addition of MCR 2.114 and Amendment of MCR 7.209

Support

Explanation
The Committee voted unanimously to support the addition of MCR 2.114 and amendment of MCR 7.209, as the contents of this ADM File No. fairly reflect the requirements for special motions established by the Legislature under the Uniform Public Expression Protection Act, 2025 PA 52, which became effective on March 24, 2026.

Position Vote:
Voted For position: 13
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 8

Contact Persons:
Garrett Burton gburton@sado.org
Mira Edmonds edmondm@umich.edu

Public Policy Position
ADM File No. 2026-10: Addition of MCR 2.114 and Amendment of MCR 7.209

Oppose

Explanation
The Committee voted unanimously to oppose ADM File No. 2026-10. The Committee believes that it would be preferable to cite the requirements of the Uniform Public Expression Protection Act, 2025 PA 52, by reference, as opposed to incorporating them into the Michigan Court Rules. The Committee is concerned that incorporating these statutory provisions into the Court Rules will lead to discrepancies and confusion in the future if the Legislature chose to amend the law without the Court also following suit in a timely fashion.

Position Vote:
Voted For position: 23
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 8

Contact Person:
Marla Linderman Richelew mrichelew@gmail.com

Public Policy Position
ADM File No. 2026-10 – Addition of MCR 2.114 and Amendment of MCR 7.209

Support

Explanation
The Committee voted unanimously to support the addition of MCR 2.114 and amendment of MCR 7.209, as the contents of the proposal fairly reflect the requirements for special motions established by the Legislature under the Uniform Public Expression Protection Act, 2025 PA 52, which became effective on March 24, 2026.

Position Vote:
Voted For position: 12
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 8

Contact Person:
Ashley E. Lowe alowe@lakeshorelegalaid.org

Name: Matthew S. Erard

Date: 05/02/2026

ADM File Number: 2026-10

Comment:
I'm writing to call attention to two apparent and related errors in the text of MCR 2.114 as currently adopted.

Under 2.114(A), the citation of the statute should be "MCL 691.1851 et seq.," rather than "MCL 691.1853 et seq." This is particularly important because the criteria for eligible causes of action referred to within that subrule are found under MCL 691.1852, which precedes the section currently identified as the starting point of the series.

Additionally, MCR 2.114(B)(1) currently refers to "a special motion being filed pursuant to MCL 691.1853 et seq." This does correctly reflect the statutory section that authorizes filing the type of special motion described. However, if citing that particular section, rather than the first section of the public act, then it should probably be cited without the Latin abbreviation "et seq.," as reflected within the new language of MCR 7.209(E)(8).

Comment Submission

Name: Anonymous
Date: 05/08/2026
ADM File Number: 2026-10

Comment:

To the extent these proposed changes reference 2.119 for the requirements for the length and form of briefs, revisions to 2.119 should be considered as well. As currently written, 2.119 is vague and subject to interpretations of the brief length requirement that vary by judge, and which result in differing requirements for certain litigants. For example, some Circuit Court judges include captions in their calculation of brief length. When there is a case involving a significant number of parties and counsel, it is not uncommon for a caption to extend to even a second page. As a result, those litigants are subject to more draconian requirements - especially when it comes to the five-page reply brief limit.

Amending 2.119 to explicitly delineate which portions of a brief are included within the page limit would provide clarity and consistency to litigants and their counsel, and would ensure that 2.119 is consistent with 7.212(B)(2), which excludes certain non-substantive portions of a brief from the word court limit.

Order

Michigan Supreme Court
Lansing, Michigan

April 22, 2026

ADM File No. 2024-15

Proposed Addition of Rule 6.426 and Proposed Amendments of Rules 7.216 and 7.315 of the Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering an addition of Rule 6.426 and amendments of Rules 7.216 and 7.315 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

[NEW] Rule 6.426 Appointment of Appellate Counsel Following Remand by Michigan Supreme Court

(A) Appointment of Lawyer on Remand; Scope of Appellate Lawyer's Responsibilities.

(1) Appointment of Lawyer on Remand.

(a) All requests for the appointment of appellate counsel must be granted or denied on forms approved by the State Court Administrative Office and provided by MAACS.

(b) Within 7 days after receiving an order from the Court of Appeals remanding a case to the court for a determination of indigency under MCR 7.215(E), the trial court must submit the request, the judgment of sentence, the register of actions, and any additional requested information to MAACS under procedures approved by the Appellate Defender Commission for the preparation of an appropriate order granting or denying the request. The court must notify MAACS if it intends to deny the request for counsel.

(c) Within 7 days after receiving a request and related information from the trial court, MAACS must provide the court with a proposed order appointing appellate counsel or denying the appointment of appellate counsel. A proposed appointment order must name the State Appellate Defender Office (SADO) or an approved private attorney who is willing to accept an appointment for the appeal.

(d) Within 7 days after receiving a proposed order from MAACS, the trial court must rule on the request for a lawyer. If the defendant is indigent, the court must enter an order appointing a lawyer. An order denying a request for the appointment of appellate counsel must include a statement of reasons and must inform the defendant that the order denying the request may be appealed by filing an application for leave to appeal in the Court of Appeals in accordance with MCR 7.205.

(e) The trial court must serve MAACS with a copy of its order granting or denying a request for a lawyer. Unless MAACS has agreed to provide the order to any of the following, the trial court must also serve a copy of its order on the defendant, defense counsel, and the prosecutor.

(B) Scope of Appellate Lawyer's Responsibilities. The responsibilities of the appellate lawyer appointed to represent the defendant include representing the defendant

(1) in available postconviction proceedings in the trial court the lawyer deems appropriate,

(2) in postconviction proceedings in the Court of Appeals,

(3) in available proceedings in the trial court the lawyer deems appropriate under MCR 7.208(B) or 7.211(C)(1), and

(4) as appellee in relation to any postconviction appeal taken by the prosecutor.

Rule 7.216 Miscellaneous Relief

(A)-(C) [Unchanged.]

<u>(D) Appointment of Counsel Following Supreme Court Remand. Upon remand by the Supreme Court of a criminal case on direct appeal involving an in pro per defendant, the Court of Appeals must determine whether prior appellate counsel is available to represent the defendant in the remand proceedings. If not, the Court of Appeals must remand the case to the trial court for appointment of appellate counsel under MCR 6.426.</u>

Rule 7.315 Opinions, Orders, and Judgments

(A)-(D) [Unchanged.]

(E) An order remanding a criminal case on direct appeal to the Court of Appeals that involves a pro per defendant must include language advising the defendant that the defendant has the right to counsel and that if the defendant is unable to afford a lawyer, one may be appointed in accordance with MCR 7.216(D).

Staff Comment (ADM File No. 2024-15): The proposed addition of MCR 6.426 and proposed amendments of MCR 7.216 and 7.315 would ensure that self-represented criminal defendants are advised of the right to counsel in remand proceedings from the appellate courts and would facilitate appointment of such counsel.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by August 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2024-15. Your comments and the comments of others will be posted under the chapter affected by this proposal.

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 22, 2026

Clerk

SBM
State Bar of Michigan

ACCESS TO JUSTICE POLICY COMMITTEE

Public Policy Position
ADM File No. 2024-15: Proposed Addition of MCR 6.426 and Proposed Amendments of MCR 7.216 and 7.315

Support

Explanation
The Committee voted unanimously to support ADM File No. 2024-15. This file proposes amending MCR 7.216 by adding subsection (D) to require the Court of Appeals, after remand by the Supreme Court of a criminal case on direct appeal involving an in pro per defendant, to determine whether prior appellate counsel is available to represent the defendant in the remand proceedings. If not, the Court of Appeals must remand the case to the trial court for appointment of appellate counsel under proposed rule MCR 6.426.

ADM File No. 2024-15 also proposes that MCR 7.315(E) be added to require that the order on remand from the Michigan Supreme Court include language to advise the *in pro per* defendant that they have a right to counsel and if they cannot afford one, one may be appointed pursuant to MCR 7.216(D).

Today, MCR 6.425 provides for the appointment of an appellate lawyer after sentencing. Adding MCR 6.426 and revising MCR 7.216 and 7.315 fills a gap in appellate level representation. Specifically, it ensures that if a case is remanded from the Supreme Court, appellate counsel can be appointed, and the defendant must be made aware of this opportunity.

Position Vote:
Voted For position: 13
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 8

Contact Persons:
Garrett Burton gburton@sado.org
Mira Edmonds edmondm@umich.edu

Public Policy Position
ADM File No. 2024-15: Proposed Addition of MCR 6.426 and Proposed Amendments of MCR 7.216 and 7.315

Support

Explanation
The Committee voted unanimously to support ADM File No. 2024-15. The addition of MCR 6.426 and amendment of MCR 7.216 and 7.315 will improve appellate representation in matters remanded by the Supreme Court and ensure that defendants are aware of the opportunity for the appointment of counsel.

Position Vote:
Voted For position: 11
Voted against position: 0
Abstained from vote: 1
Did not vote (absence): 10

Contact Persons:
Alexandria L. Casperson CaspersonA@michigan.gov
John A. Shea jashea@earthlink.net

Public Policy Position
ADM File No. 2024-15 – Proposed Addition of MCR 6.426 and Proposed Amendments of MCR 7.216 and 7.315

Support

Explanation
The Committee voted unanimously to support proposed addition of MCR 6.426 and proposed amendments of MCR 7.216 and 7.315.

Position Vote:
Voted For position: 12
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 8

Contact Person:
Ashley E. Lowe alowe@lakeshorelegalaid.org

Order

Michigan Supreme Court
Lansing, Michigan

April 16, 2026

ADM File No. 2024-34

Proposed Amendment of
Rule 7.316 of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.316 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 7.316 Miscellaneous Relief

(A) [Unchanged.]

(B) Allowing Act After Expiration of Time.

(1) When, under the practice relating to appeals or stay of proceedings, a nonjurisdictional act is required to be done within a designated time, the Court may at any time, on motion and notice, permit it to be done after the expiration of the period on a showing that there was good cause for the delay or that it was not due to the culpable negligence of the party or attorney. The Court will not accept for filing a motion to file ~~a late application for leave to appeal under MCR 7.305(C), a late application for leave to cross-appeal under MCR 7.307(A),~~ a late motion for rehearing under MCR 7.311(F)~~,~~ or a late motion for reconsideration under MCR 7.311(G).

(2) A party may file a motion requesting to file a delayed application for leave to appeal under MCR 7.305(C) or a delayed application for leave to cross-appeal under MCR 7.307(A) only as provided in this subrule.

(a) The motion must identify an exceptional circumstance existing on the date that the application is or would have been due under MCR 7.305 or MCR 7.307. For purposes of this subrule, "exceptional circumstance" means a serious or disabling illness or injury of the party or the party's attorney, death of the party's or their attorney's immediate family member, an act of God, state or national emergency, or other circumstance of similar unavoidable nature.

(b) The motion must be filed no later than seven days after the date that a timely application would have been due. The Court will not accept for filing a late motion to file a delayed application.

(c) The motion may request a new deadline for filing the application. The requested deadline must be reasonable under the circumstances. The Court has discretion to establish any deadline it deems appropriate.

(d) The party filing the motion must serve a copy of the motion on all other parties and file proof of service with the Court.

(C)-(D) [Unchanged.]

Staff Comment (ADM File No. 2024-34): The proposed amendment of MCR 7.316 would allow the Court to accept late applications for leave to appeal or cross-appeal in limited circumstances.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by August 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2024-34. Your comments and the comments of others will be posted under the chapter affected by this proposal.

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 16, 2026

Clerk

Public Policy Position
ADM File No. 2024-34: Proposed Amendment of MCR 7.316

Support with Amendment

Explanation
The Committee voted unanimously to support ADM File No. 2024-34 with a further amendment to Rule 7.316(2)(b):

> The motion must be filed no later than **14** ~~seven~~ days after the date that a timely application would have been due. The Court will not accept for filing a late motion to file a delayed application.

The Committee believes that 14 days is a more reasonable timeframe for filing a delayed application under the exceptional circumstances defined in this proposal.

Position Vote:
Voted For position: 14
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 7

Contact Persons:
Garrett Burton gburton@sado.org
Mira Edmonds edmondm@umich.edu

Public Policy Position
ADM File No. 2024-34: Proposed Amendment of MCR 7.316

No Position

Explanation
The Committee voted to take no position on ADM File No. 2024-34.

Position Vote:
Voted For position: 15
Voted against position: 5
Abstained from vote: 2
Did not vote (absence): 9

Contact Person:
Marla Linderman Richelew mrichelew@gmail.com

Public Policy Position
ADM File No. 2024-34: Proposed Amendment of MCR 7.316

Support

Explanation
The Committee voted unanimously to support the amendment of MCR 7.316 and believes that it is appropriate and desirable for the Court to accept late applications for leave to appeal in the limited, exceptional circumstances outlined in ADM File No. 2024-34.

Position Vote:
Voted For position: 11
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 11

Contact Persons:
Alexandria L. Casperson CaspersonA@michigan.gov
John A. Shea jashea@earthlink.net

Public Policy Position
ADM File No. 2024-34 – Proposed Amendment of MCR 7.316

Support

Position Vote:
Voted for position: 13
Voted against position: 1
Abstained from vote: 0
Did not vote: 1

Contact Person: Fawzeih Daher
Email: fdaher@bodmanlaw.com

Order

Michigan Supreme Court
Lansing, Michigan

April 16, 2026

ADM File No. 2025-30

Proposed Adoption of Administrative Order No. 2026-X: Pilot Project to Study Informal Domestic Relations Docket

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On order of the Court, this is to advise that the Court is considering the use of modified court rules for a proposed pilot project, and before cases are handled under the proposed pilot, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for each public hearing are posted on the Public Administrative Hearings page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Administrative Order No. 2026-X – Pilot Project to Study Informal Domestic Relations Docket

On order of the Court, the Court approves a pilot project to study the effectiveness of an informal domestic relations docket. Case processing on the informal docket will begin in fall 2026 when the pilot courts are equipped to do so, and the following rules will apply at that time:

(A) Family Division – Informal Docket.

In addition to the family division docket as provided by Chapter 2 and Subchapter 3.200 of the Michigan Court Rules, the 8th (Montcalm County only), 14th, 17th, and 48th circuits shall pilot an Informal Domestic Relations Docket for all or a portion of their domestic relations caseload to allow alternative access to the court for individuals who may have difficulty advocating within a formal court setting because of exposure to trauma, lack of legal representation, or both and to expedite relief in such actions. Except as otherwise provided in this order, domestic relations actions under this order are governed by the general and special court rules applicable to all other domestic relations actions.

(B) Removal from Informal Docket.

(1) All new domestic relations actions assigned to a judge, as designated by SCAO, in the 8th Circuit Court (Montcalm County), 14th Circuit Court, 17th Circuit Court, and 48th Circuit Court, will begin on the Informal Docket except those for an initial personal protection order.

(2) Either party may remove the action from the Informal Docket by:

(a) Requesting a de novo hearing if the action was presented to a referee.

(b) Requesting the action be removed from the docket at least 14 days before a dispositive hearing or trial in the action. The 14-day restriction may be modified or waived by the court upon a showing of good cause. No formal pleading is required to remove the action – any written request by either party sent to or filed with the court, or any oral request during any conference or proceeding before the court is sufficient to opt out of the proceeding.

(3) The court may decide that the Informal Docket will be ineffective in resolving the action and remove the action from the Informal Docket at any time even after a trial or hearing has commenced.

(4) When an action is removed from the Informal Docket, the court may either proceed based on the original filings or order the parties to submit formal pleadings within a reasonable time.

(5) At the time the action is removed from the Informal Docket, based on the facts and status of the case and the parties, the court may issue orders to protect the parties, their children, and their assets pending further proceedings in the case.

(6) The SCAO shall develop a brochure for all parties in the Informal Docket explaining that it is a pilot project, explaining the differences between the traditional and informal dockets, and advising the parties that either of them may request that the case be handled in the traditional docket. The brochure shall be provided to the plaintiff at the time the complaint is filed and served with the summons and complaint.

(C) Venue.

(1) Venue is proper in any county that satisfies the jurisdictional and venue requirements established by statute.

(2) When a circuit court in more than one pilot court would have proper venue, the action must be filed in the county of a circuit court that has issued a prior order involving the parties.

(3) The court on its own motion, or on motion of a party may change venue to another circuit court among the pilot circuits that would have proper venue for the following reasons:

(a) An order for the protection of a party or a minor child of the parties exists in another circuit court.

(b) Another circuit court is more convenient for the parties given the facts and circumstances of the parties and the case.

(D) Procedure in Informal Docket.

Actions on the Informal Docket are governed by the following procedures:

(1) Formal rules of pleading do not apply. The request for relief and the answer to the request may be submitted on forms approved by the State Court Administrative Office. A pleading should not be dismissed because it does not strictly conform to this subrule and may be presented in any manner that the court believes apprises the court and parties of the issues the court must decide. The court should liberally grant amendments as necessary to ensure the parties are able to present their arguments to the court and may accept oral explanations to determine the scope of the hearings.

(2) The pleadings shall wherever possible follow this form:

(a) The pleading party shall state each separate allegation the party believes justifies the result the party is seeking in a separate numbered paragraph.

(b) The pleading party shall state the statute, court rule, or other authority the party relies on to support the relief requested.

(c) The responding party shall respond to each separate allegation in a numbered paragraph corresponding to the pleading party's numbered paragraphs and allege any additional facts in subsequent numbered paragraphs the responding party believes justifies the result the party is seeking.

(d) All parties must file a domestic abuse disclosure form. The domestic abuse disclosure form shall be limited to reporting personal protection actions, domestic abuse criminal actions, and child protective actions involving the parties and shall be on a form approved by the State Court Administrative Office. Each party must complete a separate form.

(3) Each party shall serve a Verified Financial Information form as provided in MCR 3.206(C).

(4) The court may limit amendments if the court is convinced a party is engaging in conduct to delay the proceedings, or to control or harass the other party.

(5) When there is a personal protection order under MCL 600.2950 or MCL 600.2950a, an Extreme Risk Personal Protection Order under MCL 691.1801 *et. seq*., or an order pursuant to MCL 765.6b based on domestic violence, the court may limit disclosure to an abusive party information that the abused party provides to the court or friend of the court, including but not limited to address or place of employment.

(E) Service.

A party may arrange for service or the clerk, or the clerk's designee will serve the initiating document and any other forms as required by MCR 2.105. Other forms of service are acceptable if the party being served files a responsive pleading, acknowledges service in writing, or acknowledges in court that the party received a copy of the pleadings.

(F) Trials and Hearings.

(1) A trial or hearing may be conducted in the manner of an oral argument, an oral argument supplemented by testimony, an evidentiary hearing, or as a conference.

(2) At the beginning of an Informal Docket trial or hearing, the person hearing the proceeding will explain the rules and ask the parties to confirm they understand how the proceedings will be conducted.

(3) The court may ask the parties or their lawyers for a summary of the issues to be decided.

(4) The initiating party will be allowed to speak to the court under oath concerning all issues in dispute. The party may be questioned by counsel or by the court to develop evidence required by any statute or rule, for example, the applicable requirements of the Michigan Child Support Guidelines if child support is at issue.

(5) Except as allowed by the court, the parties may not directly cross-examine each other. The parties may cross-examine each other through the court. The court will ask the non-moving party or the party's counsel whether there are any other areas the party wants the court to inquire about. The court will inquire into these areas if requested and if relevant to an issue the court needs to decide.

(6) The process in subrules (F)(4) and (F)(5) is repeated for the other party.

(7) The parties or their counsel will be offered the opportunity to respond briefly to the statements of the other party.

(8) The parties or the court may call witnesses. Witnesses may testify on their own or through direct examination by counsel. Except as allowed by the court, the parties may not directly cross-examine witnesses. The parties may cross-examine witnesses through the court. The parties or counsel may ask the court to direct questions to the witnesses. The court may allow counsel to question the witness instead of the court in the interest of time when the witness does not appear to be aligned with the interests of a party to the action.

(9) The parties or their counsel will be offered the opportunity to make a brief closing argument.

(10) At the conclusion of the trial or hearing, the court shall make a ruling. The court may take the matter under advisement, but best efforts will be made to issue prompt rulings.

(11) In accordance with MCR 3.215, domestic relations referees may conduct the proceedings.

(G) Evidence.

(1) Except for a claim of privilege and relevance, the Michigan Rules of Evidence do not govern the admissibility of evidence in cases subject to this rule. The court may receive any relevant evidence.

(2) The court will receive any exhibits offered by the parties. The court will determine what weight, if any, to give each exhibit. The court may order the record to be supplemented.

(3) In determining the reliability of the evidence to determine a fact in dispute, or the weight to give to the evidence, the court may use the entire Michigan Rules of Evidence as a guideline.

(H) Discovery.

Discovery is limited to the Verified Financial Information Form in MCR 3.206(C) and information in documents that may be acquired from third parties and agencies pursuant to subpoena. If the court or a party determines that additional information is necessary to fully disclose information the court needs to decide the case, the court on its own motion or at the request of a party, may permit additional discovery subject to conditions necessary to prevent delay or to protect a party or witness from abuse or intimidation.

(I) Interim and Temporary Orders.

Pending the final disposition of any matter, the court may hold hearings and conferences to review the status of the action, hear arguments and receive evidence, enter scheduling orders, and enter interim and temporary orders in the action.

(J) Assistance to the Informal Docket.

The court may use community and circuit court resources to assist in resolving actions on the Informal Docket, including:

(1) Allowing DNA testing at the request of a party to a paternity case.

(2) Requesting a friend of the court evaluation and recommendation.

(3) Ordering the parties to attend counseling sessions or obtain psychological evaluations.

(4) Referring the parties to the community dispute resolution services in the parties' community.

(5) Referring the parties to a court-approved individual to explain how the docket works, next steps in the docket, and to determine what issues are contested and what issues the court may need to consider to protect the parties, their children, and their assets. Following the meeting, the court may place any agreements on the record, take testimony to preserve proofs, and enter orders as appropriate to assist in resolving issues in the action.

(6) Referring matters to a referee.

(K) Postjudgment.

The decisions of the court in this docket are final decisions binding on the parties to the action as in any other circuit court action. The decisions are subject to appellate review to the same extent and subject to the same rules as other circuit court judgments for the type of action. A party is not required to object to a decision to preserve it for appeal.

