



# Board of Commissioners

## Agenda and Materials

January 20, 2023

STATE BAR OF MICHIGAN  
BOARD OF COMMISSIONERS

Friday, January 20, 2023  
Michael Franck Building  
Lansing, MI  
AGENDA  
9:30 a.m.

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State Bar of Michigan Statement of Purpose

“...The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

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I. Call to Order ..... James W. Heath, President

**CONSENT AGENDA**

II. **Minutes**

- A. November 18, 2022 Board of Commissioners meeting\*
- B. October 13, 2022 Executive Committee meeting\*

III. **President’s Activities**..... James W. Heath, President

- A. Recent Activities\*

IV. **Executive Director’s Activities**..... Peter Cunningham, Executive Director

- A. Recent Activities\*

V. **Finance**..... Erika L. Bryant, Chairperson

- A. FY 2022 Financial Reports through November 2022\*

VI. **Professional Standards** ..... Lisa J. Hamameh, Chairperson

- A. Unauthorized Practice of Law (UPL) Claims\*\*
- B. Michigan Indian Legal Services (MILS) Board of Trustee Appointment\*

VII. **Public Policy** ..... Daniel D. Quick, Chairperson

- A. Model Criminal Jury Instructions\*

VIII. **Proposed Section Bylaw Amendments**..... Darin Day, Outreach Program Director

- A. Senior Lawyers Section\*

IX. **Audit** ..... Erika L. Bryant

- A. FY 2021 Audit Update and Report from Andrews Hooper Pavlik PLC \*\*
  - a. Jamie Rabe, Partner
  - b. Jaclyn Symons, Senior Accountant

**LEADERSHIP REPORTS**

- X. **President’s and Executive Director’s Report** ..... James W. Heath, President  
Peter Cunningham, Executive Director
- XI. **Representative Assembly Report** ..... Gerow D. Mason, Chairperson
- XII. **Young Lawyers Section Report**..... Colemon L. Potts, Chairperson

**COMMISSIONER COMMITTEES**

- XIII. **Public Policy**..... Daniel D. Quick, Chairperson
  - A. Court Rules\*\*
  - B. Legislation\*\*
- XIV. **Finance**..... Erika L. Bryant, Chairperson
  - A. Financial Report
  - B. ADS/SBM Retiree Healthcare Trust merger\*\*
- XV. **Professional Standards** ..... Lisa J. Hamameh, Chairperson
- XVI. **Communications and Member Services** ..... Joseph P. McGill, Chairperson
  - A. New Partner Program\*

**FOR THE GOOD OF THE PUBLIC AND THE PROFESSION**

- XVII. **Comments or questions from Commissioners**
- XVIII. **Comments or questions from the public**
- XIX. **Adjournment**

\*Materials included with agenda.

\*\*Materials delivered or to be delivered under separate cover or handed out.

STATE BAR OF MICHIGAN  
BOARD OF COMMISSIONERS MEETING MINUTES

President Heath called the meeting to order at approximately 9:45 a.m. on Friday, November 18, 2022, in the Boardroom at the Michael Franck building in Lansing, Michigan.

Commissioners present:

David C. Anderson	Gerard Mantese
Yolanda Bennett	Gerrow D. “Gerry” Mason
Erika L. Bryant, Treasurer	Joseph P. McGill, Vice President
Hon. B. Chris Christenson	Thomas P. Murray Jr.
Thomas P. Clement	Valerie R. Newman
Tanya Cripps-Serra	Nicholas M. Ohanesian
Sherrice Detzler	Hon. David A. Perkins
Robert A. Easterly	Colemon L. Potts
Lisa J. Hamameh, Secretary	John W. Reiser
James W. Heath, President	Delphia T. Simpson
Thomas H. Howlett	Matthew B. Van Dyk
Suzanne C. Larsen	Danielle Walton
James W. Low	Hon. Erane C. Washington

Commissioners absent:

Kristina A. Bilowus	Daniel D. Quick, President-Elect
Aaron V. Burrell	Hon. Kristen D. Simmons
Hon. Kameshia D. Gant	Mark Wisniewski
Takura N. Nyamfukudza	

State Bar staff present:

Peter Cunningham, Executive Director  
Drew Baker, General Counsel  
Margaret Bossenbery, Executive Coordinator  
Gregory Conyers, Program Director, Diversity Development Program  
Darin Day, Program Director, Outreach  
Katherine Gardner, UPL Counsel  
Tatiana Goodkin, Chief Financial Officer  
Robert Mathis, Pro Bono Services & Justice Initiatives Counsel  
Molly Ranns, Director, Lawyers & Judges Assistance Program  
Marjory Raymer, Director of Communications  
Janna Sheppard, Administrative Assistant  
Jeanette Socia, Director of Human Resources  
Ebony Stith, Communications Specialist  
Kari Thrush, Program Director, Lawyer Services  
Nathan Triplett, Director of Governmental Relations  
Anne Vrooman, Program Director, Research & Development  
Meng Xiong, IT Director

### Consent Agenda

The Board received the minutes from the September 16, 2022, Board meetings.

The Board received the recent activities of the president.

The Board received the recent activities of the executive director.

The Board received the FY 2022 draft financial reports through September 30, 2022.

The Board received Client Protection Fund claims.

The Board received Character and Fitness Committee appointments.

The Board received Model Criminal Jury Instructions.

The Board received section bylaw amendments from the Cannabis Law Section and the Young Lawyers Section.

Mr. Heath asked the Board to make two last-minute changes to items on the consent agenda.

Commissioner Tanya Cripps-Serra was inadvertently left off the list of commissioners present at the September 16, 2022, meeting. The meeting minutes have been updated to reflect this change.

