

**State Bar of Michigan
Criminal Jurisprudence and Practice Committee
Thursday, June 12, 2014 – 1 to 3 PM**

MINUTES

Committee Members: Ryan Lee Berman, Mary Alexis Bowen, Nichole Jongsma Derks, Nimish R. Ganatra, J. Kevin McKay, Julia F. Norton, Jonathan Sacks, Gretchen A. Schlaff, Samuel R. Smith III, Michael A. Tesner, Bruce A. Timmons

Committee Advisor: Donna McKneelen

SBM Staff: Peter Cunningham, Carrie Sharlow

1. Call to Order & Welcome
2. Meeting Minutes from May 8, 2014 meeting – The minutes were unanimously adopted.
3. New Business

a. [2014-18 - Proposed Amendment of Rule 6.001 of the Michigan Court Rules](#)

The proposed amendment of MCR 6.001(B) includes additional rules and subrules that are found in Chapter 6 that govern procedural issues relevant to criminal cases falling under the jurisdiction of district courts.

Issued: May 21, 2014

Comment Period Expiration: September 1, 2014

The committee voted unanimously (10) to support the amendment to Rule 6.001 of the Michigan Court Rules.

b. Veterans

[HB 5529](#)(Jenkins) Courts, drug court; Veterans, benefits. Courts; drug court; providing information to veteran regarding veteran benefits; require. Amends sec. 1074 of 1961 PA 236 (MCL 600.1074).

[HB 5531](#)(Kurtz) Courts, other; Veterans, benefits. Courts; other; veteran completing sobriety court program to meet with veteran service organization or county veteran counselor as part of program; require. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 1085

The committee agreed that these bills were Keller permissible in that they impact the functioning of the courts and the availability of legal services to society.

HB 5529 directly affects a drug court's handling of veteran defendants, in requiring the individual to meet with "a member of a veteran service organization or county veteran counselor" before successfully completing the drug court program.

HB 5531 requires the same final meeting with an appropriate organization for the completion of the sobriety court program.

The committee voted 9 in favor, 1 in opposition to support the bills.

- c. [HB 5545](#)(Leonard) Criminal procedure, expunction; Records, other. Criminal procedure; expunction; criminal record expunction for certain offenses; allow under certain circumstances. Amends secs. 1, 3 & 4 of 1965 PA 213 (MCL 780.621 et seq.).

The committee agreed that the bill was Keller permissible in the availability of legal services to society. The ability to expunge a record allows for improved reintegration into the community for past offenders who can clearly demonstrate rehabilitation.

The committee voted unanimously (11) to support the bill, with the amendment that in the issue of disclosure in Section (5), divulging only be punished when done for malicious purposes.

- d. [HB 5560](#)(Price) Local government, other; Communications, newspapers and magazines; Communications, internet. Local government; other; publication of legal notices; revise, and create the local government public notice act. Creates new act.

The committee will take no position.

- e. [HB 5561](#)(Nathan) Criminal procedure, evidence; Crimes, homicide. Criminal procedure; evidence; certain requirements for retention of evidence; establish. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 23 to ch. XVI.

The committee will table this item for further research.

- f. [HB 5585](#) Criminal procedure; youthful trainees; revocation of trainee status under Holmes youthful trainee act for committing certain subsequent crimes; provide for. Amends sec. 12, ch. II of [1927 PA 175](#) (MCL [762.12](#)).

The committee voted 9 in favor, 1 opposed, and 1 abstention to take no position due to an agreed view that the bill was not Keller permissible.

- g. District Court Magistrate
[SB 0931](#)(Jones) Criminal procedure, warrants; Criminal procedure, arrests; Criminal procedure, search and seizure; Courts, district court. Criminal procedure; warrants; district court magistrate to issue arrest warrant or search warrant electronically; allow. Amends secs. 1, 3 & 5 of 1966 PA 189 (MCL 780.651 et seq.).

[SB 0932](#)(Jones) Courts, judges; Courts, district court. Courts; judges; district court magistrates to decide motions to set aside default and requests to withdraw admission in civil infraction cases; allow under certain circumstances. Amends secs. 8511, 8512, 8512a & 8513 of 1961 PA 236 (MCL 600.8511 et seq.).

The committee agreed the bills are Keller permissible in that they affect the functioning of the court by allowing district court magistrates to issue arrest or search warrants electronically, and decided motions. SB 932 further grants “judicial immunity to a district court magistrate for acts expressly authorized by the chief judge and by law.”

The committee voted unanimously to support SB 931 with the correction of a typo found in Sec. 3. (b), and support SB 932 as it passed the Senate.

- h. [Amendments to M Crim JI 15.1, 15.3, 15.4, 15.5, 15.6, 15.11 and 15.12](#), which apply to the drunk driving offenses under MCL 257.625, necessitated by statutory amendments.

Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCJI@courts.mi.gov.

The committee voted 10 in favor, with 1 abstention to support the amendments to the jury instructions.

4. Reports

- a. Criminal Law Section – The Section has been discussing many of the same bills.
- b. Indigent Defense – There is nothing new at this point.
- c. [Task Force on the Role of the State Bar of Michigan](#) – This report recommends a strict interpretation of Keller. A comment will be drafted by Nichole J. Derks and circulated for electronic vote.