Staff Comment (ADM File No. 2025-30): This proposed administrative order would approve a pilot project to study the effectiveness of an informal domestic relations docket.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by August 1, 2026 by clicking on the "Comment on this Proposal" link under this proposal on the Court's Proposed & Adopted Orders on Administrative Matters page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When submitting a comment, please refer to ADM File No. 2025-30. Your comments and the comments of others will be posted under the chapter affected by this proposal.

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 16, 2026

Clerk

Public Policy Position
ADM File No. 2025-30: Proposed Adoption of Administrative Order No. 2026-X

Support in Concept

Explanation
The Committee voted unanimously to support the concept of a pilot project to study an informal domestic relations docket, but did identify several areas of concern:

Individuals with Limited Literacy
Although the proposal seeks to improve accessibility for self-represented litigants, it may not adequately address the needs of individuals with limited literacy or reading comprehension. Even with relaxed pleading requirements, litigants are still expected to understand the SCAO court brochures, complete forms, respond to allegations, provide financial disclosures, and understand court procedures and orders.

Individuals with limited literacy may face difficulties: understanding legal terminology and procedural requirements; completing required forms accurately; understanding the consequences of agreements or court orders; and effectively presenting their positions to the court.

To address these concerns, the court should consider, at the outset of the proceedings, orally explaining to the parties the process and the parties' rights, including the right to transfer the matter to the formal docket.

Relaxed Evidentiary Rules
The proposal provides that, except for privilege and relevance, the Michigan Rules of Evidence would not govern admissibility of evidence in informal docket proceedings. Courts may receive any relevant evidence and determine the weight to give such evidence.

While this approach may reduce procedural complexity and assist self-represented litigants, it raises significant concerns regarding fairness, reliability, and due process. Domestic relations matters frequently involve disputed factual allegations concerning custody, parenting time, finances, and abuse. Relaxed evidentiary standards may allow unreliable or prejudicial information to influence judicial decision-making.

Domestic Violence Allegations
The proposal excludes initial personal protection order ("PPO") actions from automatic placement on the informal docket. However, many domestic relations cases involve allegations of domestic violence even when no PPO has been filed. Survivors of domestic violence may avoid seeking PPOs due to fear, coercion, financial dependence, or safety concerns.

As written, cases involving allegations of domestic violence, but no active PPO could still proceed automatically on the informal docket unless a party requests removal or the court independently removes the matter.

This raises several concerns, for example: Survivors of abuse may feel intimidated participating in informal proceedings; informal procedures may magnify existing power imbalances; victims may not fully understand their ability to opt out; and relaxed evidentiary rules allow unverified allegations to be considered by the court.

Although the proposal contains some safeguards, including domestic abuse disclosure forms, limits on direct cross-examination, and authority to restrict disclosure of sensitive information, these protections may not fully address the risks presented by coercive control or unreported domestic violence.

Training and Funding Support
It is unclear what support will be provided (e.g., training, funding) to ensure success of the pilot project and the Committee believes that significant support will be essential.

Position Vote:
Voted For position: 14
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 7

Contact Persons:

Garrett Burton gburton@sado.org
Mira Edmonds edmondm@umich.edu

Public Policy Position
ADM File No. 2025-30: Proposed Adoption of Administrative Order No. 2026-X

Oppose

Explanation
The Committee voted to oppose ADM File No. 2025-30 based on concerns articulated by the Family Law Section and the Access to Justice Policy Committee.

Position Vote:
Voted For position: 20
Voted against position: 0
Abstained from vote: 3
Did not vote (absence): 8

Contact Person:
Marla Linderman Richelew mrichelew@gmail.com

Public Policy Position
ADM File No. 2025-30 – Proposed Adoption of Administrative Order No. 2026-X

Support in Concept

Explanation
The Committee voted unanimously to support the concept of a pilot project to study an informal domestic relations docket, but did identify several areas of concern, including:
- Individuals with Limited Literacy
- Relaxed Evidentiary Rules
- Domestic Violence Allegations
- Training and Funding Support

Position Vote:
Voted For position: 12
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 8

Contact Person:
Ashley E. Lowe alowe@lakeshorelegalaid.org

Public Policy Position
ADM File No. 2025-30

Oppose

Explanation
This proposed administrative order would approve a pilot project to study the effectiveness of an informal domestic relations docket. Aside from our due process concerns (below), the Section fears that this program will lead to "Judge Judy" or, worse, "Jerry Springer Show"-style proceedings because a lack of respect for the courts already exists, and this project will make that worse because the court rules and rules of evidence do not apply. In other words, exempting these cases from the rules of evidence and Michigan Court Rules will exacerbate existing problems with the administration of the domestic relations docket and will further erode respect for family courts.

The mandatory "opt-in" is a huge problem. Only parties that choose to "opt-in" (versus being required to opt out) should participate because this pilot program does not comply with due process of the law -- you cannot be forced to opt-in, and anyone who chooses to "opt-in" must be required to sign a knowing waiver of the rights they are giving up [similar to the Advice of Rights those who wish to take advantage of a plea bargain in the criminal system must sign and swear they understood before the Judge accepts the plea] so that anyone opting in must swear they understand what they are giving up before being able to participate in this program. And anyone opting in must first complete the mediation domestic violence screening set of forms, to ensure they are eligible to participate. Finally, only judges with extensive family law experience should be assigned to handle this docket.

Position Vote:
Voted for position: 15
Voted against position: 0
Abstained from vote:
Did not vote: 6

Contact Person: Donald C. Wheaton, Jr.
Email: don@lawyerhousecalls.com

From: State Bar of Michigan
To: Public Policy Reports
Subject: Public Policy Member Comments
Date: Monday, July 13, 2026 4:36:03 PM

Member Name: *	Sheldon Larky
E-mail: *	sheldonlarky@aol.com
Proposed Court Rule or Administrative Order Number:	ADM 2025-30
Comment:	This proposed rule establishing a pilot project to determine if there should be an informal domestic relations docket is, in my humble opinion, a worthless project. While there is an increasing number of self-representeds in domestic matters, courts every since establishing a family division have been more attuned and empathetic to the needs of self-representeds. The proposal almost creates another impediment to efficiency and movement of cases.
May the State Bar post your comment on its website?	Yes
May a member of the State Bar contact you concerning this comment?	Yes

From: Brower,Tracey
To: ADMcomment
Subject: ADM File No. 2025-30
Date: Thursday, July 2, 2026 10:49:02 AM

Good morning,

One of my concerns about the pilot project is the impact it could have on domestic violence survivors. Since formal rules of pleading and Court processes do not apply, I'm wondering what types of safeguards will be in place for survivors so that they won't feel disadvantaged or bullied by the other party.

Also, I am wondering if some type of simple process/procedure can be implemented to allow the Family Law Division of the Kent County Prosecutor's Office to opt out of these cases? We receive the majority of our cases because the custodial parent is receiving public assistance. Since public assistance is being received, and as a consequence, we have a direct interest in setting child support, we want to make sure that our interest is preserved and child support is being set according to guidelines.

Thank you so much!

9.2. Legislation*

SBM STATE BAR OF MICHIGAN

To: Members of the Public Policy Committee
Board of Commissioners

From: Nathan A. Triplett, Director of Governmental Relations

Date: July 13, 2026

Re: HB 6028 – Veterans Treatment Court Eligibility and Procedures

Background

House Bill 6028 would amend several sections of the Revised Judicature Act, 1961 PA 236, related to veterans treatment courts. It is intended to expand eligibility for admission to these treatment courts and reduce existing barriers to participation in such courts.

Today, the statute defines a veteran as someone who has served in the United States Armed Forces and was discharged or released "under conditions other than dishonorable." MCL 35.61; MCL 600.1200(h). HB 6028 expands this definition to include individuals who were discharged or released under dishonorable conditions if the individual has been diagnosed with (1) a service-connected substance-use disorder, (2) military sexual trauma, (3) traumatic brain injury, (4) posttraumatic stress disorder, or (5) another mental health condition.

Under current law, an individual deemed a "violent offender" is not eligible for admission to a veterans treatment court. HB 6028 retains this categorical exclusion, but amends the definition of "violent offender" so that it is limited to individuals who are charged with or have plead guilty to an offense involving the death of any individual (or an offense that is criminal sexual conduct in any degree). Today, the definition also includes those charged with or who have plead to offenses involving serious bodily injury as violent offenders who are excldued from treatment court admission.

Finally, HB 6028 makes a number of changes intended to address the unique veto/gatekeeping authority granted to prosecuting attorneys under the existing veterans treatment court statute. For example, today, a court may only adopt or institute a veterans treatment court after entering into a memorandum of understanding with, among others, "each participating prosecuting attorney in the circuit or district court district." MCL 600.1200(2). That language is removed by HB 6028 and prosecuting attorneys are made permitted—but not mandatory—parties to the required memorandum of understanding. The bill also strikes language that requires the prosecutor to agree before a court may accept the transfers of a treatment court participant from any other jurisdiction and similar language requiring prosecutors to approve the admission of an individual into treatment court in some circumstances.

HB 6028 was introduced by State Representative Mike McFall and a bipartisan group of cosponsors in June 2026. It has been referred to the House Judiciary Committee for consideration.

***Keller* Considerations**

The State Bar of Michigan has a long history of involvement with legislation authorizing the establishment of treatment court programs and addressing their operations. The Board has consistently determined that such legislation is reasonably related to both improvement in the functioning of the courts and the availability of legal services to society. Just last legislative session (2023-2024), the Board reviewed and determined that four such bills were *Keller*-permissible, including legislation (2023 HB 4523 and 2023 HB 4525) that, like HB 6028, dealt with, among other things, the admission of violent offenders to treatment court programs.

The Justice Initiatives, Access to Justice Policy, and Criminal Jurisprudence & Practice Committees all reviewed HB 6028 and likewise determined that it was reasonably related to both improvement in the functioning of the courts and the availability of legal services to society and therefore *Keller*-permissible.

***Keller* Quick Guide**

THE TWO PERMISSIBLE SUBJECT-AREAS UNDER KELLER:

	Regulation of Legal Profession	**Improvement in Quality of Legal Services**
As interpreted by AO 2004-1	Regulation and discipline of attorneys	✓ Improvement in functioning of the courts
	Ethics	✓ Availability of legal services to society
	Lawyer competency	
	Integrity of the Legal Profession	
	Regulation of attorney trust accounts	

Staff Recommendation

HB 6028 is reasonably related to both improvement in the functioning of the courts and the availability of legal services to society and therefore *Keller*-permissible. The bill may be considered on its merits.

HOUSE BILL NO. 6028

June 02, 2026, Introduced by Reps. McFall, Herzberg, Bierlein, Conlin, St. Germaine, Wozniak, Greene, Pavlov, Neyer, Robinson and Bruck and referred to Committee on Judiciary.

A bill to amend 1961 PA 236, entitled

"Revised judicature act of 1961,"

by amending sections 1200, 1201, 1203, 1205, 1206, and 1209 (MCL 600.1200, 600.1201, 600.1203, 600.1205, 600.1206, and 600.1209), section 1200 as amended by 2016 PA 215, section 1201 as amended by 2017 PA 164, sections 1203 and 1205 as added by 2012 PA 335, section 1206 as amended by 2017 PA 161, and section 1209 as amended by 2013 PA 225.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1200. As used in this chapter:

(a) "Department of Veterans Affairs" or "VA" means the United

States Department of Veterans Affairs.

(b) "Domestic violence offense" means any crime alleged to have been committed by an individual against ~~his or her~~ **the individual's** spouse or former spouse, an individual with whom ~~he or she~~ **the individual** has a child in common, an individual with whom ~~he or she~~ **the individual** has had a dating relationship, or an individual who resides or has resided in the same household.

(c) "L.E.I.N." means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(d) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, including, but not limited to, post-traumatic stress disorder and psychiatric symptoms associated with traumatic brain injury.

(e) "Participant" means an individual who is admitted into a veterans treatment court.

(f) "Prosecutor" means the prosecuting attorney of the county, the city attorney, the village attorney, or the township attorney.

(g) "Traffic offense" means a violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of a local ordinance substantially corresponding to a violation of that act, that involves the operation of a vehicle and, at the time of the violation, is a felony or misdemeanor.

(h) "Veteran" means an individual who meets both of the following:

(*i*) ~~Is a veteran as defined in section 1 of 1965 PA 190, MCL 35.61.~~ **Served in the United States Armed Forces, including the reserve components, and, except as otherwise provided in this**

subparagraph, was discharged or released under conditions other than dishonorable. If an individual was discharged or released under dishonorable conditions, the individual may qualify as a veteran if the individual has been diagnosed with a service-connected substance-use disorder, military sexual trauma, traumatic brain injury, posttraumatic stress disorder, or another mental health condition.

(*ii*) Served at least 180 days of active duty in the armed forces of the United States.

(i) "Veteran service organization" or "VSO" means an organization that is accredited by the United States Department of Veterans Affairs, as recognized under 38 CFR 14.628.

(j) "Veterans treatment court" or "veterans court" means a court adopted or instituted under section 1201 that provides a supervised treatment program for individuals who are veterans and who abuse or are dependent upon any controlled substance or alcohol or suffer from a mental illness.

(k) "Violent offender" means an individual who is currently charged with or has pled guilty to an offense involving the death of ~~, or a serious bodily injury to,~~ any individual, whether or not ~~any of~~ these circumstances are an element of the offense, or an offense that is criminal sexual conduct in any degree.

Sec. 1201. (1) A veterans court shall comply with the modified version of the 10 key components of drug treatment courts as promulgated by the Buffalo veterans treatment court, which include all of the following essential characteristics:

(a) Integration of alcohol, drug treatment, and mental health services with justice system case processing.

(b) Use of a nonadversarial approach; prosecution and defense counsel promote public safety while protecting participants' due process rights.

(c) Early and prompt identification and placement of eligible participants in the veterans treatment court program.

(d) Provision of access to a continuum of alcohol, drug, mental health, and related treatment and rehabilitation services.

(e) Monitoring of abstinence by frequent alcohol and other drug testing.

(f) A coordinated strategy that governs veterans treatment court responses to participants' compliance.

(g) Ongoing judicial interaction with each veteran.

(h) Monitoring and evaluation to measure the achievement of program goals and gauge effectiveness.

(i) Continuing interdisciplinary education that promotes effective veterans treatment court planning, implementation, and operations.

(j) Forging of partnerships among veterans treatment court, veterans administration, public agencies, and community-based organizations to generate local support and enhance veteran treatment court effectiveness.

(2) The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a veterans treatment court by statute or court rule if the circuit or district court enters into a memorandum of understanding with ~~each participating prosecuting attorney in the circuit or district court district,~~ a representative of the criminal defense bar, a representative or representatives of community treatment providers, a representative or representatives of veterans service organizations in the circuit or district court district, and a

representative or representatives of the United States Department of Veterans Affairs. ~~However, the memorandum of understanding will only be required to include the prosecuting attorney if the veterans treatment court will include in its program individuals who may be eligible for discharge and dismissal of an offense, a delayed sentence, deferred entry of judgment, or a sentence involving deviation from the sentencing guidelines.~~ The memorandum of understanding ~~also~~ may **also** include other parties considered necessary, such as ~~any other~~ **the** prosecutor in the circuit or district court district ~~,~~ **or any other prosecutor in the circuit or district court district**, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, a representative or representatives of the local court funding unit, and community corrections agencies in that circuit or district. The memorandum of understanding must describe the role of each party, and the conditions for which the memorandum of understanding must be renewed and amended.

(3) A court that is adopting a veterans treatment court shall participate in training as required by the state court administrative office.

(4) A court that has adopted a veterans treatment court under this section may accept participants from any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a veterans treatment court in the jurisdiction where the participant is charged. The transfer can occur at any time during the proceedings,

including, but not limited to, prior to adjudication. The receiving court ~~shall have~~ **has** jurisdiction to impose sentence, including, but not limited to, sanctions, incentives, incarceration, and phase changes. A transfer under this subsection is not valid unless it is agreed to by all of the following:

(a) The defendant or respondent.

(b) The attorney representing the defendant or respondent.

(c) The judge of the transferring court. ~~and the prosecutor of the case.~~

(d) The judge of the receiving veterans treatment court. ~~and the prosecutor of a court funding unit of the veterans treatment court.~~

(5) Beginning January 1, 2018, a veterans treatment court operating in this state, or a circuit court in any judicial circuit or the district court in any judicial district seeking to adopt or institute a veterans treatment court, must be certified by the state court administrative office. The state court administrative office shall establish the procedure for certification. Approval and certification under this subsection of a veterans treatment court is required to begin or to continue the operation of a veterans treatment court under this chapter. The state court administrative office shall not recognize and include a veterans treatment court that is not certified under this subsection on the statewide official list of veterans treatment courts. The state court administrative office shall include a veterans treatment court certified under this subsection on the statewide official list of veterans treatment courts. A veterans treatment court that is not certified under this subsection shall not perform any of the functions of a veterans treatment court, including, but not limited

to, any of the following functions:

(a) Charging a fee under section 1206.

(b) Discharging and dismissing a case as provided in section 1209.

(c) Receiving funding under section 1211.

(d) Certifying to the secretary of state that an individual is eligible to receive a restricted license under section 1084 of this act and section 304 of the Michigan vehicle code, 1949 PA 300, MCL 257.304.

Sec. 1203. (1) A veterans treatment court shall determine whether an individual may be admitted to the veterans treatment court. No individual has a right to be admitted into a veterans treatment court. However, an individual is not eligible for admission into a veterans treatment court if ~~he or she~~ **the individual** is a violent offender. An individual is eligible for admission into a veterans treatment court if ~~he or she~~ **the veteran** has previously had an offense discharged or dismissed as a result of participation in a veterans treatment court, drug treatment court, or other specialty court, but ~~he or she shall not have~~ **the judge shall determine if the veteran may have** a subsequent offense discharged or dismissed as a result of participating in the veterans treatment court.

(2) In addition to admission to a veterans treatment court under this act, an individual who is eligible for admission under this act may also be admitted to a veterans treatment court under any of the following circumstances:

(a) The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(b) The individual has had criminal proceedings against ~~him or her~~ **the individual** deferred and has been placed on probation under any of the following:

(*i*) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to that section.

(*ii*) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to that section.

(*iii*) Section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430, or a local ordinance or another law of this state, another state, or the United States that is substantially similar to those sections.

(3) To be eligible for admission to a veterans treatment court, an individual shall cooperate with and complete a preadmissions screening and evaluation assessment and shall agree to cooperate with any future evaluation assessment as directed by the veterans treatment court. A preadmission screening and evaluation assessment ~~shall~~ **must** include all of the following:

(a) A determination of the individual's veteran status. A review of the DD Form 214 "certificate of release or discharge from active duty" satisfies the requirement of this subdivision.

(b) A complete review of the individual's criminal history and whether the individual has been admitted to, has participated in, or is currently participating in a veterans treatment court, drug treatment court, or other specialty court, whether admitted under this act or a law listed under subsection (2), and the results of the individual's participation. A review of the L.E.I.N. satisfies the requirements of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not ~~he or she~~ **the individual** has previously been admitted to a veterans treatment court, drug treatment court, or other specialty court, and the results of ~~his or her~~ **the individual's** participation in the prior program or programs.

(c) An assessment of the risk of danger or harm to the individual, others, or the community.

(d) A review of the individual's history regarding the use or abuse of any controlled substance or alcohol and an assessment of whether the individual abuses controlled substances or alcohol or is drug or alcohol dependent. It is the intent of the legislature that, to the extent practicable, an assessment under this subdivision ~~shall~~ **must** be a clinical assessment completed by the VA.

(e) A review of the individual's mental health history. It is the intent of the legislature that, to the extent practicable, this assessment ~~shall~~ **must** be a clinical assessment completed by the VA.

(f) A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive substance abuse treatment and follow the court's orders.

(4) Except as otherwise permitted in this act, any statement or other information obtained as a result of an individual's participation in a preadmission screening and evaluation assessment under subsection (3) is confidential, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to

15.246, and ~~shall~~ **must** not be used in a criminal prosecution, except for a statement or information that reveals criminal acts other than personal drug use.

(5) The court may request that the department of state police provide to the court information contained in the L.E.I.N. pertaining to an individual applicant's criminal history for the purposes of determining an individual's admission into the veterans treatment court and general criminal history review, including whether the individual has previously been admitted to and participated in a veterans treatment court, drug treatment court, or other specialty court under this act or under a statute listed under subsection (2), and the results of the individual's participation. The department of state police shall provide the information requested by a veterans treatment court under this subsection.

Sec. 1205. (1) If the individual being considered for admission to a veterans treatment court is charged in a criminal case, ~~his or her~~ **the veteran's** admission is subject to all of the following conditions:

(a) The offense or offenses allegedly committed by the individual are generally related to the military service of the individual, including the abuse, illegal use, or possession of a controlled substance or alcohol, or mental illness that arises as a result of service.

(b) The individual pleads guilty to the charge or charges on the record.

(c) The individual waives in writing the right to a speedy trial, the right to representation by an attorney at veterans treatment court review hearings, and, with the agreement of the prosecutor, the right to a preliminary examination.

(d) The individual signs a written agreement to participate in the veterans treatment court.

~~(2) An individual who may be eligible for discharge and dismissal of an offense, delayed sentence, deferred entry of judgment, or deviation from the sentencing guidelines shall not be admitted to a veterans treatment court unless the prosecutor first approves the admission of the individual into the veterans treatment court in conformity with the memorandum of understanding under section 1201(2).~~

(2) ~~(3)~~ An individual shall not be admitted to, or remain in, a veterans treatment court under an agreement that would permit the discharge or dismissal of a traffic offense ~~upon~~ **on** successful completion of the veterans treatment court program.

(3) ~~(4)~~ In addition to rights accorded a victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the veterans treatment court shall permit any victim of the offense or offenses of which the individual is charged, any victim of a prior offense of which that individual was convicted, and members of the community in which the offenses were committed or in which the defendant resides to submit a written statement to the court regarding the advisability of admitting the individual into the veterans treatment court.

(4) ~~(5)~~ An individual who has waived ~~his or her~~ **the individual's** right to a preliminary examination and has pled guilty as part of ~~his or her~~ **the individual's** application to a veterans treatment court and who is not admitted to a veterans treatment court shall be permitted to withdraw ~~his or her~~ **the individual's** plea and is entitled to a preliminary examination.

Sec. 1206. (1) All of the following conditions apply to an individual admitted to a veterans treatment court:

(a) For an individual who is admitted to a veterans treatment court based ~~upon~~ **on** having a criminal charge currently filed against ~~him or her,~~ **the individual**, the court shall accept the individual's plea of guilty.