Additionally, on the Character and Fitness Committee list of appointments, an individual from District I asked that his name not be listed. The list of appointments has been modified to reflect his request. Mr. Heath asked if any items needed to be removed from the consent agenda. There were none. A motion was offered and supported to approve the consent agenda. The motion was approved.

## **LEADERSHIP REPORTS**

**President and Executive Director's Report:** James Heath, President and Peter Cunningham, Executive Director.

Mr. Heath reported that he has had the opportunity to attend various bar association meetings. Mr. Heath and Mr. Cunningham traveled to the Great Rivers Bar Leader Conference in Savannah, Georgia in late October. They spent several days networking with representatives from state bars from nine midwestern states. Mr. Heath had the opportunity to present on the topic of updates in regulatory reform ideas and pilot programs that are being tested. Leaders across the country are looking at Michigan and the issues which are being tackled by the Justice for All Task Force.

In late September, Mr. Heath attended the Michigan Legal Milestone event in Allegan County. This was the first time this has occurred in several years due to the pandemic. At the Allegan County courthouse, they commemorated the passage of Public Act 109 of 1857, which was the first legislation in Michigan that provided for compensation for representation of indigent criminal defendants.

Mr. Heath attended the National Trial Advocacy Competition early in October. The event was hosted by the Young Lawyers Section at the 36<sup>th</sup> District Court in Detroit. Fifteen teams of law students from across the country competed in mock trials in a phenomenal display of the future of the profession.

Mr. Cunningham provided updates on recent events in and around the Bar.

There have been two new additions to SBM staff since the last board meeting. Mr. Cunningham asked Ms. Raymer to introduce Ms. Ebony Stith, communications specialist. Ms. Stith started working at the Bar in September. Ms. Stith is responsible for writing news articles, maintaining our social media accounts, and helping with other program promotions.

While she was unable to attend today's meeting due to the weather, Mr. Cunningham reported that Ms. Victoria Vargas has been hired as a new applicant licensing specialist in Character and Fitness. He is hopeful that she will be able to attend the Board meeting in January to be introduced to the Board.

Mr. Greg Conyers spoke about the Face of Justice program which occurred a few weeks ago. This program has historically hosted high school students; however, the most recent program included law students. There were individuals from each of the law schools in Michigan. They participated in an activity referred to as jet mentoring, where students were able to speak with many mentors, creating meaningful conversations between experienced attorneys and law students about the profession. Mr. Heath participated in the event, as well as immediate past president, Dana Warnez.

The State Bar of Michigan received an award on behalf of the Lawyer Referral Service for the additional programs that were created to provide frontline workers with pro bono legal assistance during the pandemic, as well as the assistance to the Midland flood victims. The efforts of multiple departments across the Bar attributed to the success of the programs, as well as volunteers from State Bar sections.

Mr. Cunningham credited former executive director, Ms. Janet Welch, about her foresight and preemptive work in late 2019 and early 2020 to prepare the Bar for the pandemic. The SBM IT Department worked incredibly hard to transition staff members to remote workstations, which allowed the State Bar staff to continue their work without missing a beat. This advanced preparation for the pandemic, allowed State Bar staff to create new programs to address new and urgent legal needs at a time when many other organizations were struggling to maintain basic operations.

Mr. Cunningham reported that the license renewal for 2022-2023 is nearing the end of the period for members to pay without incurring late fees. We are on pace with previous years. There were two important changes to the renewal process this year: the first change is the increase of fees and the second was the addition of a credit card surcharge. As of November 17, 2022, 64% of members have paid their dues. There has been an increase in members who have elected to pay by sending a paper check through the US mail for their dues. There has also been an increase in members who have chosen to pay via electronic check. There has been a decrease of approximately 14% in members using credit or debit cards.

SBM staff reviewed the SBM Orientation Policies for both new and returning commissioners. Key policies covered were attendance, conflict of interest, public statements, and reimbursements.

## **Workgroup Updates**

### **Commission on Diversity Equity and Inclusion (DEI) Report:** Erika Butler

The commission had its first meeting on October 24, 2022, and it is scheduled to meet again in January 2023. The primary charge of the commission is to address the disparities and inequities in the Michigan justice system. Ms. Bryant encouraged commissioners to bring any issues to her so that she can voice concerns, ideas, and thoughts to the DEI.

Mr. Cunningham reported that the commission has selected a strategic facilitator, Patricia Lally, to assist in creating a strategic plan and structure for the commission to accomplish its goals.

**Representative Assembly (RA) Report:** Gerrow D. Mason, Chairperson

Mr. Mason shared that the Representative Assembly has a great responsibility and can make great change to the profession of the law. The RA led the charge behind the increase in Bar dues that just took effect, which took several years and hundreds of hours to accomplish.

Mr. Mason has proposed many challenges to the members of the RA this year. He has encouraged members to bring a friend with them to this year's meetings and has also urged members to join a charity, such as Rotary or Salvation Army, because the perception that community involvement has on the practice of law is significant. Mr. Mason also shared that he has a passion to help underprivileged students succeed, and he wants RA members to consider getting involved in the Face of Justice program. Mr. Mason has asked Mr. Ohanesian to continue his involvement in helping improve the Representative Assembly by leading a group to consider a series of proposals that the RA committees presented at the September RA and bring the best ideas forward to the April RA meeting for a vote.

The option of hybrid meetings has increased the attendance of RA meetings and Mr. Mason is excited about what this great group of leaders can accomplish this year.

**Young Lawyers Section (YLS) Report:** Colemon L. Potts, Chairperson

Mr. Potts reported that the section had its annual meeting on September 24, 2022, with a focus on Pay It Back and Pay It Forward. There is an emphasis this year on collaboration as well as thanking those YLS leaders who have blazed the trail to set the section up to do great things.

Mr. Potts shared that the YLS held the National Trial Advocacy competition in early October which brought over 15 teams together to compete in mock trials in Detroit. Partnered with the Litigation Section, there were approximately 60 attorneys and judges who volunteered to make this competition a huge success.

