



Report on Public Policy Position

Name of Committee:

Criminal Jurisprudence and Practice Committee

Contact Person:

Valerie Newman/Marty Krohner

Email:

valerie@sado.org; marty@mich.com

Bill Number:

SB 113 (Hammerstrom) Courts; juries; system for requiring jury service and excusing prospective jurors; revise and provide for a lengthy trial fund. Amends secs. 1307a, 1314, 1320, 1333, 1334, 1335, 1337, 1343, 1346 & 1348 of 1961 PA 236 (MCL 600.1307a et seq.) & adds sec. 1344a.

Date position was adopted:

3/17/05

Process used to take the ideological position:

Committee meeting

Number of members in the decision-making body:

10

Number who voted in favor and opposed to the position:

Unanimous opposition to sections of the bill, otherwise neither support nor oppose

Position:

The Committee opposes Section 1333(4) because it creates a strict liability crime and imposes misdemeanor penalties when a contempt sanction, which the court always has at its disposal, gives the court sufficient power to penalize errant people who fail to appear in response to a jury summons. This section also creates a potential conflict in criminal cases as it will be up to the prosecutor to decide whether an errant person should be charged with a misdemeanor offense.

The Committee also opposes Section 1344A Lengthy Trial Fund as funding issues should be considered within the context of full and adequate funding for indigent defense services. A lengthy trial fund would be infrequently utilized yet would increase filing fees and add what appears to be an extensive administrative process yet would benefit very few people called to jury service. A better approach would be to fairly compensate all those who serve on juries, regardless of the length of the trial.

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/documents/2005-2006/billintroduced/senate/pdf/2005-SIB-0113.pdf>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

See above

Arguments against the position (if any):

None

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.

On September 21, 2005, the State Bar of Michigan adopted a position of oppose in principle.

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 competence, and the integrity of the profession.

Keller- permissible explanation:

Impacts availability of legal services to society by increasing filing fees, which could impact those least able to afford to pursue litigation.