(b) One of the following applies to an individual who pled guilty to a criminal charge for which ~~he or she~~ **the individual** was admitted to a veterans treatment court, as applicable:

(*i*) If the individual pled guilty to an offense that is not a traffic offense and may be eligible for discharge and dismissal under the agreement with the court and prosecutor ~~upon~~ **on** successful completion of the veterans treatment court program, the court shall not enter a judgment of guilt.

(*ii*) If the individual pled guilty to a traffic offense or another offense but is not eligible for discharge and dismissal under the agreement with the court and prosecutor upon successful completion of the veterans treatment court program, the court shall enter a judgment of guilt.

(c) Under the agreement with the individual, ~~and the prosecutor,~~ the court may delay or defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case under that agreement, and place the individual on probation or other court supervision in the veterans treatment court program with terms and conditions according to the agreement and as considered necessary by the court.

(2) Unless a memorandum of understanding made ~~pursuant to~~ **under** section 1088 between a receiving veterans treatment court and

the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the veterans treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2.

(3) The veterans treatment court shall cooperate with, and act in a collaborative manner with, ~~the prosecutor,~~ defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, the United States Department of Veterans Affairs, local VSOs in that circuit or district, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The veterans treatment court may require an individual admitted into the court to pay a veterans treatment court fee that is reasonably related to the cost to the court for administering the veterans treatment court program as provided in the memorandum of understanding under section 1201(2). The clerk of the veterans treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The veterans treatment court may request that the department of state police provide to the court information contained in the L.E.I.N. pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department of state police shall provide the information requested by a veterans treatment court under this subsection.

Sec. 1209. (1) ~~Upon~~ **On** completion or termination of the veterans treatment court program, the court shall find on the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual's participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) If a participant successfully completes probation or other court supervision and the participant's proceedings were deferred or the participant was sentenced under section 1206, the court shall comply with the agreement made with the participant ~~upon~~ **on** admission into the veterans treatment court, or the agreement as it was altered after admission by the court with approval of the participant ~~and the prosecutor for that jurisdiction~~ as provided in subsections (3) to (8).

(3) If an individual is participating in a veterans treatment court under a statute listed in section 1203(2), the court shall proceed under the applicable section of law. ~~There shall be not more than 1 discharge or dismissal under this subsection.~~

(4) Except as provided in subsection (5), the court, ~~with the agreement of the prosecutor and~~ in conformity with the terms and conditions of the memorandum of understanding under section 1201(2), may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

(a) The individual has participated in a veterans treatment court. ~~for the first time.~~

(b) The individual has successfully completed the terms and conditions of the veterans treatment court program.

(c) The individual is not required by law to be sentenced to a correctional facility for the crimes to which ~~he or she~~ **the individual** has pled guilty.

(d) The individual is not currently charged with and has not pled guilty to a traffic offense.

(e) The individual has not previously been subject to more than 1 of any of the following:

(*i*) Assignment to the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(*ii*) The dismissal of criminal proceedings against ~~him or her~~ **the individual** under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, or section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430.

(5) The court may grant a discharge and dismissal of a domestic violence offense only if all of the following circumstances apply:

(a) The individual has not previously had proceedings dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(b) The domestic violence offense is eligible to be dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(c) The individual fulfills the terms and conditions imposed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, and the discharge and dismissal of proceedings are processed and reported under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(6) A discharge and dismissal under subsection (4) ~~shall be~~ **is** without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law ~~upon~~ **on** conviction of a crime. ~~There~~

~~shall be not more than 1 discharge and dismissal under subsection (4) for an individual.~~ The court shall send a record of the discharge and dismissal to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the L.E.I.N. with an indication of participation by the individual in a veterans treatment court. Unless the court enters a judgment of guilt, all records of the proceedings regarding the participation of the individual in the veterans treatment court under subsection (4) are closed to public inspection and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, but ~~shall~~ **must** be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated ~~his or her~~ **the employee's** conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and the discharge and dismissal under this subsection.

(7) Except as provided in subsection (3), (4), or (5), if an individual has successfully completed probation or other court supervision, the court shall do the following:

(a) If the court has not already entered an adjudication of guilt or responsibility, enter an adjudication of guilt.

(b) If the court has not already sentenced the individual, proceed to sentencing.

(c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police. The department of state police shall enter that information into the L.E.I.N. with an indication of successful participation by the individual in a veterans treatment court.

(8) For a participant whose participation is terminated or who fails to successfully complete the veterans treatment court program, the court shall enter an adjudication of guilt if the entering of guilt was deferred or sentencing was delayed under section 1206 and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty prior to admission to the veterans treatment court. ~~Upon~~ **on** sentencing or disposition of the individual, the court shall send a record of that sentence or disposition and the individual's unsuccessful participation in the veterans treatment court to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the L.E.I.N., with an indication that the individual unsuccessfully participated in a veterans treatment court.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Public Policy Position
HB 6028

Support

Explanation
The Committee voted unanimously to support HB 6028, which would expand eligibility for participation in veteran's treatment courts and remove existing barriers to access these programs.

While this bill is an important step forward, the Committee would also support legislation that goes further by allowing all veterans to access these treatment courts, regardless of their discharge status, without further qualification.

Position Vote:
Voted For position: 14
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 6

***Keller*-Permissibility Explanation**
In keeping with the Board of Commissioners' prior, consistent determinations on similar problem-solving court legislation, the Committee concluded that the bill is reasonably related to both access to legal service and court functioning, and therefore *Keller*-permissible.

Contact Persons:
Garrett Burton gburton@sado.org
Mira Edmonds edmondm@umich.edu

Public Policy Position
HB 6028

Support

Explanation
The Committee voted to support HB 6028, which would expand eligibility for admission to veteran's treatment courts. The legislation will also address some existing concerns regarding barriers to access these courts.

Position Vote:
Voted For position: 9
Voted against position: 3
Abstained from vote: 1
Did not vote (absence): 9

***Keller*-Permissibility Explanation**
In keeping with the Board of Commissioners' prior, consistent determinations on similar problem-solving court legislation, the Committee concluded that the bill is reasonably related to both access to legal service and court functioning, and therefore *Keller*-permissible.

Contact Persons:
Alexandria L. Casperson CaspersonA@michigan.gov

Public Policy Position
HB 6028

Support

Explanation
The Committee voted unanimously to support the bill, which will expand eligibility for veteran's treatment courts, while removing existing barriers to access.

Position Vote:
Voted For position: 12
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 8

***Keller*-Permissibility Explanation**
The Committee determined that the bill is *Keller*-permissible because it relates to the improvement of the functioning of the courts and the availability of legal services to society.

Contact Person:
Ashley E. Lowe alowe@lakeshorelegalaid.org

From: State Bar of Michigan
To: Public Policy Reports
Subject: Public Policy Member Comments
Date: Wednesday, June 24, 2026 9:44:23 AM

Member Name: *	Terrence Bronson
E-mail: *	bronsontl@comcast.net
Bill Number:	HB 6028

Comment:

HB 6028 as I understand it would allow veterans who received a Dishonorable Discharge to participate in Veterans Treatment Courts under certain circumstances. As a retired judge who presided over a Vet Court and also a veteran (retired USNR Captain) I would be in favor of this proposal.
A Dishonorable Discharge (DD) is given as a result of a General Court Martial for the equivalent of a civilian felony conviction. During the time that I presided over a Vet Court we admitted some veterans that had a felony conviction or were facing felony charges. Although those who have received a DD would not be eligible for the many Veteran's benefits that we have utilized, there are alternative programs available that would be beneficial in their recovery.
Regardless of their type of discharge, they served their country and should receive some benefits that the State of Michigan can provide.

May the State Bar post your comment on its website?	Yes
May a member of the State Bar contact you concerning this comment?	Yes

SBM STATE BAR OF MICHIGAN

To: Members of the Public Policy Committee
Board of Commissioners

From: Nathan A. Triplett, Director of Governmental Relations

Date: July 13, 2026

Re: HB 6081 – Eliminating Rules of Evidence in Preliminary Examinations

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Background

House Bill 6081 would amend the Code of Criminal Procedure, 1927 PA 175, to eliminate the Rules of Evidence in preliminary examinations beginning 91 days after the effective date of this amendatory act or January 1, 2027, whichever is later.

The bill was introduced by State Representative Tom Kuhn in June 2026 and referred to the House Judiciary Committee for consideration.

***Keller* Considerations**

HB 6081 concerns whether or not the Rules of Evidence should be applicable in preliminary examinations. Were the bill to be adopted, it would have a significant impact on criminal court proceedings and criminal law practice in every corner of the state. The legislation is necessarily related to the functioning of the courts.

The Access to Justice Policy and Criminal Jurisprudence & Practice Committees both reviewed HB 6081 and determined that it was germane to the functioning of the court and therefore *Keller*-permissible.

***Keller* Quick Guide**

THE TWO PERMISSIBLE SUBJECT-AREAS UNDER KELLER:

As interpreted by AO 2004-1

Regulation of Legal Profession	Improvement in Quality of Legal Services
Regulation and discipline of attorneys	✓ Improvement in functioning of the courts
Ethics	Availability of legal services to society
Lawyer competency	
Integrity of the Legal Profession	
Regulation of attorney trust accounts	

Staff Recommendation

HB 6081 is necessarily related to the functioning of the court and therefore *Keller*-permissible. The bill may be considered on its merits.

HOUSE BILL NO. 6081

June 16, 2026, Introduced by Reps. Kuhn, Harris, BeGole, Tisdel, Steele and Robinson and referred to Committee on Judiciary.

A bill to amend 1927 PA 175, entitled

"The code of criminal procedure,"

by amending section 11b of chapter VI (MCL 766.11b), as amended by 2014 PA 123, and by adding section 11c to chapter VI.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER VI

Sec. 11b. (1) ~~The~~ **Subject to subsection (4), the** rules of evidence apply at the preliminary examination except that the following are not excluded by the rule against hearsay and ~~shall be~~

are admissible at the preliminary examination without requiring the testimony of the author of the report, keeper of the records, or any additional foundation or authentication:

(a) A report of the results of properly performed drug analysis field testing to establish that the substance tested is a controlled substance.

(b) A certified copy of any written or electronic order, judgment, decree, docket entry, register of actions, or other record of any court or governmental agency of this state.

(c) A report other than a law enforcement report that is made or kept in the ordinary course of business.

(d) Except for the police investigative report, a report prepared by a law enforcement officer or other public agency. Reports permitted under this subdivision include, but are not limited to, a report of the findings of a technician of the division of the department of state police concerned with forensic science, a laboratory report, a medical report, a report of an arson investigator, and an autopsy report.

(2) The magistrate shall allow the prosecuting attorney or the defense to subpoena and call a witness from whom hearsay testimony was introduced under this section on a satisfactory showing to the magistrate that live testimony ~~will be~~ **is** relevant to the magistrate's decision whether there is probable cause to believe that a felony has been committed and probable cause to believe that the defendant committed the felony.

(3) As used in this section, "controlled substance" means that term as defined under section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(4) This section applies to preliminary examinations commenced

on or before 90 days after the effective date of the amendatory act that added this subsection or December 31, 2026, whichever is later. Beginning 91 days after the effective date of the amendatory act that added this subsection or January 1, 2027, whichever is later, this section does not apply.

Sec. 11c. Beginning 91 days after the effective date of the amendatory act that added this subsection or January 1, 2027, whichever is later, the rules of evidence do not apply at a preliminary examination. This section applies to preliminary examinations commenced 91 days after the effective date of the amendatory act that added this subsection or January 1, 2027, whichever is later.

Public Policy Position
HB 6081

Oppose

Explanation
The Committee voted unanimously to oppose HB 6081. Not applying the rules of evidence at a preliminary examination will significantly undermine the purpose and procedural integrity of the examinations and erode the rights of the accused.

Position Vote:
Voted For position: 14
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 6

***Keller*-Permissibility Explanation**
By eliminating the Rules of Evidence in preliminary examinations, the bill is necessarily related to the functioning of the courts and therefore *Keller*-permissible.

Contact Persons:
Garrett Burton gburton@sado.org
Mira Edmonds edmondm@umich.edu

Public Policy Position
HB 6081

Oppose

Explanation
The Committee voted unanimously to oppose HB 6081. The rules of evidence serve an important function at preliminary examinations. Eliminating them at this critical stage of a criminal proceeding will undermine the integrity and utility of these examinations.

Position Vote:
Voted For position: 13
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 9

***Keller*-Permissibility Explanation**
By eliminating the Rules of Evidence in preliminary examinations, the bill is necessarily related to the functioning of the courts and therefore *Keller*-permissible.

Contact Persons:
Alexandria L. Casperson CaspersonA@michigan.gov

To: Members of the Public Policy Committee
Board of Commissioners

From: Nathan A. Triplett, Director of Governmental Relations

Date: July 13, 2026

Re: HB 6092 – Postconviction DNA Testing Petitions

Background
House Bill 6092 is a reintroduction of a bill (2023 HB 5271), developed in conjunction with the Cooley Innocence Project, that the Board of Commissioners voted to support in the last legislative session. The prior bill passed the House in December 2024 but did not advance in the Senate before the Legislature adjourned *sine die* later that month.

Had an identical bill been reintroduced this session, SBM's standard practice would have been to apply the Board's prior position to the new bill without a duplicative review process. However, as in this case, when a bill is reintroduced with substantive changes, it is sent back through SBM's public policy review process for an updated position. The only substantive change from 2023 HB 5271 to 2026 HB 6092 can be found on page 6 in (12) and (13). The new language requires a defendant to file a petition for postconviction DNA testing while they are housed within a correctional facility. However, once a defendant is released, an ongoing petition must still be allowed to continue. It also requires a law enforcement agency to preserve biological material while a defendant is litigating a claim under the statute.

HB 6092 was introduced in June 2026 by State Representative Kara Hope, who was also the sponsor of last session's bill. It has been referred to the House Judiciary Committee for further consideration.

***Keller* Considerations**
The Board of Commissioners determined that last session's version of this legislation was germane to the availability of legal services to society and therefore *Keller*-permissible.

That determination was consistent with prior Board decisions in this area of law. Prior to last session, the State Bar of Michigan had supported four earlier pieces of legislation amending Michigan's postconviction DNA testing statute: 2007 HB 5089 (which became 2008 PA 410), 2011 SB 361 (which became 2011 PA 212), 2014 SB 1050, and 2015 SB 151 (which became 2015 PA 229). In each of these cases, it was determined that legislation related to the procedures governing petitions for post-conviction DNA testing was reasonably related to the availability of legal services to society.

The Access to Justice Policy and Criminal Jurisprudence & Practice Committees both reviewed HB 6092 and determined that it is reasonably related to both access to legal services and court functioning and therefore *Keller*-permissible.

***Keller* Quick Guide**

THE TWO PERMISSIBLE SUBJECT-AREAS UNDER KELLER:

	Regulation of Legal Profession	Improvement in Quality of Legal Services
As interpreted by AO 2004-1	Regulation and discipline of attorneys	✓ Improvement in functioning of the courts
	Ethics	✓ Availability of legal services to society
	Lawyer competency	
	Integrity of the Legal Profession	
	Regulation of attorney trust accounts	

Staff Recommendation

HB 6092, like the previous iteration of this bill and other legislation considered by the Board of Commissioners related to post-conviction DNA testing, is reasonably related to the availability of legal services to society and therefore *Keller*-permissible. The bill may be considered on its merits.

HOUSE BILL NO. 6092

June 16, 2026, Introduced by Reps. Hope, Hoskins, Price, Conlin, Young, Brixie, Rheingans, Wilson, Tsernoglou, Neeley, O'Neal, Martus, Breen, McKinney, Myers-Phillips, Wegela and Grant and referred to Committee on Judiciary.

A bill to amend 1927 PA 175, entitled

"The code of criminal procedure,"

by amending section 16 of chapter X (MCL 770.16), as amended by 2015 PA 229.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 16. (1) Notwithstanding the limitations of section 2 of this chapter **and subject to subsection (13)**, a defendant convicted of a felony ~~at trial before January 8, 2001 who is serving a prison sentence for the felony conviction~~ may petition the circuit court to order DNA testing of biological material identified during the investigation leading to ~~his or her~~ **the defendant's** conviction, and for a new trial based on the results of that testing. ~~Notwithstanding the limitations of section 2 of this chapter, a defendant convicted of a felony at trial on or after January 8, 2001 who establishes that all of the following apply may petition the circuit court to order DNA testing of biological material identified during the investigation leading to his or her conviction, and for a new trial based on the results of that testing:~~**A petition filed under this subsection must establish that either of the following circumstances apply to the biological material:**

~~(a) That DNA testing was done in the case or under this act.~~

~~(b) That the results of the testing were inconclusive.~~

~~(c) That testing with current DNA technology is likely to result in conclusive results.~~

(a) It was not subjected to DNA testing.

(b) It was subjected to DNA testing and 1 or both of the following circumstances apply:

(*i*) The defendant is requesting DNA testing using a method or technology that provides a reasonable likelihood of results that are more accurate and probative than the results of the previous test.

(*ii*) The court determines that granting the petition is in the interest of justice.

(2) A petition under this section ~~shall~~ **must** be filed in the circuit court for the county in which the defendant was sentenced and ~~shall~~ **must** be assigned to the sentencing judge or ~~his or her~~ **the judge's** successor. The petition ~~shall~~ **must** be served on the prosecuting attorney of the county in which the defendant was

sentenced.

(3) A petition under this section ~~shall~~ **must** allege that biological material was collected and identified during the investigation of the defendant's case. If the defendant, after diligent investigation, is unable to discover the location of the identified biological material or to determine whether the biological material is no longer available, the defendant may petition the court for a hearing to determine whether the identified biological material is available. If the court determines that identified biological material was collected during the investigation, the court shall order appropriate police agencies, hospitals, or the medical examiner to search for the material and to report the results of the search to the court.

(4) The court shall order DNA testing if the defendant ~~does all~~ **presents prima facie evidence of both** of the following:

~~(a) Presents prima facie proof that the evidence sought to be tested is material to the issue of the convicted person's identity as the perpetrator of, or accomplice to, the crime that resulted in the conviction.~~

~~(b) Establishes all of the following by clear and convincing evidence:~~

~~*(i)* A sample of identified biological material described in subsection (1) is available for DNA testing.~~

~~*(ii)* The identified biological material described in subsection (1) was not previously subjected to DNA testing or, if previously tested, will be subject to DNA testing technology that was not available when the defendant was convicted.~~

~~*(iii)* The identity of the defendant as the perpetrator of the crime was at issue during his or her trial.~~

(a) The biological material sought to be tested is material to the issue of the convicted defendant's identity as the perpetrator of, or accomplice to, the crime that resulted in the conviction.

(b) A sample of identified biological material is available for DNA testing.

(5) The court shall state its findings of fact on the record or shall make written findings of fact supporting its decision to grant or deny a petition brought under this section.

(6) If the court grants a petition for DNA testing under this section, the identified biological material and a biological sample obtained from the defendant ~~shall~~ **must** be subjected to DNA testing by a laboratory approved by the court. If the court determines that the applicant is indigent, the cost of DNA testing ordered under this section ~~shall~~ **must** be borne by the state. The results of the DNA testing ~~shall~~ **must** be provided to the court and to the defendant and the prosecuting attorney. ~~Upon~~ **On** motion by either party, the court may order that copies of the testing protocols, laboratory procedures, laboratory notes, and other relevant records compiled by the testing laboratory be provided to the court and to all parties.

(7) If the results of the DNA testing are inconclusive or show that the defendant is the source of the identified biological material, both of the following apply:

(a) The court shall deny the motion for new trial.

(b) The defendant's DNA profile ~~shall~~ **must** be provided to the department of state police for inclusion under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(8) If the results of the DNA testing ~~show that the defendant~~

~~is not the source of the identified biological material, the court shall appoint counsel pursuant to MCR 6.505(A) and hold a hearing to determine by clear and convincing evidence all of the following:~~**call into question the defendant's identity as the perpetrator, the court shall appoint counsel as provided in MCR 6.505(A) and hold a hearing to determine whether the results of the testing, along with any other new evidence, make a different result probable on retrial.**

~~(a) That only the perpetrator of the crime or crimes for which the defendant was convicted could be the source of the identified biological material.~~

~~(b) That the identified biological material was collected, handled, and preserved by procedures that allow the court to find that the identified biological material is not contaminated or is not so degraded that the DNA profile of the tested sample of the identified biological material cannot be determined to be identical to the DNA profile of the sample initially collected during the investigation described in subsection (1).~~

~~(c) That the defendant's purported exclusion as the source of the identified biological material, balanced against the other evidence in the case, is sufficient to justify the grant of a new trial.~~

(9) ~~Upon~~ **On** motion of the prosecutor, the court shall order retesting of the identified biological material and shall stay the defendant's motion for new trial pending the results of the DNA retesting.

(10) The court shall state its findings of fact on the record or make written findings of fact supporting its decision to grant or deny the defendant a new trial under this section.

Notwithstanding section 3 of this chapter, an aggrieved party may appeal the court's decision to grant or deny the petition for DNA testing and for new trial by application for leave granted by the court of appeals.

(11) If the name of the victim of the felony conviction described in subsection (1) is known, the prosecuting attorney shall give written notice of a petition under this section to the victim. The notice ~~shall~~ **must** be by first-class mail to the victim's last known address. ~~Upon~~ **On** the victim's request, the prosecuting attorney shall give the victim notice of the time and place of any hearing on the petition and shall inform the victim of the court's grant or denial of a new trial to the defendant.

(12) The investigating law enforcement agency shall preserve any biological material identified during the investigation of a crime or crimes for which any person may file a petition for DNA testing under this section. The identified biological material ~~shall~~ **must** be preserved for the period of time that ~~any person~~ **a defendant** is incarcerated ~~in connection with that case.~~ **or is litigating a claim under this section.**

(13) A petition under this section must be filed with respect to a particular case while the defendant is housed within a correctional facility maintained and operated by the department of corrections. Once a defendant is released, an ongoing petition must be allowed to continue.

(14) As used in this section, "biological material" includes any evidence for which there is a reasonable probability of containing quantities of DNA from any human body product.

Public Policy Position
HB 6092

Support

Explanation
The Committee voted unanimously to support HB 6092, which would make postconviction DNA testing more widely available in Michigan and thereby promote access to justice and conviction integrity.

The Committee noted that this bill is a reintroduction of legislation from the prior legislative session (2023 HB 5271), which was supported by the State Bar of Michigan. The only substantive change in the legislation is found in (12) and (13) on page 6 of the bill and the Committee did not believe that the amended language warranted the Bar changing its position.