On November 5, the YLS held its planning retreat in Grand Rapids with a team-building activity and a planning meeting. They discussed ways for young lawyers to get involved in the State Bar and the ABA. Each person on the YLS council has been tasked with developing two programs to help encourage members to serve the Bar and the community.

There is a community outreach program which has partnered with the Detroit Public Safety Foundation and Detroit police officers to discuss rights under the law and build the relationship between the police and the community.

The YLS is partnering with the Unity Baptist Church to host a turkey drive, where those in need can get assistance with landlord/tenant matters and get a turkey if they are in need.

In the early stages of planning an annual summit for the summer of 2023. Chair-Elect Ms. Tanya Cripps-Serra has been talking with Little Caesars Arena as a possible site for this event. The section is hopeful that with a great location in Detroit, it would have great attendance.

**Proposed Section Bylaw Amendments:** Darin Day, Outreach Program Director

Mr. Colemon Potts reported that the YLS has developed a reinforcement plan for District 1, which would adjust the number of seats to level the playing field.

## COMMISSIONER COMMITTEES

**Public Policy:** Dan D. Quick, Chairperson

In Mr. Quick's absence, Ms. Suzanne Larsen provided the report for the Public Policy committee.

### Court Rules

#### **1. ADM File No. 2016-10: Proposed Amendments of MCR 2.002 and 7.109**

The proposed amendments of MCR 2.002 and 7.109 would allow for waiver of appellate transcript fees for indigent individuals.

A motion was offered and supported to support ADM File No. 2016-10 as drafted. The motion was approved.

#### **2. ADM File No. 2002-37: Amendment of MCR 1.109**

The amendment of MCR 1.109 provides SCAO the flexibility to determine, when appropriate, when certain documents filed on paper do not need to be imported into the MiFILE document management system until bulk e-filing capability is available.

A motion was offered and supported to support ADM File No. 2002-37 as drafted. The motion was approved.

#### **3. ADM File No. 2021-49: Proposed Amendment of MCR 2.002**

The proposed amendment of MCR 2.002 would provide procedural direction to courts regarding prisoner requests for fee waivers in civil actions.

A motion was offered and supported to support ADM File No. 2021-49 to the extent that it is intended to align statutory provisions and court rules, but express concerns over the practicality of indigent defendants complying with these rules, most notably strict timelines. The motion was approved.

#### **4. ADM File No. 2021-32: Proposed Amendment of MCR 6.112**

The proposed amendment of MCR 6.112 would require that the notice of intent to seek an enhanced sentence contain any mandatory minimum sentence required by law as a result of the enhancement.

A motion was offered and supported to support ADM File No. 2021-32 as drafted. The motion was approved.

#### **5. ADM File No. 2021-40: Proposed Amendment of Rule 5 of the Rules for the Board of Law Examiners**

The proposed amendment of Rule 5 of the Rules for the Board of Law Examiners would define the terms "full-time" and "instructor" to clarify that clinical instructors may be admitted to the bar without examination.

A motion was offered and supported to support ADM File No. 2021-40 as drafted. The motion was approved.



Legislation

**1. HB 6399** (Whitsett) Criminal procedure: mental capacity; outpatient treatment for misdemeanor offenders with mental health issues; provide for. Amends sec. 461 of 1974 PA 258 (MCL 330.1461) & adds sec. 1021 & ch. 10A.

The Public Policy Committee recommends deferring consideration of HB 6399 at this time. No motion was made.

**2. HB 6437** (LaGrand) Criminal procedure: mental capacity; psychological evaluations for defendants ordered by judges; allow. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 1m to ch. IX.

The Public Policy Committee recommends deferring consideration of HB 6437 at this time. No motion was made.

**3. SB 1162** (Wozniak) Courts: court of appeals; jurisdiction of the court of appeals to include admitting individuals to the state bar; expand.

A motion was offered that this is *Keller* permissible. The motion to support was seconded and approved. A motion was offered and supported to support SB 1162. The motion to support was seconded and approved.

**4. SB 1175** (Hollier) Courts: juries; local jury boards; eliminate, and create a centralized jury process. Amends secs. 1301a, 1304a, 1326, 1332, 1345 & 1346 of 1961 PA 236 (MCL 600.1301a et seq.); adds sec. 1306 & 1307 & repeals secs. 1301, 1301b, 1302, 1303, 1303a, 1304, 1305, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1327, 1330, 1331, 1338, 1339, 1341, 1342, 1353, 1375, & 1376 of 1961 PA 236 (MCL 600.1301 et seq.) & repeals 1929 PA 288 (MCL 730.251 - 730.271) & repeals 1951 PA 179 (MCL 730.401 - 730.419).

The Public Policy Committee recommends deferring consideration of SB 1175 at this time. No motion was made.

Proposed Amendments to Michigan Rules of Evidence

**Proposed Amendments to Michigan Rules of Evidence**

A motion was made and supported to recommend that the SBM submit the workgroup report and the comments submitted by the two SBM committees to the Court for its consideration, but not take a position on the Workgroup's recommendations at this time.

**Finance:** Erika L. Bryant, Chairperson

Ms. Bryant provided a review of the SBM Financial Safety Margin (FSM) Policy. Organizations use financial safety margin policies to help gauge the fiscal health of their organization. The Bar has used the policy when determining when a fee increase may be necessary based on the overall financial health of the Bar. The financial safety margin policy that we have been using was adopted in 2005. This policy calculates the margin as cash plus short-term investments plus 80% of the estimated value of the building divided by next year's budgeted expenses. This measure is historically calculated on August 31 of each calendar year, which is the month of the lowest cash and investment balances. The FSM is less conservative than other measures of financial safety and may not accurately portray the soundness of the organization's financial reserves. The current policy is also not aligned with the more conservative liquid

unrestricted net assets (LUNA) ratio which is used by the Michigan Supreme Court to measure the financial condition of the attorney discipline system.

