



Report on Public Policy Position

Name of Section:

Judicial Conference

Contact Person:

Judge Milton Mack

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Bill Number(s):

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. XIA.

-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:

March 11, 2005

Process used to take the ideological position:

Proposed bills were e-mailed to all Probate Judges. The bills were then discussed at the regular meeting of the Executive Committee of the Judicial Conference.

Number of members in the decision-making body:

27

Number who voted in favor and opposed to the position:

16 yes

0 no

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 Executive Committee of the Judicial Conference recommends that the State Bar support HB 4213, HB 4214 and 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>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:**Arguments for the position:**

The bills would create a uniform mechanism for making a competency determination, as well as treatment, where an issue has been raised as to whether a juvenile is competent to stand trial.

Arguments against the position (if any):

Addressing competency at the adjudicative phase of juvenile proceedings is the antithesis of the entire concept of the juvenile court. The recognition of the inherent incompetency of children is the hallmark of the juvenile court's existence. Competency should be considered at the dispositional phase. The bills, as drafted, do not make provision for sight and sound separation from adults who are also committed.

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

As of March 22, 2005, the State Bar does not have a position on HB 4213, HB 4214 or HB 4215.

Fiscal implications of the recommended policy to the State Bar of Michigan:

None.

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 the functioning of juvenile proceedings.