Position Vote:
Voted For position: 13
Voted against position: 0
Abstained from vote: 0
Did not vote (absence): 7

***Keller*-Permissibility Explanation**
The Committee determined that the legislation is reasonably related to both access to legal services and court functioning and therefore *Keller*-permissible.

Contact Persons:
Garrett Burton gburton@sado.org
Mira Edmonds edmondm@umich.edu

Public Policy Position
HB 6092

Support

Explanation

The Committee voted to support HB 6092, which would make postconviction DNA testing more widely available in Michigan.

Position Vote:

Voted For position: 9
Voted against position: 4
Abstained from vote: 0
Did not vote (absence): 9

***Keller*-Permissibility Explanation**

The Committee determined that the legislation is reasonably related to both access to legal services and court functioning and therefore *Keller*-permissible.

Contact Persons:

Alexandria L. Casperson CaspersonA@michigan.gov

To: Members of the Public Policy Committee
Board of Commissioners

From: Nathan A. Triplett, Director of Governmental Relations

Date: July 13, 2026

Re: HB 6110 – Universal Constitutional Remedies Act

Background

House Bill 6110 would create a new public act—the Universal Constitutional Remedies Act. In brief, the new act serves to create a state cause of action for violations of the United States Constitution. It allows individuals to sue any government official—federal, state, or local—in state court for violating their federal constitutional rights. Illinois recently enacted a version of this legislation, and several other states have introduced similar bills.

Proponents of the legislation believe that it is closing an accountability gap that exists in current law. While a federal law, 42 USC § 1983, permits suits against state and local officials for constitutional violations, no equivalent federal law exists for suits against federal officials. Historically, individuals who have suffered violations of their federal constitutional rights by federal officials have had to rely on "Bivens actions" (a limited, implied right to sue directly under the Constitution), but such actions have been sharply curtailed by the U.S. Supreme Court in recent years. HB 6110 would permit a suit against local, state, or federal actors.

Three SBM Committees reviewed HB 6110: Access to Justice Policy, Criminal Jurisprudence & Practice, and Civil Procedure & Courts. All three voted by large majorities to support the legislation in concept, believing that establishing such a remedy and defining its applicable procedures was important. At the same time, all three also noted that the bill, as introduced, raised several issues that require further discussion. For example, the bill only creates a cause of action for violations of the United States constitution — not for violations of the Michigan constitution—and makes the award of attorney fees discretionary. It is staff's understanding that the bill sponsor is amenable to a dialogue with interested stakeholders on these and other issues.

HB 6110 was introduced by State Representative Sharon MacDonell in June 2026 and has been referred to the House Government Operations Committee for further consideration.

***Keller* Considerations**

The Access to Justice Policy, Criminal Jurisprudence & Practice, and Civil Procedure & Courts Committees all determined that HB 6110 was reasonably related to both access to legal services and court functioning. As to access to legal services, the bill creates (or attempts to create) a state remedy for constitutional violations that would otherwise lack redress or have limited redress in Michigan and federal courts. Without an available remedy, litigants lack meaningful access to the courts for a host of significant legal injuries. As to the functioning of the courts, the bill sets forth the procedural parameters for how actions for violations of one's constitutional rights under the new act are to be brought and decided, and specifies how judicial officers are or are not subject to such actions for acts taken in their official capacities.

***Keller* Quick Guide**

THE TWO PERMISSIBLE SUBJECT-AREAS UNDER KELLER:

	Regulation of Legal Profession	**Improvement in Quality of Legal Services**
As interpreted by AO 2004-1	Regulation and discipline of attorneys	✓ Improvement in functioning of the courts
	Ethics	✓ Availability of legal services to society
	Lawyer competency	
	Integrity of the Legal Profession	
	Regulation of attorney trust accounts	

Staff Recommendation

House Bill 6110 is reasonably related to both the availability of legal services to society and the improvement in the functioning of the courts and is therefore *Keller*-permissible. The bill may be considered on its merits.

HOUSE BILL NO. 6110

June 18, 2026, Introduced by Reps. MacDonell, McFall, Dievendorf, Rheingans, Wegela, Brixie, Hoskins, Steckloff, Edwards, B. Carter, Grant, Longjohn, Rogers, Wooden, Byrnes, Martus, Paiz, Hope, Price, Morgan, Arbit, Xiong, Foreman, Tsernoglou, Scott, Glanville, Pohutsky, Koleszar, Myers-Phillips, Weiss, Young and Puri and referred to Committee on Government Operations.

A bill to provide remedies for violations of constitutional and other legal rights.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act may be cited as the "universal constitutional remedies act".

Sec. 2. As used in this act:

(a) "Color of law" means under color of a law, including under color of a statute, ordinance, regulation, custom, or usage, of the United States.

(b) "Person" means an individual or a partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

Sec. 3. (1) Except as provided in subsection (2), a person that, under color of law, subjects, or causes to be subjected, a citizen of the United States or another person within the jurisdiction of the United States to the deprivation of rights, privileges, or immunities secured by the Constitution of the United States is liable to the other person in a civil action or other proper proceeding for redress.

(2) In an action brought under this act against a judicial officer for an act or omission made in the officer's judicial capacity, the court shall not grant injunctive relief unless a declaratory judgment was violated or declaratory relief was unavailable.

Sec. 4. (1) A defendant in an action under this act may assert a defense of absolute or qualified immunity to the same extent as a person sued under 42 USC 1983 under like circumstances.

(2) This act must not be construed to waive or abrogate a defense of sovereign immunity that is otherwise available to a party.

Sec. 5. (1) In an action or proceeding under this act, the court, in its discretion, may award a prevailing plaintiff reasonable attorney fees as part of the costs, except that in an action brought against a judicial officer for an act or omission made in the officer's judicial capacity, the officer may not be held liable for any costs, including attorney fees, unless the conduct was clearly in excess of the officer's jurisdiction.

(2) In awarding attorney fees under subsection (1), the court, in its discretion, may include expert fees as part of the attorney

fees.

Sec. 6. A civil action under this act may not be commenced later than 2 years after the cause of action accrues.

Sec. 7. This act applies to a civil action or proceeding pending on or filed on or after the effective date of this act.

Public Policy Position
HB 6110

Support in Concept

Explanation
The Committee voted to support HB 6110 in concept. The Committee believes that providing this sort of state-level avenue for individuals to vindicate their fundamental constitutional rights is of critical importance, but noted several specific concerns with the language of the bill that should be addressed:

1. The bill only creates a cause of action for violations of the United States constitution — not for violations of the Michigan constitution.

2. The bill does not improve on the existing federal § 1983 cause of action because it provides for qualified immunity. By granting qualified immunity for violations of the newly created cause of action, this provision could put a thumb on the scale of an unresolved legal issue of whether Michigan has qualified immunity available for violations of the state constitution under the cause of action for Michigan constitutional violations that the Michigan Supreme Court identified in *Bauserman*.

3. The statute of limitations is problematic. The federal cause of action contains no statute of limitations itself, so it draws its statute of limitations from the nearest state analog. In Michigan, that means there is typically a three-year statute of limitations based on analogies to tort law. But this new cause of action has a two-year statute of limitations.

4. The bill does not address the question of sovereign immunity. Rather, it expressly disavows doing so.

5. The attorney fees provision is only discretionary.

6. The "color of law" language has been used in the federal § 1983 context to make municipalities liable for constitutional violations only when it can be proven that the municipality itself had a policy and practice of violating the constitution. It doesn't allow the municipality to be held liable when its employees violate the constitution.

Position Vote:
Voted For position: 12
Voted against position: 0
Abstained from vote: 1
Did not vote (absence): 7

***Keller*-Permissibility Explanation**

The Committee determined that the bill was reasonably related to access to legal services because it creates (or attempts to create) a state remedy for constitutional violations that would otherwise lack redress or have limited redress in Michigan courts. The bill is also reasonably related to the functioning of the courts because it sets forth the procedural parameters for how such actions are to be brought and decided, and specifies how judicial officers are or are not subject to such actions for acts taken in their official capacities.

Contact Persons:

Garrett Burton gburton@sado.org
Mira Edmonds edmondm@umich.edu

Public Policy Position
HB 6110

Support in Concept

Explanation
The Committee voted to support HB 6110 in concept.

The Committee believes that providing this sort of state-level remedy for individuals to vindicate their fundamental constitutional rights is of critical importance, but also believes that there are several issues, including but not limited to those raised by the Access to Justice Policy Committee, that warrant further discussion and consideration. By supporting the legislation in concept, the Committee hopes to ensure that the State Bar is a part of and can inform those discussions as the legislation moves forward.

Position Vote:
Voted For position: 16
Voted against position: 2
Abstained from vote: 2
Did not vote (absence): 12

***Keller*-Permissible Explanation:**
The Committee determined that the bill was reasonably related to access to legal services because it creates (or attempts to create) a state remedy for constitutional violations that would otherwise lack redress or have limited redress in Michigan courts. The bill is also reasonably related to the functioning of the courts because it sets forth the procedural parameters for how such actions are to be brought and decided, and specifies how judicial officers are or are not subject to such actions for acts taken in their official capacities.

Contact Person:
Daniel D. Quick dquick@dickinsonwright.com

Public Policy Position
HB 6110

Support in Concept

Explanation
The Committee voted to support HB 6110 in concept. Like the Access to Justice (ATJ) Policy Committee, the Committee believes that providing this sort of state-level avenue for individuals to vindicate their fundamental constitutional rights is of critical importance, but believes that many of the same concerns raised by the ATJ Policy Committee do need to be addressed before the legislation moves forward.

Position Vote:
Voted For position: 10
Voted against position: 2
Abstained from vote: 0
Did not vote (absence): 10

***Keller*-Permissibility Explanation**
The Committee determined that the bill was reasonably related to access to legal services because it creates (or attempts to create) a state remedy for constitutional violations that would otherwise lack redress or have limited redress in Michigan courts. The bill is also reasonably related to the functioning of the courts because it sets forth the procedural parameters for how such actions are to be brought and decided, and specifies how judicial officers are or are not subject to such actions for acts taken in their official capacities.

Contact Persons:
Alexandria L. Casperson CaspersonA@michigan.gov

To: Members of the Public Policy Committee
Board of Commissioners

From: Nathan A. Triplett, Director of Governmental Relations

Date: July 13, 2026

Re: SB 1089, 1090, & 1091 – Trial Court Funding / Indigency Determination

Background

Senate Bills 1089, 1090, and 1091 are the first substantive bills introduced to effectuate the 2019 recommendations of the Trial Court Funding Commission (as well as the supporting recommendations made by the Michigan Judicial Council's Alternative Funding for Trial Courts Workgroup in 2023 and 2025). Specifically, the recommendation that Michigan establish uniform assessments (including a uniform ability to pay determination) and centralized collections. Taken together, these bills do two things:

First, the legislation requires that a judge conduct an indigency assessment at sentencing in every criminal or civil infraction case to determine whether a person is able to pay court fees and costs. Indigency is established if the person is enrolled in public benefits, has an income below the U.S. Department of Housing and Urban Development's Income Eligibiltiy Calculator's "very low income" level, or after an individualized judicial review.

Second, the legislation separates "accountability assessments" from "tax assessments." Accountability assessments include restitution, fines, and Crime Victim Right's Assessments. Tax assessments, by comparison, are those designed to fund the court and its related systems. Tax assessments are only imposed under the legislation on people who are not indigent.

This legislation is supported by the State Court Administrative Office. In order to ensure that tangible progress is made toward implementing the Trial Court Funding Commission recommendations, the intention is ultimately to tie-bar SB 1089, 1090, and 1091 to legislation extending the MCL 769.1k(1)(b)(iii) sunset on statutory authorization for court to impose general operating costs on criminal defendants, which is presently set to expire on December 31, 2026. The Board of Commissioners voted earlier this year to oppose legislation (2026 HB 5452) that would have simply eliminated the Section 1k sunset (and any legislation that would extend it longer than one year) and thereby remove the pressure this sunset puts on the Legislature to act on trial court funding reform.

Keller **Considerations**

The structure of trial court funding and the imposition of court costs have repeatedly been determined to be *Keller*-permissible by the Board of Commissioners. The Board has been called upon to take public policy positions on several pieces of legislation in this issue space over the course of the last decade. The Board supported legislation authorizing the imposition of costs as a stop gap measure in 2014, each of the bills extending the Sec. 1k sunset since that time, and the legislation creating the Trial Court Funding Commission. The Board also supported the recommendations of the Commission.

Adequate, sustainable funding for the operation of trial courts is essential to the functioning of our courts. Such funding is also necessarily related to access to legal services, as underfunded courts are unable to meet a community's numerous legal needs. At the same time, the imposition of court costs on defendants, especially those without the ability to pay, will also impact the availability of legal services to society. As such, Senate Bills 1089, 1090, and 1091, like similar trial court funding reform legislation that came before these bills, are necessarily related to the functioning of the courts and therefore *Keller*-permissible.

Keller **Quick Guide**

THE TWO PERMISSIBLE SUBJECT-AREAS UNDER KELLER:

	Regulation of Legal Profession	**Improvement in Quality of Legal Services**
As interpreted by AO 2004-1	Regulation and discipline of attorneys	✓ Improvement in functioning of the courts
	Ethics	Availability of legal services to society
	Lawyer competency	
	Integrity of the Legal Profession	
	Regulation of attorney trust accounts	

Staff Recommendation

Senate Bills 1089, 1090, and 1091 are necessarily related to the functioning of the courts and therefore *Keller*-permissible. The bills may be considered on their merits.

SENATE BILL NO. 1089

July 02, 2026, Introduced by Senators CHANG, CAVANAGH, DAMOOSE and SHINK and referred to Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1961 PA 236, entitled

"Revised judicature act of 1961,"

by amending sections 880d, 8727, and 8827 (MCL 600.880d, 600.8727, and 600.8827), section 880d as added by 1993 PA 189, section 8727 as amended by 2003 PA 95, and section 8827 as amended by 2020 PA 387, and by adding sections 1495, 1496, and 1497; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 880d. A judge of probate shall order that the payment of any fee required under this chapter be waived or suspended, in whole or in part, ~~upon a showing by affidavit~~ **on a determination** of indigency. ~~or inability to pay.~~The court shall determine indigency in accordance with the process provided in section 1495.

Sec. 1495. (1) Before the imposition of any fine, cost, or other assessment under section 8727 or 8827, section 1k of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1k, or section 907 of the Michigan vehicle code, 1949 PA 300, MCL 257.907, the court must conduct an assessment of indigency using a 3-pronged examination. An individual must be determined to be indigent if the individual meets any of the following criteria:

(a) The individual is enrolled in public assistance, including, but not limited to, food assistance; temporary assistance for needy families; Medicaid; disability insurance; women, infants, and children benefits; federal supplemental security income; family independence program; or public housing.

(b) The individual's income is at or below the very low income threshold for the county in which the individual resides according to the United States Department of Housing and Urban Development Income Eligibility Calculator.

(c) The individual demonstrates financial hardship under an individualized judicial review test, including, but not limited to, consideration of 1 or more of the following:

(*i*) Household size.

(*ii*) Income source and amount.

(*iii*) Other relevant financial circumstances, medical expenses or procedures, emergencies, or other existing debts.

(2) For an assessment of indigency under subsection (1)(a) and (b), the trial court may request documentary evidence to establish that indigency criteria are met or may rely on self-attestation. An individual must be advised before sentencing that the individual

may provide the trial court with any evidence of limited financial means or hardship.

(3) For an assessment of indigency under subsection (1)(c), self-attestation of financial circumstances shall be presumed sufficient proof. The trial court may exercise its discretion to require documentary proof of an individual's stated circumstance, but if the trial court requires proof, the trial court must document the court's reasoning for the requirement on the record.

(4) Current incarceration of an individual creates a presumption of the individual's indigency under this section.

(5) Except as otherwise provided by law, the indigency standards in this section must also apply when determining an individual's indigency for waiver of civil filing fees and court costs.

Sec. 1496. (1) At sentencing, the trial court shall calculate the court assessments owed by the defendant. Assessments may include restitution to victims, fines within statutory ranges, court costs, fees authorized by law, and reimbursements including, but not limited to, plaintiff costs.

(2) Without regard to indigency, restitution must be imposed where appropriate for the offense, under all of the following:

(a) Section 543x of the Michigan penal code, 1931 PA 328, MCL 750.543x.

(b) Sections 1a(2), 3, and 34(6) of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1a, 769.3, and 769.34.

(c) Section 3(1)(e) of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3.

(d) Section 16(2) or 76(2) of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.766 and 780.826.

(e) Any other applicable law.

(3) Fines and assessments imposed under section 5 of 1989 PA 196, MCL 780.905, for the purpose of victim payments under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, may be imposed at the discretion of the court. In determining whether a fine, an assessment imposed under section 5 of 1989 PA 196, MCL 780.905, or both, are appropriate accountability measures, the trial court may consider the individual's indigency and follow guidance provided by the state court administrative office under the direction of the supreme court about alternative sentencing measures that may provide more appropriate accountability for indigent individuals.

(4) On a finding of indigency, the court shall not impose costs, fees, and reimbursements including, but not limited to, plaintiff costs.

(5) The trial court shall make a finding of indigency on the record. The court shall make all findings regarding the court assessments imposed or not imposed on the record.

Sec. 1497. (1) An individual may motion the trial court for redetermination of indigency if the individual's financial circumstances change after the individual has been sentenced. On a request for redetermination, the trial court shall conduct a new indigency assessment in accordance with the process set out in section 1496. The trial court shall consider any evidence of change in financial means.

(2) If the trial court finds that the individual is indigent on redetermination under subsection (1), all of the following apply:

(a) The trial court shall waive previously imposed court costs

and fees.

(b) The trial court may waive previously imposed fines at its discretion.

(c) The trial court shall enter the waiver into the judicial information services system, and any late fees that had been imposed on that assessment must be waived.

(3) If the trial court waives a previously imposed assessment under this section and the individual has already made payments toward the assessment, the individual is not entitled to a reimbursement of the payments.

Sec. 8727. (1) A municipal civil infraction is not a lesser included offense of a criminal offense or an ordinance violation that is not a civil infraction.

(2) If a defendant is determined to be responsible or responsible "with explanation" for a municipal civil infraction, the judge or district court magistrate may order the defendant to pay a civil fine. ~~,~~ **Beginning after the effective date of the amendatory act that added section 1495, before ordering a defendant to pay costs, assessments, damages, or expenses under this section, the judge or district court magistrate shall conduct an indigency assessment and make an indigency determination in accordance with sections 1495 to 1497. If the judge or district court magistrate finds that the defendant is indigent, the judge or district court magistrate shall not order any costs, assessments, damages, or expenses under this section. If the judge or district court magistrate finds that the defendant is not indigent, the judge or district court magistrate may order the defendant to pay** costs as provided in subsection (3), the justice system assessment as provided in subsection (4), and, if applicable, damages and

expenses as provided in section 8733(2). In the order of judgment, the judge or district court magistrate may grant a defendant permission to pay a civil fine, costs, assessment, and damages and expenses within a specified period of time or in specified installments. Otherwise, the civil fine, costs, assessment, and damages and expenses are due immediately.

(3) If a defendant is ~~ordered to pay a civil fine~~ **found not indigent** under subsection (2), the judge or district court magistrate ~~shall~~ **may** summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry of judgment. Costs of not more than $500.00 ~~shall~~ **must** be ordered. Until September 30, 2003, the amount of costs ordered ~~shall~~ **must** be not less than $9.00. Except as otherwise provided by law, costs ~~shall be~~ **are** payable to the general fund of the plaintiff.

(4) Effective October 1, 2003, in addition to any fine or cost ordered to be paid under subsection (2), the judge or district court magistrate ~~shall~~ **may** order ~~the~~ **a** defendant **who is not indigent** to pay a justice system assessment of $10.00. ~~Upon~~ **On** payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasurer for deposit in the justice system fund created in section 181.

(5) In addition to ordering the defendant to pay a civil fine, costs, a justice system assessment, and damages and expenses, the judge or district court magistrate may issue a writ or order under section 8302.

(6) A district court magistrate shall impose the sanctions

permitted under subsections (2) and (5) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(7) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for municipal civil infractions that occur within the district or city. If a schedule is established, it ~~shall~~ **must** be prominently posted and readily available for public inspection. A schedule need not include all municipal civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of municipal civil infractions. **If a schedule is established, the schedule must make note of the exception for indigent individuals and include the process for determining indigency under sections 1495 to 1497.**

(8) A default in the payment of a civil fine, costs, assessment, or damages or expenses ordered under subsection (2), (3), or (4) or an installment of the fine, costs, assessment, or damages or expenses may be collected by a means authorized for the enforcement of a judgment under chapter 40 or chapter 60.

(9) If a defendant fails to comply with an order or judgment issued ~~pursuant to~~ **under** this section within the time prescribed by the court, the court may proceed under section ~~8729,~~ 8731 ~~,~~ or 8733, as applicable.

(10) A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor.

Sec. 8827. (1) A state civil infraction is not a lesser included offense of a criminal offense.

(2) If a defendant is determined to be responsible or

responsible "with explanation" for a state civil infraction, the judge or district court magistrate may order the defendant to pay a civil fine as provided by law. ~~and~~ **Beginning after the effective date of the amendatory act that added section 1495, before ordering a defendant to pay costs, assessments, damages, or expenses under this section, the judge or district court magistrate shall conduct an indigency assessment and make an indigency determination in accordance with sections 1495 to 1497. If the judge or district court magistrate finds that the defendant is indigent, the judge or district court magistrate shall not order any costs, assessments, damages, or expenses under this section. If the judge or district court magistrate finds that the defendant is not indigent, the judge or district court magistrate may order the defendant to pay** costs as provided in subsection (3) and the justice system assessment provided in subsection (4). In the order of judgment, the judge or district court magistrate may grant a defendant permission to pay a civil fine, costs, and assessment within a specified period of time or in specified installments. Otherwise, the civil fine, costs, and assessment are payable immediately.

(3) If a defendant is ~~ordered to pay a civil fine~~ **found not indigent** under subsection (2), the judge or district court magistrate ~~shall~~ **may** summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the state civil infraction, up to the entry of judgment. Costs of not more than $500.00 ~~must~~ **may** be ordered. Until September 30, 2003, the amount of costs ordered must be not less than $9.00. Costs in a state civil infraction action in the district court must be distributed

as provided in sections 8379 and 8381. Beginning October 1, 2003, costs ordered in a state civil infraction action must be distributed as provided in section 8379. Costs in a state civil infraction action in a municipal court must be paid to the county.

