

Report on Public Policy Position

Name of Committee:

Justice Policy Initiatives

Contact Person:

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Bill Number:

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

[SB 0247](#) (Schuitmaker) Juveniles; criminal procedure; juvenile competency and culpability; clarify. Amends secs. 498d, 498e & 498h of [1974 PA 258](#) (MCL [330.1498d](#) et seq.) & adds secs. 1060, 1060a, 1060b, 1060c, 1062, 1064, 1066, 1068, 1070, 1072 & 1074.

[HB 4555](#) (Lipton) Juveniles; criminal procedure; juvenile competency and culpability; clarify. Amends secs. 498d, 498e & 498h of [1974 PA 258](#) (MCL [330.1498d](#) et seq.) & adds secs. 1060, 1060a, 1060b, 1060c, 1062, 1064, 1066, 1068, 1070, 1072 & 1074.

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

Date position was adopted:

January 5, 2012

Process used to take the ideological position:

Original position adopted after discussion and vote at a scheduled meeting on June 1, 2011. On June 27, 2011, the Committee on Justice Initiatives stated that it would like to see a standard referenced in the legislation and requested the Initiative to discuss this. The Initiative agreed on standard language at the December 21, 2011 meeting and a final vote was taken on January 5, 2012.

Number of members in the decision-making body:

14

Number who voted in favor and opposed to the position:

9 Voted for position

0 Voted against position

1 Abstaining
4 Did not vote

Position:

Adopt the position of the Criminal Law Section with additional language on the standard of an evaluator of juvenile competence.

Explanation of the position, including any recommended amendments:

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

While the Section sees this legislation as necessary in filling a gap in the juvenile system, we are not in favor of only social workers doing the competency evaluations. The Section has an issue with the qualifications of the examiners, and feel an amendment is required, stating that if a forensic mental health examiner is not available, the court should appoint another qualified person for the competency exam.

Further, the Initiative agrees that an individual who will evaluate juveniles for competency and criminal responsibility shall be a certified psychiatric forensic examiner and shall be certified by the department of mental health and supervised under the direction of the Center for Forensic Psychiatry.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2011-SB-0246>
<http://legislature.mi.gov/doc.aspx?2011-SB-0247>
<http://legislature.mi.gov/doc.aspx?2011-HB-4555>
<http://legislature.mi.gov/doc.aspx?2011-HB-4556>

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

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

Keller-permissible explanation:

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