The Finance Committee is proposing a shift to using a LUNA ratio instead of our current process for calculating our financial safety margin. A motion was offered and supported to pass the adoption of the SBM Financial Safety Margin Policy. The motion was approved.

Mr. Cunningham provided a financial report with the use of a PowerPoint presentation for FY 2022 through September 30, 2022. A more detailed report will be provided in January following the conclusion of the audit. SBM's net position is up for FY 2023, and we ended \$1.3 million favorable to budget. This was greatly due to cost savings related to the pandemic. Fiscal year 2023 should be much closer to budget. A chart of the overall financial position over the past 20 years was shared. Had it not been for the pandemic, the Bar would have been in worse shape. However, because of the recent fee increase, the reserves will increase for fiscal year 2023.

**Audit:** Erika L. Bryant, Chairperson

Ms. Bryant reported that there is an Audit Committee meeting scheduled with the auditors on Wednesday, December 7, 2022. During that meeting, there will be an opportunity to have a management meeting with the auditors without SBM staff. There is a deadline of December 31, 2022, to submit a report to the Supreme Court. Further updates will be available in January.

**Professional Standards:** Lisa J. Hamameh, Chairperson

Ms. Hamameh reported that there was no quorum at their first meeting. An electronic vote was taken after the meeting to recommend the nominations for Character and Fitness Committee appointments.

**Communications and Member Services (CAMS):** Joseph P. McGill, Chairperson

Mr. McGill reported that the committee had its first meeting of the Bar year. The meeting was just a review of the anticipated work of the committee for this upcoming Bar year.

## **FOR THE GOOD OF THE PUBLIC AND THE PROFESSION**

### **Comments or questions from Commissioners**

Ms. Bryant shared that Sunday, November 20, 2022, at the Garden Theatre from 2:00 to 5:00 p.m. the Wolverine Bar Association will be hosting the annual law school reception.

### **Comments or questions from the public**

There were none.

### **Adjournment**

The meeting was adjourned at 11:27 a.m.

**State Bar of Michigan  
Executive Committee Virtual Meeting  
Thursday, October 13, 2022  
4:00 p.m.**

President Heath called the meeting to order at 4:02 p.m.

**Members Present:** President James W. Heath, President-Elect Daniel D. Quick, Vice President Joseph P. McGill, Secretary Lisa Hamameh, Treasurer Erika L. Bryant, Representative Assembly Chair Gerrow (Gerry) Mason, RA Chair-Elect Yolanda Bennett, and commissioners Aaron V. Burrell and Hon. David Perkins

**Members Absent:** Commissioner Suzanne C. Larsen

**State Bar Staff Present:** Peter Cunningham, Executive Director; Drew Baker, General Counsel; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Assistant Executive Director; Gregory Conyers, Director of Diversity; Tatiana Goodkin, Chief Financial Officer; and Nathan Triplett, Public Policy Director

**Minutes:**

A motion was offered to approve the July 12, 2022 minutes. The motion was seconded and approved.

**President and Executive Director's Report**

Mr. Cunningham informed the committee that that the State Bar was working with the Attorney Grievance Commission and the Attorney Discipline Board to combine their Retiree Health Care Trusts. This item will be brought before the Board at a future meeting.

Mr. Heath remarked that he attended the 50-year Golden Celebration in Novi last week and that it was a wonderful event. He recommended that each member attend the next one scheduled for May 2023.

Mr. Heath stated that the officers of the Board met on October 4 and will meet quarterly to discuss issues facing the Bar. He stated that one topic discussed was a resolution that was brought to the legislature for the impeachment of Judge Cunningham, Oakland County Circuit Court judge. After discussion, the officers agreed that no response to this should be taken on behalf of the State Bar while recognizing that the judge was doing his job. Mr. Heath worked with Mr. Cunningham and Ms. Raymer to draft a response, should there be a need for one. Ms. Baker was asked if this issue would be Keller permissible and she indicated that according to SBM policy, it was.

Mr. Heath told the committee he and Mr. Cunningham were working on the agenda for the retreat taking place in Lansing on November 17. Ms. Bossenbery stated that about 20 commissioners have registered, 5 will not be able to attend, and she is waiting to hear from the others. The deadline to respond is October 20.

Mr. Heath mentioned that he is taking this call from the State Bar building because afterward he is attending a retirement celebration for former SBM Board member Judge Clinton Canady III.

### **Representative Assembly (RA)**

Mr. Mason provided the committee with an update of the activities of the Representative Assembly that he, Ms. Bennett, and Mr. Reiser plan to address during his term as chair. These include increasing attendance at meetings, perhaps by holding the meetings in different locations; focusing on access to justice participation among the RA members; and implementing the recommendations received from the RA Committee on the Relevancy of the RA.

Mr. Mason indicated that he had brainstormed with Mr. Heath; Ms. Bentley, executive director of the Michigan State Bar Foundation; and Mr. Cunningham about perhaps using his connections with Coach Harbaugh, head coach of the University of Michigan's football team, to work on an ATJ fundraising event. Mr. Mason wants to see 100% contributions from the RA and BOC members.

Mr. Mason stated that Mr. Ohanesian has agreed to continue a leadership role in the efforts to implement the recommendations from the committee on increasing the Relevancy of the RA.

Mr. Mason wants to have a Face of Justice and an ATJ presentation at a future RA meeting.

### **National Bar Association Reception for Reginald Turner**

Mr. Conyers reviewed the memo the committee received about a request from the National Bar Association asking the SBM to cosponsor a congratulatory reception on October 26, 2022, for Past President Reginald Turner in honor of his year as American Bar Association president. This sponsorship is another opportunity to buttress the work of SBM to improve the diversity and inclusion of the profession.