(4) Effective October 1, 2003, in addition to any fine or cost ordered to be paid under subsection (2) or (3), the judge or district court magistrate ~~shall~~ **may** order ~~the~~ **a** defendant **who is not indigent** to pay a justice system assessment of $10.00. ~~Upon~~ **On** payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasurer for deposit in the justice system fund created in section 181.

(5) A district court magistrate shall impose the sanctions permitted under subsection (2) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(6) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for state civil infractions that occur within the district or city. If a schedule is established, it must be prominently posted and readily available for public inspection. A schedule need not include all violations that are designated by law as state civil infractions. **If a schedule is established, the schedule must make note of the exception for indigent individuals and include the process for determining indigency under sections 1495 to 1497.**

(7) A default in the payment of a civil fine, costs, or assessment ordered under subsection (2), (3), or (4) or an installment of the fine, costs, or assessment may be collected by a means authorized for the enforcement of a judgment under chapter 40

or chapter 60.

(8) A defendant who fails to comply with an order or judgment issued under this section is guilty of a misdemeanor.

Enacting section 1. Sections 8729 and 8829 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8729 and 600.8829, are repealed.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1090 of the 103rd Legislature is enacted into law.

SENATE BILL NO. 1090

July 02, 2026, Introduced by Senators DAMOOSE, CHANG, CAVANAGH and SHINK and referred to Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1927 PA 175, entitled

"The code of criminal procedure,"

by amending section 13 of chapter II, sections 1k and 5 of chapter IX, and sections 1, 3, 3c, and 3e of chapter XI (MCL 762.13, 769.1k, 769.5, 771.1, 771.3, 771.3c, and 771.3e), section 13 of chapter II and sections 1 and 3c of chapter XI as amended by 2019 PA 165, section 1k of chapter IX as amended by 2024 PA 38, section 5 of chapter IX as amended by 2020 PA 395, section 3 of chapter XI as amended by 2020 PA 397, and section 3e of chapter XI as added by 2012 PA 610.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER II

Sec. 13. (1) If an individual is assigned to the status of a youthful trainee and the underlying charge is an offense punishable by imprisonment for a term of more than 1 year, the court shall do 1 of the following:

(a) Except as provided in subsection (2), commit the individual to the department of corrections for custodial supervision and training for not more than 2 years. If the individual is less than 21 years of age, ~~he or she~~ **the individual** must be committed to an institutional facility designated by the department for that purpose.

(b) Place the individual on probation for not more than 3 years subject to probation conditions as provided in section 3 of chapter XI. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088.

(c) Commit the individual to the county jail for not more than 1 year.

(d) Except as provided in subsection (2), commit the individual to the department of corrections under subdivision (a) or to the county jail under subdivision (c), and then place the individual on probation for not more than 1 year subject to probation conditions as provided in section 3 of chapter XI.

(2) An individual assigned to the status of youthful trainee must not be committed to the department of corrections for custodial supervision and training under subsection (1)(a) or (d) if the underlying charge is for a violation of any of the following:

(a) Article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545.

(b) Section 110, 110a(4), 157n to 157v, 157w(1)(c), 227, 356, 357, 413, 530, or 535(3) or (7) of the Michigan penal code, 1931 PA 328, MCL 750.110, 750.110a, 750.157n to 750.157v, 750.157w, 750.227, 750.356, 750.357, 750.413, 750.530, and 750.535.

(3) If an individual is assigned to the status of youthful trainee and the underlying charge is for an offense punishable by imprisonment for 1 year or less, the court shall place the individual on probation for not more than 2 years, subject to probation conditions as provided in section 3 of chapter XI.

(4) An individual placed on probation under this section must be under the supervision of a probation officer. ~~Upon~~ **On** commitment to and receipt by the department of corrections, a youthful trainee is subject to the direction of the department of corrections. If an individual is placed on probation following a commitment to the department of corrections under subsection (1)(d), a youthful trainee must be reassigned to the supervision of a probation officer.

(5) If an individual is committed to the county jail under subsection (1)(c) or (d) or as a probation condition, the court may authorize work release or release for educational purposes.

(6) Except as provided in subsection (7), the court shall include in each order of probation for an individual placed on probation under this section that the department of corrections collect a probation supervision fee of $30.00 multiplied by the number of months of probation ordered, but not more than 36 months, if the individual is placed on probation supervision without an electronic monitoring device. If the individual is placed on

probation supervision under this subsection with an electronic monitoring device, the court shall include in its order of probation that the department of corrections collect a probation supervision fee of $60.00 multiplied by the number of months of probation ordered, but not more than 36 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. The fee must be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. ~~A person~~ **An individual** must not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for ~~a person~~ **an individual** for any month or months during which that ~~person~~ **individual** already is subject to a supervision fee, the court shall waive the fee ~~having~~ **that has** the shorter remaining duration.

(7) The court ~~may~~ **shall** waive the fee required to be collected under this section if the court determines the supervised individual is indigent **under sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497.**

(8) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

CHAPTER IX

Sec. 1k. (1) If a defendant enters a plea of guilty or nolo contendere or if the court determines after a hearing or trial that the defendant is guilty, **the court shall conduct an assessment of indigency in accordance with sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497. If the court finds that the defendant is indigent, the court may order**

a fine as authorized by statute for a violation of which the defendant entered a plea of guilty or nolo contendere or the court determined that the defendant was guilty. The court shall not order any additional costs or assessments under this section for a defendant who is indigent. If the court finds that the defendant is not indigent, both of the following apply at the time of the sentencing or at the time entry of judgment of guilt is deferred by statute or sentencing is delayed by statute:

(a) The court shall impose the minimum state costs as set forth in section 1j of this chapter.

(b) The court may impose any or all of the following:

(*i*) Any fine authorized by the statute for a violation of which the defendant entered a plea of guilty or nolo contendere or the court determined that the defendant was guilty.

(*ii*) Any cost authorized by the statute for a violation of which the defendant entered a plea of guilty or nolo contendere or the court determined that the defendant was guilty.

(*iii*) Until December 31, 2026, any cost reasonably related to the actual costs incurred by the trial court without separately calculating those costs involved in the particular case, including, but not limited to, the following:

(A) Salaries and benefits for relevant court personnel.

(B) Goods and services necessary for the operation of the court.

(C) Necessary expenses for the operation and maintenance of court buildings and facilities.

(*iv*) The expenses of providing legal assistance to the defendant.

(*v*) Any assessment authorized by law.

(*vi*) Reimbursement under section 1f of this chapter.

(2) In addition to any fine, cost, or assessment imposed under subsection (1), the court may order ~~the~~ **a** defendant **who is not indigent** to pay any additional costs incurred in compelling the defendant's appearance.

(3) Subsections (1) and (2) apply even if the defendant is placed on probation, probation is revoked, or the defendant is discharged from probation.

(4) The court may require the defendant to pay any fine, cost, or assessment ordered to be paid under this section by wage assignment.

(5) The court may provide for the amounts imposed under this section to be collected at any time.

(6) Except as otherwise provided by law, the court may apply payments received on behalf of a defendant that exceed the total of any fine, cost, fee, or other assessment imposed in the case to any fine, cost, fee, or assessment that the same defendant owes in any other case.

(7) The court shall make available to a defendant information about any fine, cost, or assessment imposed under subsection (1), including information about any cost imposed under subsection (1)(b)(*iii*). However, the information is not required to include the calculation of the costs involved in a particular case.

(8) If the court imposes any cost under subsection (1)(b)(*iii*), no later than March 31 of each year the clerk of the court shall transmit a report to the state court administrative office in a manner prescribed by the state court administrative office that contains all of the following information for the previous calendar year:

(a) The name of the court.

(b) The total number of cases in which costs under subsection (1)(b)(*iii*) were imposed by that court.

(c) The total amount of costs that were imposed by that court under subsection (1)(b)(*iii*).

(d) The total amount of costs imposed under subsection (1)(b)(*iii*) that were collected by that court.

(9) No later than July 1 of each year, the state court administrative office shall compile all data submitted under subsection (8) during the preceding calendar year and submit a written report to the governor, the secretary of the senate, and the clerk of the house of representatives. The report described in this subsection must be made available to the public by the secretary of the senate and the clerk of the house of representatives.

(10) A defendant must not be imprisoned, jailed, or incarcerated for the nonpayment of costs ordered under this section unless the court determines that the defendant has the resources to pay the ordered costs and has not made a good-faith effort to do so.

Sec. 5. (1) Subject to ~~subsection~~ **subsections** (3) **and (5)**, if a statute provides that an offense is punishable by imprisonment and a fine, the court may impose imprisonment without the fine or the fine without imprisonment.

(2) Subject to ~~subsection~~ **subsections** (3) **and (5)**, if a statute provides that an offense is punishable by fine or imprisonment, the court may impose both the fine and imprisonment in its discretion.

(3) There is a rebuttable presumption that the court shall

sentence an individual convicted of a misdemeanor, other than a serious misdemeanor, with a fine, community service, or other nonjail or nonprobation sentence.

(4) The court may depart from the presumption under subsection (3) if the court finds reasonable grounds for the departure and states on the record the grounds for the departure.

~~(5) If the court finds that the sentenced person has not complied with his or her sentence, including a nonjail or nonprobation sentence, the court may issue an order for the person to show cause why he or she should not be held in contempt of court for not complying with the sentence. If the court finds the person in contempt, it may impose an additional sentence, including jail or probation if appropriate.~~

~~(6) If the finding of contempt of court under subsection (5) is for nonpayment of fines, costs, or other legal financial obligations, the court must find on the record that the person is able to comply with the payments without manifest hardship, and that the person has not made a good-faith effort to do so, before imposing an additional sentence.~~

(5) To determine whether to impose a fine under this section, the court shall conduct an indigency assessment and make indigency determination in accordance with sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497.

(6) ~~(7)~~ As used in this section, "serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

CHAPTER XI

Sec. 1. (1) In all prosecutions for felonies, misdemeanors, or ordinance violations other than murder, treason, criminal sexual conduct in the first or third degree, armed robbery, or major controlled substance offenses, if the defendant has been found guilty upon verdict or plea and the court determines that the defendant is not likely again to engage in an offensive or criminal course of conduct and that the public good does not require that the defendant suffer the penalty imposed by law, the court may place the defendant on probation under the charge and supervision of a probation officer.

(2) In an action in which the court may place the defendant on probation, the court may delay sentencing the defendant for not more than 1 year to give the defendant an opportunity to prove to the court his or her eligibility for probation or other leniency compatible with the ends of justice and the defendant's rehabilitation, such as participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1088. When sentencing is delayed, the court shall enter an order stating the reason for the delay upon the court's records. The delay in passing sentence does not deprive the court of jurisdiction to sentence the defendant at any time during the period of delay.

(3) Except as provided in subsection (5), if a defendant is before the circuit court and the court delays imposing sentence under subsection (2), the court shall include in the delayed sentence order that the department of corrections collect a supervision fee of $30.00 multiplied by the number of months of delay ordered, but not more than 12 months, if the individual is placed on supervision without electronic monitoring. If the individual is placed on supervision with an electronic monitoring

device under this subsection, the court shall include in the delayed sentence order that the department of corrections collect a supervision fee of $60.00 multiplied by the number of months of supervision ordered under the delay of sentence, but not more than 12 months. The fee is payable when the delayed sentence order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that defendant. The fee must be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. ~~A person~~ **An individual** must not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for ~~a person~~ **an individual** for any month or months during which that ~~person~~ **individual** already is subject to a supervision fee, the court shall waive the fee ~~having~~ **that has** the shorter remaining duration.

(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(5) The court ~~may~~ **shall** waive the fee required to be collected under this section if the court determines the supervised individual is indigent **under sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497.**

(6) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

Sec. 3. (1) The sentence of probation must include all of the following conditions:

(a) During the term of ~~his or her~~ **the individual's** probation, the probationer shall not violate any criminal law of this state, the United States, or another state or any ordinance of any municipality in this state or another state.

(b) During the term of ~~his or her~~ **the individual's** probation, the probationer shall not leave the state without the consent of the court granting ~~his or her~~ **the individual's** application for probation.

(c) The probationer shall report to the probation officer, in person, virtually, or in writing, monthly or as often as the probation officer requires. This subdivision does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(d) ~~If~~ **Except as provided in this subdivision, if** sentenced in circuit court, the probationer shall pay a probation supervision fee as prescribed in section 3c of this chapter. **The fee under section 3c must not be ordered if the probationer is found to be indigent under sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497.**

~~(e) The probationer shall pay restitution to the victim of the defendant's course of conduct giving rise to the conviction or to the victim's estate as provided in chapter IX. An order for payment of restitution may be modified and must be enforced as provided in chapter IX.~~

~~(f) The probationer shall pay an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.~~

~~(g) The probationer shall pay the minimum state cost prescribed by section 1j of chapter IX.~~

(e) ~~(h)~~ If the probationer is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the probationer shall comply with that act.

(2) Subject to subsection ~~(11),~~ **(7)**, as a condition of probation, the court may require the probationer to do 1 or more of the following:

(a) Be imprisoned in the county jail for not more than 12 months at the time or intervals that may be consecutive or nonconsecutive, within the probation as the court determines. However, the period of confinement must not exceed the maximum period of imprisonment provided for the offense charged if the maximum period is less than 12 months. The court may permit day parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may, subject to sections 3d and 3e of this chapter, permit the individual to be released from jail to work at ~~his or her~~ **the individual's** existing job or to attend a school in which ~~he or she~~ **the individual** is enrolled as a student. This subdivision does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

~~(b) Pay immediately or within the period of his or her probation a fine imposed when placed on probation.~~

~~(c) Pay costs pursuant to subsection (5).~~

~~(d) Pay any assessment ordered by the court other than an assessment described in subsection (1)(f).~~

~~(e) Engage in community service.~~

~~(f) Agree to pay by wage assignment any restitution, assessment, fine, or cost imposed by the court.~~

(b) ~~(g)~~ Participate in inpatient or outpatient drug treatment, or a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084.

(c) ~~(h)~~ Participate in mental health treatment.

(d) ~~(i)~~ Participate in mental health or substance abuse counseling.

(e) ~~(j)~~ Participate in a community corrections program.

(f) ~~(k)~~ Be under house arrest.

(g) ~~(*l*)~~ Be subject to electronic monitoring.

(h) ~~(m)~~ Participate in a residential probation program.

(i) ~~(n)~~ Satisfactorily complete a program of incarceration in a special alternative incarceration unit as provided in section 3b of this chapter.

(j) ~~(o)~~ Be subject to conditions reasonably necessary for the protection of 1 or more named persons.

~~(p) Reimburse the county for expenses incurred by the county in connection with the conviction for which probation was ordered as provided in the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93.~~

(k) ~~(q)~~ Complete ~~his or her~~ **the individual's** high school education or obtain the equivalency of a high school education in the form of a general education development (GED) certificate.

(3) Subject to subsection ~~(11),~~ **(7)**, the court may impose other lawful conditions of probation as the circumstances of the case require or warrant or as in its judgment are proper.

(4) If an order or amended order of probation contains a condition for the protection of 1 or more named persons as provided in subsection ~~(2)(o),~~ **(2)(j)**, the court or a law enforcement agency within the court's jurisdiction shall enter the order or amended

order into the law enforcement information network. If the court rescinds the order or amended order or the condition, the court shall remove the order or amended order or the condition from the law enforcement information network or notify that law enforcement agency and the law enforcement agency shall remove the order or amended order or the condition from the law enforcement information network.

~~(5) If the court requires the probationer to pay costs under subsection (2), the costs must be limited to expenses specifically incurred in prosecuting the defendant or providing legal assistance to the defendant and supervision of the probationer.~~

~~(6) If the court imposes costs under subsection (2) as part of a sentence of probation, all of the following apply:~~

~~(a) The court shall not require a probationer to pay costs under subsection (2) unless the probationer is or will be able to pay them during the term of probation. In determining the amount and method of payment of costs under subsection (2), the court shall take into account the probationer's financial resources and the nature of the burden that payment of costs will impose, with due regard to his or her other obligations.~~

~~(b) A probationer who is required to pay costs under subsection (1)(g) or (2)(c) and who is not in willful default of the payment of the costs may petition the sentencing judge or his or her successor at any time for a remission of the payment of any unpaid portion of those costs. If the court determines that payment of the amount due will impose a manifest hardship on the probationer or his or her immediate family, the court may remit all or part of the amount due in costs or modify the method of payment.~~

~~(7) If a probationer is required to pay costs as part of a~~

~~sentence of probation, the court may require payment to be made immediately or the court may provide for payment to be made within a specified period of time or in specified installments.~~

~~(8) If a probationer is ordered to pay costs as part of a sentence of probation, compliance with that order must be a condition of probation. Subject to the requirements of section 4b of this chapter, the court may only sanction a probationer to jail or revoke the probation of a probationer who fails to comply with the order if the probationer has the ability to pay and has not made a good-faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the probationer's employment status, earning ability, and financial resources, the willfulness of the probationer's failure to pay, and any other special circumstances that may have a bearing on the probationer's ability to pay. The proceedings provided for in this subsection are in addition to those provided in section 4 of this chapter.~~

(5) ~~(9)~~ If entry of judgment is deferred in the circuit court, the court shall require the individual to pay a supervision fee in the same manner as is prescribed for a delayed sentence under section 1(3) of this chapter ~~, shall require the individual to pay the minimum state costs prescribed by section 1j of chapter IX,~~ and may impose, as applicable, the conditions of probation described in subsection (1), and subject to subsection ~~(11),~~ **(7)**, the conditions of probation described in subsections (2) and (3). **The supervision fee in this subsection must not be ordered if the probationer is found to be indigent under sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497.**

(6) ~~(10)~~ If sentencing is delayed or entry of judgment is deferred in the district court or in a municipal court, the court ~~shall require the individual to pay the minimum state costs prescribed by section 1j of chapter IX and~~ may impose, as applicable, the conditions of probation described in subsection (1), and subject to subsection ~~(11),~~ **(7)**, the conditions of probation described in subsections (2) and (3).

(7) ~~(11)~~ The conditions of probation imposed by the court under subsections (2) and (3) must be individually tailored to the probationer, must specifically address the assessed risks and needs of the probationer, must be designed to reduce recidivism, and must be adjusted if the court determines adjustments are appropriate. The court shall also consider the input of the victim and shall specifically address the harm caused to the victim, as well as the victim's safety needs and other concerns, including, but not limited to, any request for protective conditions or restitution.

Sec. 3c. (1) Except as provided in subsection (2), the circuit court shall include in each order of probation for a defendant convicted of a crime that the department of corrections collect a probation supervision fee of $30.00 multiplied by the number of months of probation ordered, but not more than 60 months, if a defendant is placed on probation supervision without an electronic monitoring device. If a defendant is placed on probation supervision with an electronic monitoring device under this subsection, the circuit ~~court's order~~ **court** shall include in its order that the department of corrections **shall** collect a probation supervision fee of $60.00 multiplied by the number of months of probation ordered, but not more than 60 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. The fee must be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. ~~A person~~ **An individual** must not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for ~~a person~~ **an individual** for any month or months during which that ~~person~~ **individual** already is subject to a supervision fee, the court shall waive the fee ~~having~~ **that has** the shorter remaining duration.

(2) The circuit court ~~may~~ **shall** waive the fee required to be collected under this section if the court determines that the supervised individual is indigent **under sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497.**

(3) If ~~a person~~ **an individual** who is subject to a probation supervision fee is also subject to any combination of fines, costs, restitution orders, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations must be as otherwise provided in section 22 of chapter XV.

(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(5) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

Sec. 3e. (1) If the court permits an individual convicted of a felony to be released from jail under section 3 of this chapter for purposes of attending work or school, the court shall order the individual to wear an electronic monitoring device on ~~his or her~~ **the individual's** person that will provide a signal to the county sheriff through the use of the global positioning satellite system or by other means of the individual's movement and location at all times while ~~he or she~~ **the individual** is on that release. The device ~~shall~~ **must** be an ankle-worn device approved by the court that provides information to the county sheriff if it is tampered with or removed. The information provided by the electronic monitoring device ~~shall~~ **must** be recorded and monitored by the county sheriff to ensure the individual's compliance with ~~his or her~~ **the individual's** work release requirements. The installation, maintenance, monitoring, and removal costs of the electronic monitoring device ~~shall~~ **must** be paid for by the individual, **unless the individual is found to be indigent under sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497, in which case the costs must be waived.**

(2) This section applies only if the court has in place a program to provide for the electronic monitoring of individuals placed on probation that complies with the requirements of this section.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1089 of the 103rd Legislature is enacted into law.

SENATE BILL NO. 1091

July 02, 2026, Introduced by Senators CAVANAGH, CHANG, DAMOOSE and SHINK and referred to Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1949 PA 300, entitled

"Michigan vehicle code,"

by amending section 907 (MCL 257.907), as amended by 2024 PA 164; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 907. (1) A violation of this act, or a local ordinance that substantially corresponds to a provision of this act, that is designated a civil infraction must not be considered a lesser included offense of a criminal offense.

(2) Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified

installments but, unless permission is included in the order or judgment, the civil fine and costs must be payable immediately. Except as otherwise provided **in this section**, a person found responsible or responsible "with explanation" for a civil infraction must pay costs as provided in subsection (4) and 1 or more of the following civil fines, as applicable:

(a) Except as otherwise provided, for a civil infraction under this act or a local ordinance that substantially corresponds to a provision of this act, the person must be ordered to pay a civil fine of not more than $100.00.

(b) If the civil infraction was a moving violation that resulted in an at-fault collision with another vehicle, an individual, or any other object, the civil fine ordered under this section is increased by $25.00 but the total civil fine must not be more than $100.00.

(c) For a violation of section 240, the civil fine ordered under this section is $15.00.

(d) For a violation of section 312a(4)(a), the civil fine ordered under this section must not be more than $250.00.

(e) For a first violation of section 319f(1), the civil fine ordered under this section must not be less than $2,500.00 or more than $2,750.00; for a second or subsequent violation, the civil fine must not be less than $5,000.00 or more than $5,500.00.

(f) For a violation of section 319g(1)(a), the civil fine ordered under this section must not be more than $10,000.00.

(g) For a violation of section 319g(1)(g), the civil fine ordered under this section must not be less than $2,750.00 or more than $25,000.00.

(h) For a violation of section 602b, the civil fine ordered under this section must be as follows:

(*i*) For a violation of section 602b(1), either of the following:

(A) If the violation does not involve an accident, $100.00 for a first offense and $250.00 for a second or subsequent offense.

