



## Report on Public Policy Position

**Name of Section:**

Children's Law Section

**Contact Person:**

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**Bill Number:**

**HB 4213** (Meyer) Juveniles; criminal procedure; forensic examinations of juveniles to determine competency; allow. Amends 1939 PA 288 (MCL 701.1 - 712A.32) by adding sec. 17e to ch. X11A.

-TIE BAR WITH -

**HB 4214** (Meyer) Juveniles; criminal procedure; forensic examinations of juveniles to determine competency; allow. Amends secs. 1001a, 1020, 1022, 1024, 1026, 1028, 1030, 1031, 1032, 1034, 1036, 1038, 1040, 1042, 1044 & 1050 of 1974 PA 258 (MCL 330.2001a et seq.).

-TIE BAR WITH -

**HB 4215** (Meyer) Juveniles; criminal procedure; provisions relating to the alibi defense; expand to include juveniles. Amends secs. 20, 20a, 21, 21a & 36, ch. VIII of 1927 PA 175 (MCL 768.20 et seq.)

**Date position was adopted:**

5/11/05

**Process used to take the ideological position:**

Reviewed by CLS Legislative Committee. Unanimous vote to recommend the Council support these bills with recommendations. Majority vote by CLS Council.

**Number of members in the decision-making body:**

19

**Number who voted in favor and opposed to the position:**

14 votes to support in theory with recommendations

1 abstaining

1 vote to oppose

**FOR SECTIONS ONLY:**

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

*If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.*

**Position:**

The CLS Council voted 14 to 1 (with 1 abstention) to SUPPORT IN THEORY **HB 4213, 4214** and **4215** for the following reasons:

- This was a loophole in the Juvenile Code and many courts had relied on rules of criminal procedure to cover this area.
- These bills are an attempt to add this to the Juvenile Code, as recent caselaw has disallowed the use of the adult rules in this regard

However, before supporting these bills, we are concerned that this may result in juvenile being treated as “mini-adults” and want to ensure that legal incompetency is not confused with immaturity due to age. As a result, we would recommend that:

- All evaluators be specifically trained in child forensic psychology.
- All evaluations be conducted with age-appropriate evaluation tools.
- Services must be provided to those minors who are determined to be “responsible but mentally ill.”
- These bills be reviewed to see whether the tie-bar is appropriate for HB 4215.

**The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:**

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=2005-HB-4213>

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=2005-HB-4214>

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=2005-HB-4215>

**Please note: The State Bar of Michigan supports in principle the provisions of access to alibi and insanity defense to juveniles. The State Bar also support in principle the mechanism to present those defenses to the trier-in-fact.**