

**State Bar of Michigan
Criminal Jurisprudence and Practice Committee
Thursday, November 14, 2013 – 1 to 3 PM
State Bar of Michigan Building, 306 Townsend Street, Lansing, MI**

For those unable to attend in person, please use
teleconference 1-877-352-9775, Passcode 9152168764#

MINUTES

Committee Members: Ryan Lee Berman, Mary Alexis Bowen, Thomas P. Clement, Nichole Jongsma Derks, Nimish R. Ganatra, James W. Heath, J. Kevin McKay, Julia F. Norton, Julie A. Powell, 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 October 10, 2013 meeting – The minutes were adopted by unanimous vote.
3. Old Business
 - a. [SB 0558](#) (Schuitmaker) Mental health, other; Corrections, alternatives; Criminal procedure, mental capacity. Mental health; other; program to divert persons with serious mental illness from justice system to treatment; establish. Amends 1974 PA 258 (MCL 330.1001 - 330.2106) by adding sec. 207a & repeals sec. 207 of 1974 PA 258 (MCL 330.1207).
Liaison: Samuel R. Smith

The committee voted 13 in favor to support the bill in concept. It was agreed that in establishing mental health programs, you need to have criteria for assessing individuals and following procedures. This bill would provide that.

However, the committee is interested in how the county-to-county mental health agency would work with the established (and soon to be established) mental health courts. There doesn't appear to be any court involvement in the inter-agency agreement. It is an executive branch program.

Finally, there were a number of unanswered questions as to pre-conviction vs. post-conviction and section repeal. The committee believes the bill is a good idea but needs to be thought out in more detail.

4. New Business
 - a. Sobriety Courts

[HB 5020](#)(Jenkins) Courts, other; Crimes, intoxication or impairment; Law, sunset. Courts; other; DWI/sobriety court interlock pilot project; eliminate sunset. Amends sec. 304 of 1949 PA 300 (MCL 257.304).

[HB 5021](#)(Lauwers) Courts, other; Crimes, intoxication or impairment; Law, sunset. Courts; other; DWI/sobriety court interlock pilot project; eliminate sunset. Amends sec. 1084 of 1961 PA 236 (MCL 600.1084).

Liaison: Bruce A. Timmons

The committee voted 13 in favor to support these bills.

b. Victim of Human Trafficking

[HB 5025](#)(Heise) Criminal procedure, expunction; Crimes, prostitution. Criminal procedure; expunction; victim of human trafficking to set aside certain prostitution convictions; allow under certain circumstances. Amends secs. 1, 2 & 4 of 1965 PA 213 (MCL 780.621 et seq.).

[SB 0591](#)(Proos) Criminal procedure, expunction; Criminal procedure, other. Criminal procedure; expunction; setting aside criminal conviction on grounds of being a victim of human trafficking; allow under certain circumstances. Amends secs. 1, 2 & 4 of 1965 PA 213 (MCL 780.621 et seq.).

Liaison: Nichole Jongsma Derks

The committee voted 12 in favor to support HB 5025.

The committee voted 11 in favor to support SB 0591 with the recommended amendment that the expunction only apply to prostitution.

c. [HB 5026](#)(Heise) Juveniles, other; Courts, family division; Courts, jurisdiction. Juveniles; other; court jurisdiction over dependent juveniles in danger of substantial physical or psychological harm; allow. Amends sec. 2, ch. XIIA of 1939 PA 288 (MCL 712A.2).

Liaison: Nimish R. Ganatra

The committee voted 12 in favor to support HB 5026 with the amendment to limit it to human trafficking victims. The committee members agreed that a separate mechanism should be provided for treatment of an abuse and/or neglect situation.

d. [HB 5049](#)(Singh) Criminal procedure, records; State agencies (existing), state police. Criminal procedure; records; certain records regarding participation in the veterans treatment court; modify. Amends sec. 1209 of 1961 PA 236 (MCL 600.1209).

Liaison: Gretchen A. Schlaff

The committee decided to take no position on the bill.

e. [HB 5055](#)(Johnson, J.) Criminal procedure, warrants; Criminal procedure, arrests; Courts, district court. Criminal procedure; warrants; defraying of costs incurred by

local unit of government in executing bench warrants; allow. Amends sec. 1f, ch. IX of 1927 PA 175 (MCL 769.1f).

Liaison: Julia F. Norton

The committee agreed that this bill was Keller permissible. Chief in the explanation was an example from Michael Tesner as to how this bill would affect the functioning of the courts. For example, the City of Flint is short of police officers. When the officer does go out to pick up a person with a bench warrant and the charge isn't serious (eg. murder), that individual is usually arraigned and returns home. If there was a funding mechanism—as addressed in this bill—the police officers would be able to pick up more persons who have an outstanding bench warrant. This, in turn, would both create more work for the court and begin to clear its docket.

Once deciding that the bill is Keller permissible, the committee voted to oppose the bill (7 in favor of this position and 2 in opposition), viewing it as an unrealistic source of funding and another fee on indigents.

- f. [HB 5078](#) (Haveman) Criminal procedure, sentencing guidelines. Criminal procedure; sentencing guidelines; sentencing guidelines commission; reestablish. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding secs. 32 & 33 to ch. IX.

Liaison: Michael A. Tesner

The committee voted 10 in favor to support this bill. A sentencing guidelines commission with non-partisan members from all stakeholders would be an excellent addition to the criminal justice system.

- g. [SB 0633](#) (Caswell) Traffic control, other; Traffic control, driver license; State agencies (existing), state; State agencies (existing), treasury. Traffic control; other; option of community service in lieu of payment of driver responsibility fees; allow in certain circumstances. Amends sec. 732a of 1949 PA 300 (MCL 257.732a) & adds sec. 732b.

Liaison: Thomas P. Clement

The committee voted to table the bill to the December 13, 2013 meeting.

5. Reports

- a. Criminal Law Section – They are meeting next week.
- b. Indigent Defense – There is no new news.

6. Adjournment.