(B) If the violation involves an accident, $200.00 for a first offense and $500.00 for a second or subsequent offense.

(*ii*) For a violation of section 602b(2), either of the following:

(A) If the violation does not involve an accident, $200.00 for a first offense and $500.00 for a second or subsequent offense.

(B) If the violation involves an accident, $400.00 for a first offense and $1,000.00 for a second or subsequent offense.

(i) For a violation of section 627c, the civil fine ordered under this section must not be more than $150.00 for a second violation as described in section 627c(2)(b) and $300.00 for a third or subsequent violation described in section 627c(2)(c).

(j) For a violation of section 674(1)(s) or a local ordinance that substantially corresponds to section 674(1)(s), the civil fine ordered under this section must not be less than $100.00 or more than $250.00.

(k) For a violation of section 676a(3), the civil fine ordered under this section must not be more than $10.00.

(*l*) For a violation of section 676c, the civil fine ordered under this section is $1,000.00.

(m) For a violation of section 682 or a local ordinance that substantially corresponds to section 682, the civil fine ordered under this section must not be less than $100.00 or more than $500.00.

(n) For a violation of section 710d, the civil fine ordered under this section must not be more than $10.00, subject to subsection (11).

(o) For a violation of section 710e, the civil fine and court costs ordered under this subsection must be $25.00.

(3) Except as otherwise provided in this section, if an individual is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance that substantially corresponds to a provision of this act while driving a commercial motor vehicle, the individual must be ordered to pay costs as provided in subsection (4) and a civil fine of not more than $250.00.

(4) ~~If~~ **Except as otherwise provided in this section, if** a civil fine is ordered under subsection (2) or (3), the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Costs must not be ordered in excess of $100.00. ~~A civil fine ordered under subsection (2) or (3) must not be waived unless costs ordered under this subsection are waived.~~ Except as otherwise provided by law, costs are payable to the general fund of the plaintiff.

(5) In addition to a civil fine and costs ordered under subsection (2) or (3) and subsection (4) and the justice system assessment ordered under subsection (12), the judge or district court magistrate may order the individual to attend and complete a program of treatment, education, or rehabilitation.

(6) A district court magistrate shall impose the sanctions

permitted under subsections (2), (3), and (5) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(7) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for civil infractions that occur within the respective district or city. If a schedule is established, it must be prominently posted and readily available for public inspection. A schedule need not include all violations that are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses. **If a schedule is established, the schedule must make note of the exception for indigent individuals and include the process for determining indigency under sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497.**

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation is not binding on the courts that have jurisdiction over civil infractions but is intended to act as a normative guide for judges and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout this state.

(9) If a person has received a civil infraction citation for defective safety equipment on a vehicle under section 683, the court shall waive a civil fine, costs, and assessments on receipt of certification by a law enforcement agency that repair of the

defective equipment was made before the appearance date on the citation.

(10) A default in the payment of a civil fine or costs ordered under subsection (2), (3), or (4) or a justice system assessment ordered under subsection (12), or an installment of the fine, costs, or assessment, may be collected by a means authorized for the enforcement of a judgment under chapter 40 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(11) Before ~~the effective date of 2024 PA 22,~~ **April 2, 2025**, the court may waive any civil fine, cost, or assessment against an individual who received a civil infraction citation for a violation of section 710d if the individual, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d. Beginning ~~on the effective date of 2024 PA 22,~~ **April 2, 2025**, the court may waive any civil fine, cost, or assessment against an individual who received a civil infraction citation for a violation of section 710d if the individual, before the appearance date on the citation, supplies the court with evidence of acquisition of a child seating system that meets the requirements of section 710d and evidence that the individual has received education from a certified child passenger safety technician.

(12) ~~In~~ **Except as otherwise provided under this section, in** addition to any civil fines or costs ordered to be paid under this section, the judge or district court magistrate ~~shall~~ **may** order the defendant to pay a justice system assessment of $40.00 for each

civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are $10.00 or less. On payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(13) If a person has received a citation for a violation of section 223, the court shall waive any civil fine, costs, and assessment on receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation of section 223 occurred.

(14) If a person has received a citation for a violation of section 328(1) for failing to produce a certificate of insurance under section 328(2), the court may waive the fee described in section 328(3)(c) and shall waive any fine, costs, and any other fee or assessment otherwise authorized under this act on receipt of verification by the court that the person, before the appearance date on the citation, produced valid proof of insurance that was in effect when the violation of section 328(1) occurred. Insurance obtained after the violation occurred does not make the person eligible for a waiver under this subsection.

(15) ~~If~~ **Except as otherwise provided under this section, if** a person is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance that substantially corresponds to a provision of this act and the civil infraction arises out of the ownership or operation

of a commercial quadricycle, the person must be ordered to pay costs as provided in subsection (4) and a civil fine of not more than $500.00.

(16) Beginning after the effective date of the amendatory act that added this subsection, before imposing a civil fine, costs, or justice system assessment under this section, the judge or district court magistrate shall conduct an indigency assessment and make an indigency determination in accordance with sections 1495 to 1497 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1495 to 600.1497. If the judge or district court magistrate finds that the individual is indigent, the judge or district court magistrate has the discretion to order the individual to pay a civil fine as provided in this section, but shall not order the individual to pay costs or a justice system assessment.

(17) ~~(16)~~ As used in this section, "moving violation" means an act or omission prohibited under this act or a local ordinance that substantially corresponds to this act that involves the operation of a motor vehicle and for which a fine may be assessed.

Enacting section 1. Section 908 of Michigan vehicle code, 1949 PA 300, MCL 257.908, is repealed.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1089 of the 103rd Legislature is enacted into law.

Public Policy Position
SB 1089 – SB 1091

Support

Explanation
The Committee voted to support SB 1089-1091. The legislation would implement one portion of one recommendation of the Trial Court Funding Commission ("establish uniform assessments and centralized collections") and provide uniformity in trial court practice regarding ability to pay determinations in both criminal and civil proceedings.

The Committee did note that the legislation leaves unresolved pressing questions about the constitutionality and desirability, as a matter of public policy, of funding trial courts via court cost assessments on criminal defendants.

The Committee also believed that a fourth factor should be added to the proposed indigency determination: An individual determined to be indigent under the MIDC standard for the purpose of appointing counsel in a criminal matter should be presumed indigent for the purpose of assessments issued at sentencing.

Position Vote:
Voted For position: 11
Voted against position: 1
Abstained from vote: 1
Did not vote (absence): 7

***Keller*-Permissibility Explanation**
The Committee determined that the bill is necessarily related to court functioning and therefore *Keller*-permissible.

Contact Persons:
Garrett Burton gburton@sado.org
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Public Policy Position
SB 1089 – SB 1091

Support in Principle

Explanation
The Committee voted to support Senate Bills 1089, 1090, and 1091 in principle.

Position Vote:
Voted For position: 19
Voted against position: 1
Abstained from vote: 0
Did not vote (absence): 10

***Keller*-Permissible Explanation:**
The Committee determined that the bill is necessarily related to court functioning and therefore *Keller*-permissible.

Contact Person:
Daniel D. Quick dquick@dickinsonwright.com

Public Policy Position
SB 1089 – SB 1091

Support

Explanation
The Committee voted to support the legislation and the recommendation made by the Access to Justice Policy Committee that a fourth factor should be added to the proposed indigency determination:

> An individual determined to be indigent under the MIDC standard for the purpose of appointing counsel in a criminal matter should be presumed indigent for the purpose of assessments issued at sentencing.

Position Vote:
Voted For position: 9
Voted against position: 1
Abstained from vote: 2
Did not vote (absence): 10

***Keller*-Permissibility Explanation**
The Committee determined that these bills are necessarily related to court functioning and therefore *Keller*-permissible.

Contact Persons:
Alexandria L. Casperson CaspersonA@michigan.gov

9.3. ADR Section Proposals*

Public Policy Position
Alternative Dispute Resolution Section Proposals

Other

Explanation

The Committee voted to recommend to the Board of Commissioners that the State Bar of Michigan support the Alternative Dispute Resolution Section's request that the Supreme Court or State Court Administrative Office consider the merits of the Section's five public policy proposals.

Position Vote:

Voted For position: 19
Voted against position: 1
Abstained from vote: 0
Did not vote (absence): 10

Contact Person:

Daniel D. Quick dquick@dickinsonwright.com

Proposal to Improve Mediator Practice

Submitted by ADR Section of the Michigan State Bar

January 2022

Our proposal is designed to provide clear guidance to mediators regarding mediator disclosure, an area of practice where confusion has been created in both the Michigan Court Rules and the Michigan Standards of Conduct for Mediators, as evidenced by some appellate and attorney grievance cases.

The Problem

1. The Michigan Court Rules

MCR 2.411(B)(5) and MCR 3.216(E)(5) provide that disqualification of a mediator "is the same as that provided in MCR 2.003 for the disqualification of a judge." Mediators are not judges; they make no decisions that are binding on the parties, MCR 2.411(A)(2), 3.216(A)(2). The term "disqualification" is not appropriate for mediators, since parties can agree on mediator selection. On further reflection and based on our research, we realized that the issue that this court rule purports to address is not whether a mediator is "disqualified" but whether parties have sufficient information about a mediator to make an informed choice. In other words, the issue for mediators is disclosure and, if necessary, withdrawal.

When the Michigan Court Rules on mediation were drafted over twenty years ago, the drafting committee defaulted to adopting the standard of withdrawal applicable to judges, perhaps for lack of other national or state guidance. Time has proven that that standard is neither workable nor sufficiently protective of persons in mediation.

2. The Michigan Standards of Conduct for Mediators ("the Standards of Conduct")

In 2019, the Attorney Discipline Board (ADB) decided that an attorney-mediator who had not disclosed to husband's attorney her close friendship with wife's attorney– including the fact that she vacationed at his Florida condo while the case was pending -- had not violated the Standards of Conduct or Michigan Rules of Professional Conduct for attorneys. The ADB opined that the Standard of Conduct regarding Conflict of Interest, which requires disclosure of a relationship that "might" create an impression of possible bias, is so broad as to make it impossible for any attorney to serve as a mediator, and added that "[w]ithout specific language describing what does and does not constitute a 'conflict of interest,' the Standards of Conduct for Mediators does not adequately inform a mediator ... as to what kind of prior relationship will subject the mediator to a charge of an unethical conflict of interest ..."

Given the ADB reading of the Standards of Conduct and the breadth of confusion and concern about disclosure echoed statewide by mediators and in mediator training, we determined that there is a pressing and compelling need for more detailed and clearer guidance to mediators about disclosure for the benefit of mediators, and mediation parties and participants.

The Process

1. The Committee

In 2019, the ADR Section created a committee to resolve the mediator "disqualification" court rule problem described above. The committee consisted of mediators with vast and varied backgrounds and experiences in many areas of the law: commercial, family, labor and employment, and probate, to name a few. We worked diligently to bridge differences of opinion as to how to best approach the problem and succeeded in creating the clear and detailed guidance that we all agreed was needed.

2. Initial Research

We researched rules and policies on mediator disclosure and disqualification nationally. We found two resources especially helpful: California's court rule on mediator disclosure, California Court Rule 3.855, and ABA Formal Opinion 488, issued September 5, 2019. The California court rule lays out a logical, comprehensive process for mediators to follow in determining what and when to disclose, and cogently illustrates the limitations of rules on disqualification in addressing so-called conflicts of interest as encountered by mediators. The ABA Opinion provided a model for analyzing the range of social relationships for attorneys and judges: acquaintances, friendships, and close personal relationships, in ascending level of closeness. While we used these two resources for our basic structure and some language, we relied on other national resources as well to craft specific language.

3. Amend the Court Rules, the Standards of Conduct for Mediators, or both?

We determined that the court rule on mediator disqualification needed to be removed. We drafted a new court rule on mediator impartiality, disclosure, and withdrawal to replace it, but then determined that detailed guidance had to be provided quickly, and that this could better be accomplished through revisions to the Standards of Conduct. See Proposal Summary, paragraph 1.

We considered a range of options to introduce more accountability for violation of the proposed new Standard on disclosure, impartiality and withdrawal, given the potential negative consequences for mediation parties and participants and for the public perception of mediation for violation of the new disclosure standard. Ultimately, we concluded that at this time the more effective approach to improving the quality of mediation practice statewide is to prioritize wide embrace of our proposal for clearer and prominent guidance, without creating new authority for violations of the Standards. At the same time, we do not intend for a violation of the Standards to be the reason for an attorney disciplinary action, so we recommend that this be stated in the preamble of the Standards. See Proposal Summary, paragraph 2.a.

The Standards of Conduct have sections on Impartiality (II) as well as on Conflicts of Interest (III). The topic of disclosure relates closely to both of these, so we propose merging these two standards into one revised Standard entitled, "Impartiality, Disclosure and Withdrawal." In addition to retaining key elements of current Standards II and III, it would also include "Comments" clarifying which types of relationships should be disclosed. See Proposal Summary, paragraphs 2.b and 2.c.

The Proposal Summary

We propose some revisions to the Standards of Conduct, as well as one revision to the Michigan Court Rules:

1. Revise the Standards of Conduct for Mediators by:
    a. Clarifying in the preamble that violating a standard is not a basis for invoking a disciplinary process.
    b. Re-organizing Standard I, Impartiality, by stating the standard, then providing commentary.
    c. Merging Standard II, Impartiality, and Standard III, Conflict of Interest, into one new Standard II, to be called, "Impartiality, Disclosure and Withdrawal," with some new content as well as new commentary.
    d. Re-numbering the remaining standards.
2. Amend MCR 2.411(B)(5) and MCR 3.216(E)(5) to remove the sentences regarding disqualification and replace them with the statement that the Michigan Standards of Conduct for Mediators govern mediator disclosure and withdrawal.

Proposed Amendments to
MCR 2.411(B)(5) and 3.216(E)(5)

MCR 2.411 Mediation

(A) Scope and Applicability of Rule; Definitions. [UNCHANGED]

(B) Selection of Mediator. [UNCHANGED]

(1) - (4). [UNCHANGED]

(5) ~~The rule for disqualification of a mediator is the same as that provided in MCR 2.003 for the disqualification of a judge. The mediator must promptly disclose any potential basis for disqualification~~. The Michigan Standards of Conduct for Mediators govern mediator disclosure and withdrawal.

(C) Scheduling and Conduct of Mediation. [UNCHANGED]

(D) Fees. [UNCHANGED]

(E) List of Mediators. [UNCHANGED]

(F) Qualification of Mediators. [UNCHANGED]

(G) Standards of Conduct for Mediators. [UNCHANGED]

(H) Mediation of Discovery Disputes. [UNCHANGED]

MCR 3.216 Domestic Relations Mediation

(A) Scope and Applicability of Rule, Definitions. [UNCHANGED]

(B) Mediation Plan. [UNCHANGED]

(C) Referral to Mediation. [UNCHANGED]

(D) Objections to Referral to Mediation. [UNCHANGED]

(E) Selection of Mediator.

(E) Selection of Mediator.

(1) - (4) [UNCHANGED]

(5) ~~The rule for disqualification of a mediator is the same as that provided in MCR 2.003 for the disqualification of a judge. The mediator must promptly disclose any potential basis for disqualification.~~ The Michigan Standards of Conduct for Mediators govern mediator disclosure and withdrawal.

(F) List of Mediators. [UNCHANGED]

(G) Qualification of Mediators. [UNCHANGED]

(H) Mediation Procedure.	[UNCHANGED]
(I) Evaluative Mediation.	[UNCHANGED]
(J) Fees.	[UNCHANGED]
(K) Standards of Conduct.	[UNCHANGED]

Proposed Amendments to
MCR 2.411(B)(5), and 3.216(E)(5)

MCR 2.411 Mediation

(A) Scope and Applicability of Rule; Definitions. [UNCHANGED]

(B) Selection of Mediator. [UNCHANGED]

(1) - (4). [UNCHANGED]

(5). The Michigan Standards of Conduct for Mediators govern mediator disclosure and withdrawal.

(C) Scheduling and Conduct of Mediation. [UNCHANGED]

(D) Fees. [UNCHANGED]

(E) List of Mediators. [UNCHANGED]

(F) Qualification of Mediators. [UNCHANGED]

(G) Standards of Conduct. [UNCHANGED]

(H) Mediation of Discovery Disputes. [UNCHANGED]

MCR 3.216 Domestic Relations Mediation

(A) Scope and Applicability of Rule, Definitions. [UNCHANGED]

(B) Mediation Plan. [UNCHANGED]

(C) Referral to Mediation. [UNCHANGED]

(D) Objections to Referral to Mediation. [UNCHANGED]

(E) Selection of Mediator.

(E) Selection of Mediator.

(1) - (4) [UNCHANGED]

(5) The Michigan Standards of Conduct for Mediators govern mediator disclosure and withdrawal.

(F) List of Mediators. [UNCHANGED]

(G) Qualification of Mediators. [UNCHANGED]

(H) Mediation Procedure. [UNCHANGED]

(I) Evaluative Mediation. [UNCHANGED]

(J) Fees. [UNCHANGED]

(K) Standards of Conduct. [UNCHANGED]

Proposed Revisions to Michigan Mediator Standards of Conduct I and II

Applicability.

These Standards of Conduct apply to cases managed under the Michigan Court Rules.

Failure to comply with an obligation or prohibition imposed by a standard is a basis for removal of a mediator from a court roster under MCR 2.411(E)(4) and MCR 3.216(F)(4). These Standards do not give rise to a cause of action for enforcement of a rule or for damages caused by failure to comply with an obligation or prohibition imposed by a standard, and a violation of a standard is not a basis for invoking a disciplinary process. In a civil action, the admissibility of these Standards is governed by the Michigan Rules of Evidence or other provisions of law.

Standard I. Self-Determination

A. A mediator must conduct mediation based on the principle of party self-determination. Self-determination is the act of coming to a voluntary, uncoerced decision in which each party makes free and informed choices as to process and outcome, including mediator selection, process design, and participating in or terminating the process.

B. A mediator must continuously assess the capacity of the parties to mediate. A mediator must make appropriate modifications to the process if there is concern about a party's ability to make voluntary and uncoerced decisions. A mediator must terminate the mediation process when a mediator believes a party cannot effectively participate.

C. A mediator's commitment is to the parties and the mediation process. A mediator must not undermine party self-determination for reasons such as obtaining higher settlement rates, ego satisfaction, increased fees, or outside pressures from court personnel, program administrators, provider organizations, or the media.

Comments to Standard I:

Comment I(a): Although party self-determination for process design is a fundamental principle of mediation practice, a mediator may need to balance party self-determination with a mediator's duty to conduct a quality process in accordance with these Standards.

Comment I(b): A mediator cannot personally ensure that each party has made free and informed choices to reach particular decisions, but, where appropriate, a mediator should make the parties aware of the importance of consulting other professionals to help them make informed choices.

Standard II. Impartiality, Disclosure, and Withdrawal

A. A mediator must conduct mediation in an impartial manner and avoid conduct that gives the appearance of partiality. "Impartial manner" means freedom from favoritism, bias, or prejudice in word, action or appearance, and includes a commitment to assist all participants regardless of any participant's personal characteristics, background, values and beliefs, or performance during mediation.

B. The mediator or the mediator's family member must not give or accept a gift, favor, loan, or other item of value that reasonably raises a question as to the mediator's actual or perceived impartiality. A mediator may give or accept de minimis or incidental items or services that are provided to facilitate a mediation or respect cultural norms.

C. A mediator must make a reasonable inquiry to determine whether there is a dealing or relationship that could reasonably be viewed as raising a question about the mediator's impartiality or self-interest.

D. A mediator must promptly disclose a dealing or relationship that is reasonably known to the mediator and could reasonably be viewed as raising a question about the mediator's impartiality or self-interest. A mediator should resolve all doubts in favor of disclosure. Where possible, such disclosure should be made in time to allow participants to make an informed decision on whether to waive any objection or select an alternate mediator. The duty to disclose is a continuing duty during the mediation process.

E. **Responding to Concerns Regarding Impartiality, Withdrawal or Continuation.**

1. **Proceeding if there are no objections or questions regarding impartiality**. Except as provided in subparagraph (4) below, if after a mediator makes disclosures, no party objects to the mediator and no participant raises any question or concern about the mediator's ability to conduct the mediation impartially, the mediator may proceed.

2. **Responding to questions or concerns regarding impartiality**. If after a mediator makes disclosures or at any other point in the mediation process, a participant raises a question or concern about the mediator's ability to conduct the mediation impartially, the mediator must address the question or concern with the participants. Except as provided in subparagraph (4) below, if after the question or concern is addressed, no party objects to the mediator, the mediator may proceed.

3. **Withdrawal or continuation upon party objection regarding impartiality**. In a two-party mediation, if any party objects to the mediator after the mediator makes disclosures and addresses a participant's question or concern regarding the mediator's ability to conduct the mediation impartially, the mediator must withdraw. In a mediation in which there are more than two parties, the mediator may continue the mediation with the non-objecting parties, provided that doing so would not violate any other provision of these Standards, any court rule, or law.

4. **Circumstances requiring mediator recusal despite party consent**. Regardless of the consent of the parties, a mediator either must decline to serve as mediator or, if already serving, must withdraw from the mediation if:

   i. The mediator believes they cannot maintain impartiality toward all participants in the mediation process; or

   ii. Proceeding with the mediation could be reasonably viewed as undermining the integrity of the mediation process.

F. **Establishing a Relationship After Mediation**. In considering whether establishing a personal or another professional relationship with any participant after the conclusion of the mediation process could reasonably raise a question about the mediator's impartiality or self-interest, the mediator should consider factors such as time elapsed since the mediation, consent of the parties, the nature of the relationship established, and any services offered.

G. **Use of Information About Participants.** A mediator must not use information about participants obtained in mediation for personal gain or advantage.

Comments to Standard II:

Comment II(a): Dealings or relationships which may need to be disclosed include financial, professional, and personal dealings or relationships.

Comment II(b): To determine whether to disclose financial dealings or relationships, a mediator should also consider the following potential conflicts if a mediator or a mediator's family member, individually or as a fiduciary:

- Holds a material financial interest in the subject matter in controversy or with a party, or a participating attorney or participating attorney's law firm.
- Is a member of a related board of directors of a party or a mediation participant.
- Serves as a representative, advocate or consultant to a mediation participant, or the mediator owns stocks or bonds in a corporate mediation participant.