A motion was offered and supported to have the State Bar of Michigan be a platinum sponsor of the event at a level of \$1,500 that includes two tables of 10 seats, which will be offered to officers and BOC members first. The motion was seconded and approved.

### **Request to file an amicus brief in *Tammy McNeill-Marks v Mid-Michigan Medical Center***

Mr. Heath stated that the SBM received a request to file an amicus brief in *Tammy McNeill-Marks v Mid-Michigan Medical Center*. He asked Ms. Baker to review the memo that the committee received. Ms. Baker stated that the memo, drafted in July 2020 by Mr. Flood and Ms. Welch, informed the Board this issue would be coming before the SBM. She said that the issue should be addressed at the legislative level, which failed to define a key term under Michigan's Whistle Blower statute. Therefore, there was not a clear question for the SBM to address in an amicus brief. The committee took no action on this issue.

### **Other**

Congratulations were offered to Mr. Quick on his engagement.

Congratulations were offered to Mr. Conyers on his wedding.

The committee was informed that Judge Perkins is receiving a Freedom Award from the Western Wayne County NAACP on Sunday, October 16, 2022.

**Adjournment** The meeting was adjourned at 4:40 p.m.

**President James W. Heath**  
**President's Activities**  
**November 18, 2022 through January 20, 2023**

Date	Event	Location
November 21	Detroit Aglow Holiday Event	Detroit
December 1	Oakland County Bar Association	Birmingham
December 6	Detroit Bar Association	Detroit
December 8	Incorporated Irish American Lawyers Society	Detroit
December 12	MJC Statewide Case Management Workgroup Meeting MJC Alternative Court Funding Workgroup Meeting	Virtual
December 12	Third Circuit Court Chief Judge Recognition Event	Detroit
December 13	Bar Leaders of Oakland County	Virtual
December 14	Federal Bar Association of Eastern District	Detroit
December 15 <sup>4</sup>	Wolverine Bar Association and D. Augustus Straker Bar Association	Detroit
December 15	Executive Committee meeting	Virtual
December 15	Black Women Lawyers of Michigan	Virtual
January 11	SBM Officers meeting	Detroit
January 20	SBM Board of Commissioners meeting	Lansing

**Executive Director Peter Cunningham**  
**Executive Director Activities**  
**November 19, 2022 through January 20, 2023**

Date	Event
November 21	Meeting with Marcia Hune, Governmental Consulting Services, Inc. and Nathan Triplett
November 21	Diversity, Equity, and Inclusion (DEI) Executive Committee
December 2	JFA - Communications Committee meeting
December 6	JFA Legal Aid Funding committee meeting
December 7	Audit Committee meeting
December 7	Meeting with Janet Ruffing of Reliaguide
December 8	ABA Division of Bar Services Webinar on the Bar Leadership Institute
December 12	JFA Resource Committee meeting
December 12	JFA Commission meeting
December 14	Professional Standards Committee meeting
December 15	JFA Co-Chairs Monthly meeting
December 16	Judicial Section Council meeting
December 16	DEI Executive Committee meeting
December 22	JFA Executive Committee
January 5	Meeting with Vice President Joseph McGill
January 5	Meeting with President Heath and Marge Bossenbery
January 5	JFA Executive Committee meeting
January 5	Executive Committee meeting
January 10	Communications and Membership Services (CAMS) Committee meeting
January 11	Professional Standards Committee Meeting
January 11	Meeting with the SBM Officers
January 12	A Lawyer Helps Program
January 13	JFA Communications Committee Meeting
January 13	Meeting with RA Vice Chair Yolanda Bennett
January 13	Meeting with Commissioner Nick Ohanesian
January 17	Finance Committee Meeting

Date	Event
	Audit Committee Meeting
January 19	Public Policy Committee Meeting
January 19	JFA Executive Committee meeting
January 20	Diversity, Equity, and Inclusion (DEI) Executive Committee
January 20	Board of Commissioners Meeting

# State Bar of Michigan Financial Results Summary

For the Two Months Ended November 30, 2022  
Fiscal Year 2023

## Administrative Fund - Summary of Results as of November 30, 2022

Operating Revenue	\$2,247,171
Operating Expense	<u>\$1,758,820</u>
Operating Loss	\$488,351
Non-Operating Income (Loss)	<u>\$444,168</u>
Change in Net Position	<u><u>\$932,519</u></u>
Net Position, October 1, 2022	\$9,813,122
Net Position, September 30, 2022	\$10,745,641

As of November 30, 2022, Net Position excluding Retiree Healthcare Trust was \$7,979,577, an increase of \$540,524 since the beginning of the year and favorable to budget by \$162,550.

### **YTD Operating Revenue variance - \$9,671, unfavorable to budget (0.4%):**

Operating revenue was lower primarily due to lower credit card recovery fees, offset by higher lawyer referral services revenue.

### **YTD Operating Expense variance - \$155,565, favorable to budget (8.1%):**

Salaries and Employee Benefits/ Payroll Taxes – \$35,331, favorable (2.9%)

- Under budget due to lower salary expenses (\$23,327), and lower payroll taxes and benefits (\$12,004).

Non-Labor Operating Expenses - \$120,234, favorable (17.6%)

- Legal - \$15,367, favorable (47.8%) – Under budget in C&F and General Counsel.
- Public and Bar Services - \$27,095, favorable (18.3%) – Under budget primarily in Outreach and IT, some due to timing.
- Operations and Policy - \$77,772, favorable (15.5%) – Under budget with the largest variance in Finance due to lower credit card processing fees and EO.



**YTD Non-Operating Revenue Budget Variance - \$411,834 favorable to budget 1,274%:**

- Interest income is favorable to budget by \$16,656 (51.5%).
- Retiree Health Care Trust net investment gain of \$395,178 (this amount is *not* budgeted).

