

CRIMINAL JURISPRUDENCE & PRACTICE COMMITTEE
Respectfully submits the following position on:

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HB 4392

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

The position expressed is that of the Criminal Jurisprudence & Practice Committee.

The State Bar of Michigan's position on this matter is to support an amendment to subsection 4 (as introduced) to provide for judicial discretion

The total membership of the Criminal Jurisprudence & Practice Committee is 22.

The position was adopted after discussion at a scheduled meeting and e-vote. The number of members in the decision-making body is 22. The number who voted in favor to this position was 15. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of committee:

Criminal Jurisprudence & Practice Committee

Contact persons:

Hon. David Hoort
Gretchen Schlaff

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Gretchen Schlaff - Gretchen.Schlaff@macombcountymi.gov

Bill Number:

[HB 4392](#) (Segal) Crimes; other; court to defer prosecution of person less than 18 years convicted of cyberbullying; allow under certain circumstances. Amends [1927 PA 175](#) (MCL [760.1](#) - [777.69](#)) by adding sec. 4b to ch. IX.

Date position was adopted:

March 17, 2011

Process used to take the ideological position:

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

Number of members in the decision-making body:

22

Number who voted in favor and opposed to the position:

15 Voted for position
0 Voted against position
0 Abstaining
7 Did not vote

Position:

Support and Amend

Explanation of the position, including any recommended amendments:

The committee supports the legislation but opposes subsection (4) providing for mandatory punishments. The committee feels that subsection removes the judge's discretion with the word "shall." The committee feels this "shall" should be changed to "may" to keep the subsection in line with the rest of the bill and other similar statutes allowing for a court to defer prosecution.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report. <http://legislature.mi.gov/doc.aspx?2011-HB-4392>

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

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

Keller-permissible explanation:

The committee believed this legislation to be Keller permissible as affecting the functioning of the courts.