Comment II(c): To determine whether to disclose professional dealings or relationships, a mediator should also consider the following potential conflicts if a mediator or a mediator's family member:

- Is currently, or currently expected to serve as, a mediator, arbitrator or attorney in another mediation or other matter involving any of the participants in the present mediation.
- Served as a mediator or arbitrator multiple times in the past two years involving any of the participants in the present mediation.
- Consulted as an attorney in the matter in controversy.
- Was a partner of a party, shareholder with, or member with, a party, attorney for a party or a member of a law firm representing a party in the past two years.

Comment II(d): To determine whether to disclose personal dealings or relationships, a mediator should also consider the following:

- **Acquaintanceships.** Acquaintances may not need to be disclosed. Acquaintances are relationships in which a mediator and participant have interactions which are incidental or relatively casual, such as being members of the same place of worship, professional or civic organization or the like. Mediators establish personal relationships with many representatives, attorneys and mediators in various professional associations and on social media. There should be no attempt to be secretive about such acquaintances. Disclosure is encouraged when some feature of a particular relationship might reasonably appear to impair impartiality.

- **Friendships.** Friendships most often should be disclosed. Friendships are relationships that imply a degree of affinity greater than being acquainted with a person and connote some degree of mutual affection such that, based on the relevant facts, including the length of time of the relationship, number of contacts, and nature of the contacts, a reasonable person would question the neutrality of the mediator. Disclosure may not be necessary when some feature of a particular friendship might reasonably appear not to impair impartiality.

- **Close Personal Relationships.** Close personal relationships must be disclosed. A mediator may have or desire to have a close or intimate relationship with a participant that goes beyond or is different from common concepts of friendship such as a current, contemplated, or past romantic relationship.

Standard III. Mediator Competence [UNCHANGED, except paragraph number]

Standard IV. Confidentiality [UNCHANGED, except paragraph number]

Standard V. Safety of Mediation [UNCHANGED, except paragraph number]

Standard VI. Quality of the Process [UNCHANGED, except paragraph number]

Standard VII. Advertising and Solicitation [UNCHANGED, except paragraph number]

Standard VIII Fees and Other Charges [UNCHANGED, except paragraph number]

Standard IX. Advancement of Mediation Practice [UNCHANGED, except paragraph number]

Proposed Revisions to Michigan Mediator Standards of Conduct I and II

Applicability.

These Standards of Conduct apply to cases managed under the Michigan Court Rules.

Failure to comply with an obligation or prohibition imposed by a standard is a basis for removal of a mediator from a court roster under MCR 2.411(E)(4) and MCR 3.216(F)(4). ~~The standards~~These Standards do not give rise to a cause of action for enforcement of a rule or for damages caused by failure to comply with an obligation or prohibition imposed by a standard~~.~~, and a violation of a standard is not a basis for invoking a disciplinary process. In a civil action, the admissibility of ~~the standards~~these Standards is governed by the Michigan Rules of Evidence or other provisions of law.

Standard I. Self-Determination

A. A mediator ~~shall~~must conduct mediation based on the principle of party self-determination. Self-determination is the act of coming to a voluntary, uncoerced decision in which each party makes free and informed choices as to process and outcome, including mediator selection, process design, and participating in or terminating the process.

~~Although party self-determination for process design is a fundamental principle of mediation practice, a mediator may need to balance party self-determination with a mediator's duty to conduct a quality process in accordance with these Standards.~~

~~A mediator cannot personally ensure that each party has made free and informed choices to reach particular decisions, but, where appropriate, a mediator should make the parties aware of the importance of consulting other professionals to help them make informed choices.~~

B. A mediator ~~shall~~must continuously assess the capacity of the parties to mediate. A mediator ~~shall~~must make appropriate modifications to the process if there is concern about a party's ability to make voluntary and uncoerced decisions. A mediator ~~shall~~must terminate the mediation process when a mediator believes a party cannot effectively participate.

C. A mediator's commitment is to the parties and the mediation process. A mediator ~~shall~~must not undermine party self-determination for reasons such as obtaining higher settlement rates, ego satisfaction, increased fees, or outside pressures from court personnel, program administrators, provider organizations, or the media.

Comments to Standard I:

Comment I(a): Although party self-determination for process design is a fundamental principle of mediation practice, a mediator may need to balance party self-determination with a mediator's duty to conduct a quality process in accordance with these Standards.

Comment I(b): A mediator cannot personally ensure that each party has made free and informed choices to reach particular decisions, but, where appropriate, a mediator should make the parties aware of the importance of consulting other professionals to help them make informed choices.

Standard II. Impartiality, Disclosure, and Withdrawal

~~A.~~ A mediator ~~shall~~must conduct mediation in an impartial manner and avoid conduct that gives the appearance of partiality. "Impartial manner" means freedom from favoritism, bias, or prejudice in word, action or appearance, and includes a commitment to assist all participants~~.~~

A. ~~A mediator should act with impartiality and without prejudice based on~~ regardless of any participant's personal characteristics, background, values and beliefs, or performance during mediation.

~~1.~~ ~~1.~~ The mediator ~~should neither~~or the mediator's family member must not give ~~nor~~or accept a gift, favor, loan, or other item of value that reasonably raises a question as to the mediator's actual or perceived impartiality.

B. ~~2.~~ A mediator ~~shall decline~~may give or accept de minimis or incidental items or services that are provided to facilitate a mediation or ~~withdraw from mediation if the mediator cannot conduct it in an impartial manner, regardless of the express agreement of the parties~~respect cultural norms.

A mediator must make a reasonable inquiry to determine whether there ~~**Standard III. Conflicts of Interest**~~

C. ~~A mediator should avoid a conflict of interest or the appearance of a conflict of interest both during and after mediation. A conflict of interest~~ is a dealing or relationship that could reasonably be viewed as ~~creating an impression of possible bias or as~~ raising a question about the mediator's impartiality or self-interest ~~on the part of the mediator.~~.

~~A. A mediator shall make a reasonable inquiry to determine whether there are any facts that a reasonable individual would consider likely to create a potential or actual conflict of interest for a mediator. The duty to make reasonable inquiry is a continuing duty during the mediation process.~~

D. ~~A mediator shall~~A mediator must promptly disclose ~~conflicts of interest and grounds of bias or partiality~~ a dealing or relationship that is reasonably known to the mediator and could reasonably be viewed as raising a question about the mediator's impartiality or self-interest. A mediator should resolve all doubts in favor of disclosure. Where possible, such disclosure should be made ~~early in the mediation process and~~ in time to allow ~~the~~ participants to make an informed decision on whether to waive any objection or select an alternate mediator. The duty to disclose is a continuing duty during the mediation process.

~~B. After disclosure, the mediator shall decline to mediate unless all parties choose to~~

~~retain the mediator. If all parties agree to mediate after being informed of conflicts, the mediator may proceed with the mediation.~~

~~C. If a mediator's conflict of interest could be reasonably viewed as undermining the integrity of the mediation process, a mediator shall withdraw from or decline to proceed with the mediation regardless of the express agreement of the parties to the contrary.~~

E. ~~A mediator shall not establish another relationship with any of the participants during~~**Responding to Concerns Regarding Impartiality, Withdrawal or Continuation.**

1. **Proceeding if there are no objections or questions regarding impartiality**. Except as provided in subparagraph (4) below, if after a mediator makes disclosures, no party objects to the mediator and no participant raises any question or concern about the mediator's ability to conduct the mediation impartially, the mediator may proceed.

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3. **Withdrawal or continuation upon party objection regarding impartiality**. In a two-party mediation, if any party objects to the mediator after the mediator makes disclosures and addresses a participant's question or concern regarding the mediator's ability to conduct the mediation impartially, the mediator must withdraw. In a mediation in which there are more than two parties, the mediator may continue the mediation with the non-objecting parties, provided that doing so would not violate any other provision of these Standards, any court rule, or law.

4. **Circumstances requiring mediator recusal despite party consent**. Regardless of the consent of the parties, a mediator either must decline to serve as mediator or, if already serving, must withdraw from the mediation if:

   i. The mediator believes they cannot maintain impartiality toward all participants in the mediation process ~~that~~; or

   ii. Proceeding with the mediation could be reasonably viewed as undermining the integrity of the mediation process. ~~or impartiality of the mediator, without the consent of all parties.~~

~~E.~~**F.** **Establishing a Relationship After Mediation**. In considering whether establishing a personal or another professional relationship with any ~~of the~~ participant after the conclusion of the mediation process ~~might create a perceived or actual conflict of~~ could reasonably raise a question about the mediator's impartiality or self-interest, the mediator should consider factors such as time elapsed since the mediation, consent of the parties, the nature of the relationship established, and any services offered.

G. **Use of Information About Participants.** A mediator ~~shall~~must not use information about participants obtained in mediation for personal gain or advantage.

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- Is a member of a related board of directors of a party or a mediation participant.
- Serves as a representative, advocate or consultant to a mediation participant, or the mediator owns stocks or bonds in a corporate mediation participant.

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- Is currently, or currently expected to serve as, a mediator, arbitrator or attorney in another mediation or other matter involving any of the participants in the present mediation.
- Served as a mediator or arbitrator multiple times in the past two years involving any of the participants in the present mediation.
- Consulted as an attorney in the matter in controversy.
- Was a partner of a party, shareholder with, or member with, a party, attorney for a party or a member of a law firm representing a party in the past two years.

Comment II(d): To determine whether to disclose personal dealings or relationships, a mediator should also consider the following:

- **Acquaintanceships.** Acquaintances may not need to be disclosed. Acquaintances are relationships in which a mediator and participant have interactions which are incidental or relatively casual, such as being members of the same place of worship, professional or civic organization or the like. Mediators establish personal relationships with many representatives, attorneys and mediators in various professional associations and on social media. There should be no attempt to be secretive about such acquaintances. Disclosure is encouraged when some feature of a particular relationship might reasonably appear to impair impartiality.
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Standard VII. Advertising and Solicitation [UNCHANGED, except paragraph number]

Standard VIII Fees and Other Charges [UNCHANGED, except paragraph number]

Standard IX. Advancement of Mediation Practice [UNCHANGED, except paragraph number]

SBM STATE BAR OF MICHIGAN

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Lansing, MI 48933-2012

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ALTERNATIVE DISPUTE RESOLUTION SECTION

January 22, 2022

Dear Mr. Boyd,

The Alternative Dispute Resolution and Family Law Sections of the State Bar of Michigan believe that Michigan civil and domestic practice will benefit from clearer guidance regarding mediator disclosures and conflicts of interest. When the mediation court rules were drafted more than 20 years ago, the drafting committee adopted the judicial disqualification standard and applied that same standard to mediators. Time has proven that judicial standard inappropriate for mediators. We propose the enclosed amendments to the Standards of Conduct for Mediators, and plan to recommend to the Supreme Court that the Michigan Court Rules be amended. Please see the attached Summary and Proposals.

As you know, the State Court Administrator has authority pursuant to MCR 2.411(G) to develop and approve Standards of Conduct for Mediators. These Standards were last amended in 2013. Since then, a Court of Appeals case and an Attorney Discipline Board opinion have created confusion regarding mediator disclosures and conflicts of interest. As the attached Summary explains in more detail, the ADR Section Council appointed a committee to examine the current standards, to research rules and policies on mediator disclosure, and that committee's work has led to this proposed guidance.

We would like you to consider amending the Standards pursuant to our recommendation as outlined in the attached Summary. In addition, we ask for your advice as to whether we should invite comment from other SBM sections before formal submission to SCAO. We look forward to continuing to work with you on this guidance to improve the practice of mediation here in Michigan.

Warm Regards,

Erin R. Archerd, Chair
State Bar of Michigan
Alternative Dispute Resolution Section

Michigan Supreme Court
Michigan Hall of Justice
P.O. Box 30052
Lansing, Michigan 48909
Phone (517) 373-2858
BoomerA@courts.mi.gov

Anne Boomer
Administrative Counsel

April 8, 2020

Janet K. Welch
State Bar of Michigan
306 Townsend St.
Lansing, MI 48933

Re: ADM File No. 2019-39 (Proposed Amendment of MCR 3.206)

Dear Ms. Welch:

Thank you for your continued interest and proposal for amendment of MCR 3.206 that would change party designations and case captions in domestic relations cases. This matter was discussed at conference today and the Court declined to take any action at this time. Due to the ongoing efforts for implementation of e-Filing and current issues with court operations for the foreseeable future, the file will be placed on the Court's inactive docket and the issue will be returned to conference at a later date when the Court is better able to address it.

Please feel free to contact me with any questions or concerns.

Sincerely,

Anne Boomer

PROPOSAL FOR NON-OPPOSITIONAL CAPTIONING IN DOMESTIC RELATIONS CASES

Issue

Should the Representative Assembly adopt an amendment to MCR 3.206 to modify the designation of parties in a domestic relations action to petitioner and respondent?

RESOLVED, that the State Bar of Michigan supports amendment of the Michigan Court Rules to adopt an amendment to MCR 3.206 to modify the designation of parties in a domestic relations action to petitioner and respondent.

FURTHER RESOLVED, that the State Bar of Michigan proposes the amendment Rule 3.206 of the Michigan Court Rules as follows:

Rule 3.206 Initiating a Case

(A) Information in Case Initiating Document.

(1) The form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D), except that the parties shall be designated and identified as provided in subsections (E) and (F).

(2) [Unchanged]

(3) [Unchanged]

(4) [Unchanged]

(5) [Unchanged]

(6) [Unchanged]

(B-D) [Unchanged]

(E) Designation of Parties. A party who initiates a case by a complaint or petition is designated as a petitioner and a responding party is designated as a respondent. These designations remain throughout the action and in any postjudgment proceedings. To the extent that other provisions of the Michigan Court Rules outside of subchapter 3.200 are applicable to domestic relations actions, the term "plaintiff" will apply to petitioner and "defendant" will apply to respondent.

(F) Captions. In an action for divorce, separate maintenance, or annulment, the case caption must be in the following form: "Regarding the Marriage of [petitioner's name] and [respondent's name or joint petitioner's name]." In other actions for child support or child custody, the caption must be in the following form: "Regarding the Child[ren] of [petitioner's name] and [respondent's name or joint petitioner's name]."

Synopsis

Many in the Family Law community have questioned the need for confrontational pleading format in domestic cases. Our form of casting parties as "Plaintiff" and "Defendant" – separated by "vs." – is not unique to Michigan. However, many jurisdictions, whether by statute, state court rule, local rule, or just "the way that it has always been done," address the captioning of actions in family law cases in less combative ways.

Words matter to our clients. The term "visitation" was a powder keg for acrimony, and many in our profession set about to fix it. Continuing in that effort, many of us have suggested putting the word "custody" out to pasture, while retaining our appellate law regarding joint decision-making. The commencement of the case is usually not a happy time for the litigants, with all of the particular aspects inherent in one party suing the other in court to formally exit the relationship. Often, the trajectory of the case is set at that crucial time. Confrontational captioning simply adds fuel to that fire. Courts currently use "Regarding Baby XYZ," or "In re: Johnson Estate," and other similar non-confrontational captions in probate and juvenile proceedings.

Background

The State Bar of Michigan Family Law Section Council approved the language of the within proposal, but it was joined with a proposal from the ADR Section, from which the State Court Administrative Office rolled this proposal into a project referred to a newly created special committee to propose revisions to the Court Rules to accommodate the Collaborative Law Act in Michigan. The committee completed its work in 2017, and the changes were thereafter adopted by the Michigan Supreme Court in 2018 and became effective in April 1, 2019. A component of the new MCR 3.222 provided for joint filing between the parties, and the designation of "Party A" and "Party B" in pleadings and captions. The problem is that Collaborative cases are a particular type of cases in which the parties have settled their cases before filing[1], and it is estimated that fewer than 5% of all domestic cases fall under this subchapter of the Court Rules.[2]

Opposition

None known.

Prior Action by Representative Assembly

None known.

Fiscal and Staffing Impact on State Bar of Michigan

None.

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[1] Some cases are stayed after filing to allow the parties to opt out of the litigation process and engage in the collaborative process.

[2] The discovery reforms taking effect on January 1, 2020, are not affected by this proposal.

STATE BAR OF MICHIGAN POSITION

By vote of the Representative Assembly on September 26, 2019

Should the Representative Assembly adopt an amendment to MCR 3.206 to modify the designation of parties in a domestic relations action to petitioner and respondent?

(a) Yes

or

(b) No.

From: Lisa Taylor <lisataylortms@gmail.com>
Subject: Re: Non-Adversarial Case Captions
Date: October 1, 2024 at 7:19:38 PM EDT
To: Michelle Hilliker <HillikerM@courts.mi.gov>
Cc: Anne Bachle Fifer <anne@abfifer.com>, Mathew Kobliska <mkobliska@kobliskalaw.com>

Hi Michelle.

The proposed amendment was to MCR 3.206. The Representative Assembly overwhelmingly approved this proposal (97 support and 9 oppose) at its September 26, 2019 meeting. You will see from the attached letter from Anne Boomer, the court discussed the proposal at its April 8, 2020 conference and decided that because of “ongoing efforts fro implementation of e_Filing and current issues with court operations for the foreseeable future” (this was during the Pandemic), it was placed on the Court’s inactive docket until the Court was better able to address it. Since it’s been more than 4 years, we are very much hoping, now is the time it can be addressed.

Attached are the proposed amendment, the letter from Anne Boomer, and the letter from SBM submitting the proposal to the MSC.

Take care,

Lisa

Lisa Taylor

Taylor-Made Solutions, PLLC
30100 Telegraph Road
Suite 360
Bingham Farms, MI 48025
(248) 909-0631
www.apeacefuldivorce.com

On Oct 1, 2024, at 7:33 AM, Michelle Hilliker <HillikerM@courts.mi.gov> wrote:

Hello Lisa and Anne,

We are not familiar with divorce forms referenced in one of your committee documents. Could you send me a copy of the change proposal or provide me with more details?

Recommendation to change captions on divorce forms to "petitioner" and "respondent" -- submitted in late 2019.

In researching "divorce forms", I discovered CCFD 22 and 23 use plaintiff and defendant because the case would have been started with a regular summons and complaint. CCFD 24 uses "Party A" and "Party B," consistent with MCR 3.222. CCFD 25 and 26 both use "Party A" and "Party B."

Regarding form MC 274 Bob Wright submitted in late May, the proposal to amend the Order for Mediation was submitted to the forms committee. The Forms Division is aware I am interested in this so they have been providing updates.

I don't feel an additional meeting is necessary next week.

Michelle

Michelle Hilliker, Office of Dispute Resolution Manager, CGFM
Michigan Supreme Court | State Court Administrative Office | Field Services
Hall of Justice | P.O. Box 30048 | Lansing, MI 48909 | 517-373-4844 phone

Online: http://courts.mi.gov/Administration/SCAO/OfficesPrograms/ODR/Pages/default.aspx

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY	ORDER FOR MEDIATION ☐ CIVIL ☐ DOMESTIC RELATIONS ☐ CHILD PROTECTION	CASE NO. and JUDGE

Court address **Court telephone no.**

Plaintiff/Petitioner name(s), address(es), and telephone no(s).	v	Defendant/Respondent name(s), address(es), and telephone no(s).
Plaintiff/Petitioner's attorney, bar no., address, and telephone no.		Defendant/Respondent's attorney, bar no., address, and telephone no.

In the matter of ____

IT IS ORDERED:

1. This case is ordered to mediation under ☐ MCR 2.410(C) ☐ MCR 3.216(C) ☐ MCR 3.970
   ☐ a. by agreement of the parties.
   ☐ b. on motion of ______________________________________ .
   ☐ c. on the court's own motion.

2. ☐ a. The parties have selected ______________________________ to be their mediator.
   ☐ b. The parties shall advise the ADR clerk of their mediator by ____________ (Date) . If the parties do not advise the ADR clerk of the mediator agreed upon by this date, the ADR clerk shall assign one as provided by the court's alternative dispute resolution plan.
   ☐ c. The court has selected ______________________________ to be the mediator.

3. Mediation must be completed within ☐ 30 ☐ 60 ☐ 90 ☐ _____ days of the date this order is entered. The mediator shall promptly confer with the parties to ensure completion of the mediation within the required time.

4. For mediation under MCR 2.410 or MCR 3.216, the costs and fees of mediation shall be divided by the parties on a pro-rata basis unless otherwise agreed by the parties or ordered by the court, or for persons unable to pay for mediation, as provided by the court's alternative dispute resolution plan. Unless otherwise ordered by the court, for mediation under MCR 2.410 or MCR 3.216, the mediator shall be paid by the earliest of the following: within 42 days of the conclusion of mediation, entry of the judgment, or dismissal of the action. The mediator's fee is deemed a cost of the action and the court may enter an appropriate order to enforce payment.*

*If a party objects to the total fee of the mediator, the court may schedule the matter for a determination of its reasonableness.

Distribute form to:
Court
Plaintiff
Defendant
Mediator

SRA

 Case No. ______________________

5. Unless otherwise ordered by the court,

   ☐ a. the attorneys who intend to try the case shall attend the mediation.

   ☐ b. parties to the action and others having information and authority adequate for responsible and effective participation in mediation, including settlement authority, shall attend the mediation.
   ☐ The parties must provide to the mediator, as soon as possible, the names of these individuals.
   ☐ The court directs that the following persons attend the mediation:

______________________________________ ☐ in person. ☐ by telephone.

______________________________________ ☐ in person. ☐ by telephone.

______________________________________ ☐ in person. ☐ by telephone.

____
Judge signature and date

NOTICE: A party may move to set aside or modify an order for mediation within 14 days after entry of the order.