**Cash and Investment Balance**

As of November 30, 2022, the cash and investment balance in the State Bar Admin Fund (net of “*due to Sections, Client Protection Fund, and Retiree Health Care Trust*”) was \$13,310,379, an increase of \$5,985,806 from the beginning of the year primarily due to collection of license fees.

**SBM Retiree Health Care Trust**

As of November 30, 2022, the SBM Retiree Health Care Trust investments were \$3,933,319, an increase of \$391,992 since the beginning of the year. The change was a result of the investment gain of \$396,188, and deducted investment advisor fees of \$4,196.

**Capital Budget**

As of November 30, 2022, capital expenditures totaled \$34,800.

**Client Protection Fund**

The Net Position of the Client Protection Fund as of November 30, 2022 totaled \$2,144,778, an increase of \$22,987 from the beginning of the year. Claims expenses totaled \$69,238. Through November 30, 2022, there was a total of \$74,038 of authorized but unpaid claims awaiting signed subrogation agreements.

**SBM Membership**

As of November 30, 2022, the active, inactive, and emeritus membership in good standing totaled 46,844 attorneys, a net increase of 71 attorneys since the beginning of the year; the number of paying attorneys decreased by 484. A total of 156 new attorneys have joined the SBM since the beginning of the year.

## Summary of Cash and Investment Balances by Financial Institution

11/30/2022

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Fund Summary
		SBM Chase Checking \$ 461,456.46		Client Protection Fund \$ 2,668,334
		SBM Chase Credit Card \$ 1,945,470.28		State Bar Admin Fund \$ 17,374,077
		SBM Chase E Checking \$ 442,928.00		(including Sections)
		SBM Chase Payroll \$ 107,749.91		Attorney Discipline System \$ 7,302,822
		SBM Chase Savings \$ 120,492.12	0.05%	
		ADS Chase Checking \$ 651,263.42		
		ADS Chase Petty Cash \$ 3,671.33		
		CPF Chase Checking \$ 123,840.15		
		CPF Chase Savings \$ 10,459.26	0.05%	SBM Retiree Health Care Trust \$ 3,933,319
\$3.4 Trillion	5 stars	<b>** Chase Total \$ 3,867,330.93</b>		ADB Retiree Health Care Trust \$ 1,283,803
		SBM Horizon Bank Money Market \$ 10,049.28	0.36%	AGC Retiree Health Care Trust \$ 4,080,590
\$7.6 Billion	5 stars	<b>Horizon Bank Total w/CD \$ 1,999,971.64</b>		<b>Total \$ 36,642,945</b>
		SBM Fifth Third Commercial Now \$ 283,191.39	0.40%	<b>State Bar Admin Fund Summary</b>
\$206 Billion	4 stars	<b>Fifth Third Total \$ 283,191.39</b>		Cash and Investments \$ 17,374,077
		Grand River Bank Money Market \$ 10,074.16	1.40%	Less:
\$511 Million	5 stars	<b>Grand River Bank Total w/CD \$ 10,074.16</b>		Due (to)/from Sections \$ (4,044,013)
		MSUCU Savings \$ 56.09	0.00%	Due (to)/from CPF \$ (19,685)
		MSUCU Checking \$ 8,575.58	0.00%	Due to Sections and CPF \$ (4,063,698)
		<b>MSU Credit Union Total \$ 8,631.67</b>		Net Administrative Fund \$ 13,310,379
\$6.8 Billion	5 stars	<b>MSU Credit Union Total w/CD \$ 1,004,578.21</b>		
		LAFUCU Savings \$ 5.00		
\$953 Million	5 stars	<b>LAFUCU Total w/CD \$ 5.00</b>		
		CASE Cr Un \$ 6.38		
\$388 Million	5 stars	<b>CASE Cr Un Total w/CD \$ 6.38</b>		
		SBM Flagstar ICS Checking \$ 510,733.57	2.20%	
		ADS Flagstar ICS Checking Account \$ 465,591.40	2.20%	
		CPF Flagstar ICS Checking \$ 217,431.90	2.20%	
		<b>Flagstar Bank FDIC Insured \$ 1,193,769.63</b>		

**Notes:**

- Average weighted yields exclude retiree health care trusts.
- All amounts are based on reconciled book balance and interest rates as of 11/30/2022.
- CDARS when used are invested in multiple banks up to the FDIC limit for each bank.
- Funds held in bank accounts are FDIC insured up to \$250,000 per bank.
- The SBM funds held with Charles Schwab in the Retiree Health Care Trusts are invested in 74% equity securities, 24% in bonds, and 2% in money market funds.
- As of 11/30/2022, the funds held by SBM attributable to ADS were \$645,960.78.
- Bank Star rating from Bauer Financial.
- Lockbox fees are offset by 0.30% p.a. on average monthly balance (\*)
- Actual unreconciled Chase balance per statements was \$1,391,640.16 (\*\*).

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Maturity
N/A	N/A	SBM US Treasuries		
		P94 \$ 750,000.00	2.78%	12/1/22
		X87 \$ 498,957.00	3.11%	12/22/22
		S34 \$ 546,530.72	3.87%	1/26/23
		XT1 \$ 744,720.47	3.94%	2/2/23
		XZ7 \$ 2,083,276.19	3.98%	2/9/23
		YA1 \$ 1,040,733.32	3.69%	2/16/23
		T33 \$ 990,373.54	3.87%	2/23/23
		YB9 \$ 741,918.77	4.21%	3/2/23
		YL7 \$ 246,893.30	3.70%	3/16/23
		YM5 \$ 493,136.84	3.78%	3/30/23
		YN3 \$ 1,527,456.41	3.84%	4/6/23
		YU7 \$ 1,500,891.99	4.17%	4/13/23
		W47 \$ 489,551.34	2.22%	5/18/23
		Pending Purchase \$ (744,858.94)		
		<b>SBM US Treasuries Total \$ 10,909,580.95</b>		
		CPF US Treasuries		
		Pending Purchase \$ (99,314.52)		
		R27 \$ 99,704.53	3.18%	12/29/22
		X95 \$ 249,075.42	3.22%	01/05/23
		XT1 \$ 99,296.06	3.94%	02/02/23
		XJ7 \$ 148,805.44	4.00%	02/09/23
		U31 \$ 986,863.33	3.73%	03/23/23
		YN3 \$ 492,727.88	3.84%	04/06/23
		YJ2 \$ 240,407.08	4.02%	10/05/23
		T33 \$ 99,037.35	4.07%	2/24/23
		<b>CPF US Treasuries Total \$ 2,316,602.57</b>		
		ADS US Treasuries		
		Pending Purchase \$ (595,887.15)		
		X61 \$ 499,650.00	2.88%	12/08/22
		X87 \$ 598,748.40	3.11%	12/22/22
		XS3 \$ 273,537.40	3.82%	01/19/23
		S34 \$ 99,369.22	3.87%	01/26/23
		XT1 \$ 1,290,848.81	3.97%	02/02/23
		XZ7 \$ 1,537,656.23	4.01%	02/08/23
		YA1 \$ 1,139,850.78	2.41%	02/16/23
		T33 \$ 445,668.09	4.07%	02/23/23
		YL7 \$ 246,893.30	3.70%	03/16/23
		<b>ADS US Treasuries Total \$ 5,536,335.08</b>		
		<b>US Treasuries Total \$ 18,762,518.60</b>		
\$25 Billion	5 stars	<b>SBM Flagstar Savings \$ 223,799.93</b>	2.80%	n/a
		<b>\$ 223,799.93</b>		
\$3.8 Billion	4 stars	SBM-CD First National Bank of America \$ -	0.65%	10/12/22
		SBM-CD First National Bank of America \$ -	0.65%	10/16/22
		SBM-CD First National Bank of America \$ -	0.65%	10/16/22
		SBM-CD First National Bank of America \$ -	0.65%	10/16/22
\$6.8 Billion	5 stars	SBM-CD MSU Credit Union \$ -	0.60%	10/28/22
		SBM-CD MSU Credit Union \$ -	0.60%	10/28/22
		SBM-CD MSU Credit Union \$ -	0.60%	10/28/22
		SBM-CD MSU Credit Union \$ -	0.60%	10/28/22
		SBM-CD MSU Credit Union \$ 251,501.65	4.26%	05/21/23
		SBM-CD MSU Credit Union \$ 251,501.65	4.26%	05/21/23
		SBM-CD MSU Credit Union \$ 251,501.65	4.26%	05/21/23
		SBM-CD MSU Credit Union \$ 241,441.59	4.26%	05/21/23
\$7.6 Billion	5 stars	Horizon Bank \$ 244,613.68	4.26%	05/01/23
		Horizon Bank \$ 244,613.68	4.26%	05/01/23
		Horizon Bank \$ 251,186.76	2.66%	12/08/22
		Horizon Bank \$ 251,186.76	2.66%	12/08/22
		Horizon Bank \$ 251,186.76	2.66%	12/08/22
		Horizon Bank \$ 251,186.76	2.66%	12/08/22
		Horizon Bank \$ 247,973.98	2.66%	12/12/22
		Horizon Bank \$ 247,973.98	2.66%	12/12/22
		<b>Bank CD Totals \$ 2,985,868.90</b>		
		<b>Total Cash &amp; Investments (excluding Schwab) \$ 27,345,245.87</b>		
		SBM - Charles Schwab (Ret HC Trust) \$ 3,933,319.03	Mutual Funds	
		ADB - Charles Schwab (Ret HC Trust) \$ 1,283,802.95	Mutual Funds	
		AGC - Charles Schwab (Ret HC Trust) \$ 4,080,589.97	Mutual Funds	
		<b>Charles Schwab Totals \$ 9,297,711.95</b>		
		<b>Grand Total (including Schwab) \$ 36,642,951.44</b>		
		<b>Total amount of cash and investments (excl.Schwab and Treasuries) not FDIC insured \$ 6,121,880.78</b>	<b>22.39%</b>	

Assets & Ratings updated 10/14/2022

**STATE BAR OF MICHIGAN  
ADMINISTRATIVE FUND**

**Unaudited and For Internal Use Only**

**FINANCIAL REPORTS  
November 30, 2022**

**FY 2023**

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan  
Statement of Net Position  
Administrative Fund  
For the Two Months Ending November 30, 2022