CERTIFICATE OF MAILING

I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined by MCR 2.107(C)(3). I declare under the penalties of perjury that this certificate of mailing has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

______________________ ______________________________________
Date Signature

CASE CAPTION UNCHANGED

CLEAN COPY OF PROPOSED REVISED ORDER

IT IS ORDERED:

1. This case is ordered to mediation for alternative dispute resolution (ADR) under MCR 2.410(C)/MCR 3.216(C):
   - ☐ a. by agreement of the parties.
   - ☐ b. on motion of ________________________.
   - ☐ c. on the court's own motion.
2. Selection of Mediator.
   - ☐ a. The parties have selected ________________________________ to be their mediator.
   - ☐ b. The parties shall advise the ADR clerk of their selected mediator by____________.
   - ☐ c. If the parties do not advise the ADR clerk of an agreed mediator by such date, the ADR clerk shall assign a mediator as provided by the court's ADR plan.
3. Mediation must be commenced within ☐30 ☐60 ☐90 days of the date this order is entered. The mediator shall promptly confer with the parties to ensure completion of the mediation within ☐30 ☐60 ☐90 days after discovery is closed.
4. The mediator's fees and costs for the mediation shall be divided by the parties on a pro-rata basis unless otherwise agreed by the parties or ordered by the court or, for persons unable to pay for mediation, as provided by the court's ADR plan. Such fees and costs shall be paid to the mediator within the earlier of such time as agreed to by the mediator or times provided by MCR 2.411(D) or MCR 3.216(J). Upon notification of nonpayment of the mediator, the court may enter an order directing payment of the mediator's fees and expenses by the nonpaying party which order shall be enforceable as a judgment.
5. Unless otherwise ordered by the court,
   - ☐ a. the attorneys who intend to try the case shall attend the mediation.
   - ☐ b. the parties to the action and others having information and authority adequate for responsible and effective participation in mediation, including settlement authority, shall attend the mediation.
   - ☐ c. the parties must provide to the mediator, as soon as possible, the names of these individuals.
   - ☐ d. the court directs that the following persons attend the mediation:

______________________________	☐ in person.	☐ virtually.
______________________________	☐ in person.	☐ virtually.
______________________________	☐ in person.	☐ virtually.

Date	Judge	Bar no.

NOTICE: A party may move to set aside or modify an order for mediation or for payment of the mediator within 14 days after entry of the order.

CERTIFICATE OF MAILING I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined by MCR 2.107(C)(3).

CASE CAPTION UNCHANGED

REDLINE VERSION OF CURRENT ORDER

IT IS ORDERED:

1. This case is ordered to mediation for alternative dispute resolution (ADR) under MCR 2.410(C)/~~-~~MCR 3.216(C):
   □ a. by agreement of the parties.
   □ b. on motion of ________________________________.
   □ c. on the court's own motion.

2. Selection of Mediator.
   □ a. The parties have selected ____ to be their mediator.
   □ b. The parties shall advise the ADR clerk of their selected mediator by ______________.
   □ c. If the parties do not advise the ADR clerk of an agreed mediator by such date, the ADR clerk shall assign a mediator as provided by the court's ADR plan.~~a. by agreement of the parties. The parties have selected * to be their mediator. The parties shall advise the ADR clerk of their mediator by *. If the parties do not advise the ADR clerk of the mediator agreed upon by this date, the ADR clerk shall assign one as provided by the court's alternative dispute resolution plan.~~

~~b. on motion of *. The parties shall advise the ADR clerk of their mediator by *. If the parties do not advise the ADR clerk of the mediator agreed upon by that date, the ADR clerk shall assign one as provided by the court's alternative dispute resolution plan.~~

~~c. on the court's own motion. The parties shall advise the ADR clerk of their mediator by *. If the parties do not advise the ADR clerk of the mediator agreed upon by that date, the ADR clerk shall assign one as provided by the court's alternative dispute resolution plan.~~

~~2~~3. Mediation must be ~~completed~~ commenced within □30 □60 □90 days of the date this order is entered. The mediator shall promptly confer with the parties to ensure completion of the mediation within □30 □60 □90 days after discovery is closed~~the required time~~.

~~3~~4. The mediator's fees and costs ~~of~~ for the mediation shall be divided by the parties on a pro-rata basis unless otherwise agreed by the parties or ordered by the court or, for persons unable to pay for mediation, as provided by the court's ~~alternative dispute resolution~~ ADR plan. Such fees and costs shall be paid to the mediator within the earlier of such time as agreed to by the mediator or times provided by MCR 2.411(D) or MCR 3.216(J). Upon notification of nonpayment of the mediator, the court may enter an order directing payment of the mediator's fees and expenses by th nonpaying party which order shall be enforceable as a judgment.

~~4~~5. Unless otherwise ordered by the court,
   □a. the attorneys who intend to try the case shall attend the mediation.
   □b. parties to the action and others having information and authority adequate for responsible and effective participation in mediation, including settlement authority, shall attend the mediation.
   □c. the parties must provide to the mediator, as soon as possible, the names of these individuals.
   □d. the court directs that the following persons attend the mediation:~~* * * in person/by telephone~~

____________________________________	□ in person.	□ virtually.
____________________________________	□ in person.	□ virtually.
____________________________________	□ in person.	□ virtually.

______________	____________________________________	
Date	Judge	Bar no.

NOTICE: A party may move to set aside or modify an order for mediation or for payment of the mediator within 14 days after entry of the order.

CERTIFICATE OF MAILING I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined by MCR 2.107(C)(3).

REVISIONS TO FORM MC 274

PROPOSED BY STATE BAR OF MICHIGAN – ADR SECTION

The ADR Section's Legislation and Court Procedures Acton Team (LCPAT) appointed a subcommittee to address an issue some mediators have encountered concerning payment for their services under SCAO *Order for Mediation* Form MC 274 (the "Form"). Essentially, the payment issue has arisen from an inconsistency between the language of the Form and the court rules concerning mediation, MCR 2.411 "Mediation" and MCR 3.216 "Domestic Relations Mediation" (collectively, the "Rules").

The Rules applicable to non-domestic relations cases provide for payment of the mediator's fee as follows:

> MCR 2.411(D)(1): A mediator is entitled to reasonable compensation commensurate with the mediator's experience and usual charges for services performed.
>
> MCR 2.411(D)(2): The costs of mediation shall be divided between the parties on a pro-rata basis unless otherwise agreed by the parties or ordered by the court. The mediator's fees shall be paid no later than:
>
> (a) 42 days after the mediation process is concluded, or
> (b) the entry of judgment, or
> (c) the dismissal of the action,
>
> whichever occurs first.

* * *

The Rules applicable to domestic relations cases provide for payment of the mediator's fee as follows:

> MCR 3.216(J)(1): A mediator is entitled to reasonable compensation based on an hourly rate commensurate with the mediator's experience and usual charges for services performed.
>
> MCR 3.216(J)(2): Before mediation, the parties shall agree in writing that each shall pay one-half of the mediator's fee no later than:
>
> (a) 42 days after the mediation process is concluded ***, or
> (b) the entry of judgment, or
> (c) the dismissal of the action,
>
> whichever occurs first. If the court finds that some other allocation of fees is appropriate, given the economic circumstances of the parties, the court may order that one of the parties pay more than one-half the fee.
>
> MCR 3.216(J)(4): The mediator's fee is deemed a cost of the action , and the court may make an appropriate judgment under MCL 552.13(1) to enforce payment of the fee.

While the rules expressly grant courts the authority to enter an order or judgment for payment of the mediator's fee, the current Form does not contain such a provision or a mechanism for mediators to request such an order or judgment. The changes proposed by the ADR Section would remedy that omission without major editing of the Form..

In addition to some non-substantive streamlining of the current form, the Section proposes revising the language in paragraph 3 of the current *Order for Mediation* and moving it to a new paragraph 4 as follows:

> 4. Unless otherwise agreed by the parties or ordered by the court, the mediator's charges for the mediation shall be divided and paid by the parties on a pro-rata basis within the earlier of the time agreed to by the mediator or as provided by MCR 2.411(D) or MCR 2.316(J). Upon notice of

> nonpayment of the mediator’s fee, the court may enter an ex parte order directing payment of the mediator’s fees and expenses by the nonpaying party. The nonpaying party may object to entry of the order. Such order shall be enforceable as a judgment. Persons unable to pay for mediation may be accommodated under the court's ADR plan.

By adding this proposed language to the current Order and providing an opportunity for nonpaying parties to object to entry of an order for payment of the mediator’s fee, the Order will conform to the language of the Rules.

February 14, 2025

Thomas P. Boyd
State Court Administrator
State Court Administrative Office
P.O. Box 30048
Lansing, MI 48909-7548

Re: Recommendations to Revise Mediation Training Standards and Trainer Qualifications

Dear Mr. Boyd,

As Chair of the Alternative Dispute Resolution (ADR) Section of the State Bar of Michigan, I submit this letter to formally present two recommendations developed by our Legislation and Court Procedures Action Team (LCPAT). After extensive deliberation and input from ADR Section members, trainers, and other stakeholders, and following a unanimous vote by the ADR Section Council, we respectfully request that the State Court Administrative Office (SCAO) consider these recommendations to improve mediation training standards and trainer qualifications in Michigan.

A. Background

The ADR Section collaborated with the Michigan Community Mediation Association (MCMA) to form an ad hoc committee of mediation trainers, tasked with assessing current mediation training requirements. Michigan's SCAO Mediation Training Standards currently mandate 40-hour training programs for both general civil and domestic relations mediation, resulting in an 80-hour total requirement for mediators pursuing training in both subject areas. The overlap in training content, time, and expense has deterred some mediators from seeking training in both areas, potentially limiting the availability of qualified mediators across these fields.

The ad hoc committee, after surveying trainers and ADR Section members, recommended two key actions for SCAO: (1) convene a work group to review mediation training standards and (2) reinstate a "train-the-trainer" program to ensure that trainers are well-equipped with instructional skills. LCPAT further recommended that members of the ADR Section—specifically from LCPAT and the Skills Action Team (SAT)—be involved in any such work group, and that SCAO consult the ADR Section before finalizing any revisions to the mediation training standards.

B. Recommendations

1. Creation of a Mediation Training Standards Work Group

- **Legal Standard**: Under MCR 2.411(F)(2)(a) and 3.216(G)(1)(b), the State Court Administrator must approve mediation training programs that meet Court Rule requirements.
- **Problem Identified**: Mediators seeking to be approved for both general civil and domestic relations mediation currently face a combined 80-hour training requirement due to overlapping content in each course. This redundancy discourages some mediators from completing both trainings, reducing the number of mediators qualified to serve on rosters for both case types.
- **Recommendation**: We propose that SCAO establish a work group, including ADR Section members from LCPAT and SAT, to review and streamline the mediation training standards, reducing redundancy where possible. By doing so, dual training would become more accessible, benefiting the ADR community and the public. Additionally, we respectfully request that SCAO consult with the ADR Section prior to implementing any changes to ensure alignment with the needs of practitioners and the broader ADR landscape.

2. Reinstatement of the "Train-the-Trainer" Program

- **Legal Standard**: MCR 2.411(F)(2)(a) and 3.216(G)(1)(b) require the State Court Administrator to oversee and approve mediation training programs to uphold Michigan Court Rules.
- **Problem Identified**: Effective mediation training is reliant on the instructional abilities of trainers. Some trainers, while highly skilled mediators, may lack the pedagogical expertise necessary for effective mediation instruction, impacting the overall consistency and efficacy of training across Michigan.
- **Recommendation**: We recommend that SCAO revive the "train-the-trainer" program, requiring all individuals seeking SCAO approval as trainers to complete a course in instructional techniques. This program would ensure that trainers possess the instructional skills necessary to deliver effective and consistent mediation training, meeting the high standards required by Michigan Court Rules.

Conclusion

We believe these recommendations present practical solutions to enhance Michigan's mediation training standards. The ADR Section Council is ready to work collaboratively with SCAO and other stakeholders to support these initiatives and contribute to discussions on refining Michigan's mediation training framework. We appreciate your consideration of these proposals and welcome any questions or requests for further information.

Thank you for your dedication to advancing mediation standards in Michigan.

Sincerely,

Lisa W. Timmons
2024-2025 Chair, ADR Section
State Bar of Michigan

Mediation Training Modifications Summary

A cohort of approved mediation trainers (Erin Archerd, Anne Bachle Fifer, Charity Burke, Christine Gilman, Megan McCoy, Jane Millar, Antoinette Raheem, and Zena Zumeta plus SCAO specialist Michelle Hilliker) has been considering modifications to the mediation training requirements for general civil and domestic relations mediation training in Michigan. The SCAO Mediation Training Standards currently require applicants to complete 40-hour trainings for both general civil and domestic relations trainings, with the result that a person desiring training in both fields needs to complete 80 hours of training, some of which is redundant.

The committee developed two alternatives:

- Require a 40-hour general civil mediation course for all mediators, then offer a shorter specialty course for domestic relations mediation training;
- Require a stand-alone "fundamentals" course of 24 or fewer hours, then offer two shorter specialized courses, GC and DR.

A survey was sent to other Michigan mediation trainers, as well as CDRP directors, in spring 2023 to gauge their interest in modifying the training requirements. Most responded that the concern about overlap was not strong enough to justify revising the training standards.

The committee was still interested in hearing from other constituencies, including people who wanted to take both trainings but were deterred by the investment of 80 hours of training, as well as people who had taken both trainings and were disappointed by the overlap of topics. So in May 2024, a survey was sent to all members of the ADR Section. We received 46 responses, half of whom had taken both trainings. In this group, only 10 opted to retain the current training standards; 24 respondents (just over half) favored revising the trainings.

The majority suggested that it was "a waste of time" to require two 40-hour trainings, and that Michigan "would have more mediators trained in both areas" if not for the 80-hour training requirement. Especially noteworthy were these comments:

- "I have yet to take the DR training, although my background is in DR, simply because I don't want to take another 40-hour course" that includes some repetition.
- "Have not taken the DR due to the 40-hour commitment. If it was more specialized, I would consider DR."

The respondents who were satisfied with the current requirements noted that the two trainings are not duplicative because they're conducted by different trainers, and that some participants benefit from the review of topics, especially if there are several years between the two trainings.

This committee recommends that:

- SCAO convenes a meeting of stakeholders to assess current Mediation Training Standards and recommend revisions.
- SCAO revives its “train-the-trainer” program, which all would-be trainers would have to complete in order to receive SCAO approval.

Work Group on Disability and DV Screening Recommendations

State Bar of Michigan ADR Section, November 2024

Purpose:

The purpose of the Work Group on Disability and DV Screening is to utilize stakeholder input into the ADA/MPDCRA implications/compliance of the current DV Protocol and Questionnaire and the Standards of Conduct for Mediators in order to make recommendations to SCAO for wording in the DV Protocol and Screening questionnaire.

Members:

Zena Zumeta*
Julie Markgraf*
Charity Burke*
Megan Reynolds*
Tiffany Stanley
Dale Iverson
Annette Wells
Emily Calabrese
Lisa Taylor
Lisa Timmons

* Drafters of recommendations document

Tasks:

1. Review the questionnaire to identify questions and other implicated areas of the Protocol and Standards

2. Purpose and goal behind questions and areas of the Protocol and Standards

3. Ways to approach each item to be ADA compliant and disability inclusive.

4. Make recommendations to ADR Section and SCAO

Findings and Recommendations:

1. The work group looked at the DV Protocol and Questionnaire deletions by SCAO to assess whether we believe it would be important for mediators to recommend alternative wording that would be ADA compliant and disability inclusive. The work group recognizes that safety precautions are of paramount importance, and no aspect of ADA compliance should be interpreted to mean that appropriate safety precautions should not be followed. Safety requirements must be based on actual risks as determined by an individualized assessment, and not on mere speculation, stereotypes, or generalizations about any particular disability.

The following wording was deleted:

a. Protocol (on page 15) deleted wording: *The screening questionnaire used during these interviews also asks about substance abuse and mental health issues that may be impediments to mediation.*

b. Questionnaire (on page 14) deleted questions:
36. Do you believe alcohol or drug use has ever caused difficulties for either of you? (If so,

how recently? What is the current status of treatment?) If yes, how do you think this may impact mediation?
37. Do you believe mental health (illness) issues or emotional problems have ever caused difficulties for either of you? (If so, how recently? What is the current status of treatment?) If yes, how do you think this may impact mediation?

c. Protocol (on page 17) deleted last sentence of F.5.1.: *These may include mental health or substance abuse issues. (See Section 6 of the screening questionnaire).*

d. Protocol (on page 25) deleted last item in H.4.: *f. Substance abuse or mental illness (if known to both parties).*

It is our understanding that the problematic wording refers to conditions and diagnoses, rather than behaviors, and that wording that refers only to behaviors will be ADA/MPDCRA compliant. Therefore, we are recommending the following wording be substituted for the deleted wording:

a. For the Questionnaire we would propose the following questions:
Q 36. Do you believe alcohol or drug use/abuse has ever caused difficulties for either of you? (If yes, how recently? If yes, how do you think this may impact mediation?)
Q 37. Are there any circumstances or behaviors that would impede or prevent any party from participating in mediation or making an informed decision? (If yes, are there any modifications or aids/services that could be put in place that would make the process more effective?)
b. For the Protocol, C.1. Initial Screening, we would propose the following wording: The screening questionnaire used during these interviews also asks about substance use/abuse and behaviors that may be impediments to mediation.
c. For the Protocol, F.5.1., Lack of capacity to mediate, last sentence, we would propose the following wording: These may include substance use/abuse issues.
d. For the Protocol, H.4., Concluding mediation without mentioning domestic violence, we would propose the following wording: f. Substance use/abuse (if known to both parties).

2. The work group also looked at the Standards of Conduct and the deleted wording.

In paragraph A of Standard VI, the underlined words were deleted:

> *A. Consistent with applicable statutes, court rules, and protocols, reasonable efforts shall be made throughout the mediation process to screen for the presence of an impediment that would make mediation physically or emotionally unsafe for any participant, or that would impede the achievement of a voluntary and safe resolution of issues. Examples of impediments to the mediation process include: domestic abuse; neglect or abuse of a child; status as a protected individual or vulnerable adult; <u>mental illness or other mental impairment</u>; and inability to understand or communicate in the language in which mediation will be conducted.*

The work group concluded that the paragraph was sufficient without those words, so no changes are recommended.

SBM STATE BAR OF MICHIGAN

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Lansing, MI 48933-2012

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ALTERNATIVE DISPUTE RESOLUTION SECTION

[date]

Thomas P. Boyd
State Court Administrator
State Court Administrative Office
P.O. Box 30048
Lansing, MI 48909-7548

Re: Recommendations to Revise Domestic Violence Screening Protocol

Dear Mr Boyd:

As Chair of the Alternative Dispute Resolution (ADR) Section of the State Bar of Michigan, I submit this letter to formally present recommendations developed by our Legislation and Court Procedures Action Team (LCPAT), ADR Section members and Family Law Section members, and following unanimous votes by the ADR Section Council and the Family Law Section Council, we respectfully request that the State Court Administrative Office (SCAO) consider these recommendations to improve the Domestic Violence Screening Protocol (the "Protocol") for mediators in Michigan.

A. Background

In 2023 SCAO deleted certain phrases from the Protocol and the Standards of Conduct for Mediators related to consideration of mental health and substance use during mediation screening and safety planning. LCPAT members convened a work group to consider the effects of the deletions on the process of screening for violence in mediation. The work group determined it would be helpful to incorporate alternative wording that would be compliant with state and federal disability rights laws and disability inclusive. Safety precautions are of paramount importance in mediation, and no aspect of compliance with disability rights laws should be interpreted to mean that appropriate safety precautions should not be followed. The Americans With Disabilities Act regulatory language states "Safety requirements must be based on actual risks as determined by an individualized assessment, and not on mere speculation, stereotypes, or generalizations about any particular disability." 28 CFR § 36.301(b).

The following wording was deleted:

a. Protocol (on page 15) deleted wording: The screening questionnaire used during these interviews also asks about substance abuse and mental health issues that may be impediments to mediation.

b. Protocol Questionnaire (on page 14) deleted questions:
36. Do you believe alcohol or drug use has ever caused difficulties for either of you? (If so, how recently? What is the current status of treatment?) If yes, how do you think this may impact mediation?
37. Do you believe mental health (illness) issues or emotional problems have ever caused difficulties for either of you? (If so, how recently? What is the current status of treatment?) If yes, how do you think this may impact mediation?

c. Protocol (on page 17) deleted last sentence of F.5.1.: These may include mental health or substance abuse issues. (See Section 6 of the screening questionnaire).

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d. Protocol (on page 25) deleted last item in H.4.: f. Substance abuse or mental illness (if known to both parties).

B. Recommendations

It is our understanding that the problematic wording refers to conditions and diagnoses, rather than behaviors, and that wording that refers only to behaviors is considered to be compliant with disabilities rights laws. Therefore, we are recommending the following wording be substituted for the deleted wording:

a. For the Questionnaire we would propose the following questions:
Q 36. Do you believe alcohol or drug use/abuse has ever caused difficulties for either of you? (If yes, how recently? If yes, how do you think this may impact mediation?)
Q 37. Are there any circumstances or behaviors that would impede or prevent any party from participating in mediation or making an informed decision? (If yes, are there any modifications or aids/services that could be put in place that would make the process more effective?)

b. For the Protocol, C.1. Initial Screening, we would propose the following wording: The screening questionnaire used during these interviews also asks about substance use/abuse and behaviors that may be impediments to mediation.

c. For the Protocol, F.5.1., Lack of capacity to mediate, last sentence, we would propose the following wording: These may include substance use/abuse issues.

d. For the Protocol, H.4., Concluding mediation without mentioning domestic violence, we would propose the following wording: f. Substance use/abuse (if known to both parties).

The work group also looked at the Standards of Conduct for Mediators and the deleted wording.

In paragraph A of Standard VI, the underlined words were deleted:
A. Consistent with applicable statutes, court rules, and protocols, reasonable efforts shall be made throughout the mediation process to screen for the presence of an impediment that would make mediation physically or emotionally unsafe for any participant, or that would impede the achievement of a voluntary and safe resolution of issues. Examples of impediments to the mediation process include: domestic abuse; neglect or abuse of a child; status as a protected individual or vulnerable adult; mental illness or other mental impairment; and inability to understand or communicate in the language in which mediation will be conducted.

The work group concluded that the paragraph was sufficient without those words, so no changes are recommended.

Conclusion
We believe these recommendations present practical solutions to ensure the Protocol continues to effectively address safety concerns. We appreciate your consideration of these recommendations and welcome any questions or requests for further information.

Thank you for your dedication to promoting safety in mediation in Michigan.

Sincerely,

STATE BAR OF MICHIGAN
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ALTERNATIVE DISPUTE RESOLUTION SECTION

Lisa W. Timmons

Lisa W. Timmons
2024-2025 Chair, ADR Section
State Bar of Michigan

10. Audit and Finance

Presented by David C. Anderson

10.1. Finance Report

10.2. FY 2027 Budget*

For Approval

11. Professional Standards

Presented by Suzanne C. Larsen

12. For the Good of the Public and the Profession

12.1. Comments or Questions from Commissioners

12.2. Public Comment

Any member of the public who wishes to address the commissioners during public comment must sign up before 9:30 a.m. on the date of the meeting using the “Public Comment Sign Up” sheet available at the front desk of the State Bar Building.

13. Adjournment