	10/31/2022	11/30/2022	Increase (Decrease)	%	Beginning of FY 2023 10/1/22
<b>ASSETS AND DEFERRED OUTFLOWS</b>					
Cash	\$2,981,019	\$3,478,627	\$497,608	16.7%	\$2,451,119
Investments	9,554,037	13,895,450	4,341,413	45.4%	7,953,650
Accounts Receivable	113,639	36,885	(76,754)	(67.5%)	54,731
Due from (to) CPF	(22,263)	(19,685)	2,578	(11.6%)	(4,068)
Due to Sections	(3,602,501)	(4,044,013)	(441,512)	12.3%	(3,076,129)
Prepaid Expenses	218,883	240,032	21,149	9.7%	396,913
Lease Receivable	40,779	39,921	(857)	(2.1%)	41,636
Capital Assets	3,210,528	3,149,088	(61,441)	(1.9%)	3,193,128
SBM Retiree Health Care Trust	3,696,864	3,933,319	236,455	6.4%	3,541,327
<b>Total Assets</b>	<b>\$16,190,985</b>	<b>\$20,709,624</b>	<b>\$4,518,639</b>	<b>27.9%</b>	<b>\$14,552,308</b>
Deferred outflows of resources related to pensions	38,227	38,227	-	0.0%	38,227
Deferred outflows of resources related to OPEB	616,028	616,028	-	0.0%	616,028
<b>Total Deferred outflows of resources</b>	<b>654,255</b>	<b>654,255</b>	<b>-</b>	<b>0.0%</b>	<b>654,255</b>
<b>Total Assets and Deferred Outflows of Resources</b>	<b>16,845,240</b>	<b>21,363,879</b>	<b>4,518,639</b>	<b>26.8%</b>	<b>15,206,563</b>
<b>LIABILITIES, DERERRED INFLOWS AND NET POSITION</b>					
<b>Liabilities</b>					
Accounts Payable	\$768	\$563	(\$206)	(26.8%)	\$336,346
Accrued Expenses	667,746	695,662	27,916	4.2%	633,546
Deferred Revenue	3,751,244	7,763,056	4,011,813	106.9%	2,263,179
Net Pension Liability	232,483	232,483		0.0%	232,483
Net OPEB Liability	872,429	872,429		0.0%	872,429
<b>Total Liabilities</b>	<b>5,524,670</b>	<b>9,564,193</b>	<b>4,039,523</b>	<b>73.1%</b>	<b>4,337,983</b>
Deferred Inflows Leases	40,825	40,120	(705)	(1.7%)	41,530
Deferred Inflows of resources related to pensions	103,071	103,071		0.0%	103,071
Deferred Inflows of resources related to OPEB	910,857	910,857		0.0%	910,857
<b>Total Deferred inflows of resources</b>	<b>1,054,753</b>	<b>1,054,048</b>	<b>(705)</b>	<b>(0.1%)</b>	<b>1,055,458</b>
<b>Total Liabilities and Deferred Inflows</b>	<b>6,579,423</b>	<b>10,618,241</b>	<b>4,038,818</b>	<b>61.4%</b>	<b>5,393,441</b>
<b>Net Assets</b>					
Invested in Capital Assets, Net of Related Debt	3,210,528	3,149,088	(61,441)	(1.9%)	3,193,128
Restricted for Retiree Health Care Trust	2,529,606	2,766,061	236,455	9.3%	2,374,069
Unrestricted	4,525,683	4,830,489	304,807	6.7%	4,245,924
<b>Total Net Position</b>	<b>10,265,817</b>	<b>10,745,638</b>	<b>479,821</b>	<b>4.7%</b>	<b>9,813,122</b>
<b>Total Liabilities, Deferred Inflows and Net Position</b>	<b>\$16,845,240</b>	<b>\$21,363,879</b>	<b>\$4,518,639</b>	<b>26.8%</b>	<b>\$15,206,563</b>
<b>Net Position <u>excluding</u> the impacts of retiree health care</b>	<b>\$7,736,211</b>	<b>\$7,979,577</b>	<b>\$243,366</b>	<b>1.9%</b>	<b>\$7,439,053</b>

Note: Cash and investments actually available to the State Bar Administrative Fund, after deduction of the "Due to Sections" and "Due to CPF" and not including the "Retiree Health Care Trust" is \$13,310,379 (see below)

**CASH AND INVESTMENT BALANCES**

Cash (including CD's and Money Market)	\$2,981,019	\$3,478,627	\$497,608	16.7%	\$2,451,119
Investments	9,554,037	13,895,450	4,341,413	45.4%	7,953,650
<b>Total Available Cash and Investments</b>	<b>12,535,056</b>	<b>17,374,077</b>	<b>4,839,021</b>	<b>38.6%</b>	<b>10,404,769</b>
<b>Less:</b>					
Due to Sections	3,602,501	4,044,013	441,512	12.3%	3,076,129
Due to CPF	22,263	19,685	(2,578)	(11.6%)	4,068
<b>Due to Sections and CPF</b>	<b>3,624,764</b>	<b>4,063,698</b>	<b>438,934</b>	<b>12.1%</b>	<b>3,080,196</b>
<b>Net Administrative Fund Cash and Investment Balance</b>	<b>8,910,292</b>	<b>13,310,379</b>	<b>4,400,087</b>	<b>49.4%</b>	<b>7,324,573</b>

State Bar of Michigan  
Statement of Revenue, Expense, and Net Assets  
Administrative Fund  
For the Two Months Ending November 30, 2022

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
<b>Revenue</b>							
<b>Legal</b>							
Ethics	\$1,225	\$1,950	(\$725)	(37.18%)	\$225	\$1,000	444.44%
Character & Fitness	47,420	47,427	(7)	(0.01%)	32,275	15,145	46.92%
<b>Legal Total</b>	<b>48,645</b>	<b>49,377</b>	<b>(732)</b>	<b>(1.48%)</b>	<b>32,500</b>	<b>16,145</b>	<b>49.68%</b>
<b>Public and Bar Services</b>							
Lawyer Services	25,307	25,600	(293)	(1.14%)	25,841	(534)	(2.07%)
Practice Management Resource Center	1,120	500	620	124.00%	-	1,120	0.00%
Lawyer Referral Service	50,003	25,001	25,002	100.00%	76,092	(26,089)	(34.29%)
LJAP	10,458	11,416	(958)	(8.39%)	7,675	2,783	36.26%
<b>Public and Bar Services Total</b>	<b>86,888</b>	<b>62,517</b>	<b>24,371</b>	<b>38.98%</b>	<b>109,608</b>	<b>(22,720)</b>	<b>(20.73%)</b>
<b>Operations and Policy</b>							
License Fees	1,805,689	1,803,634	2,055	0.11%	1,250,931	554,758	44.35%
Other Revenue	184,200	216,016	(31,816)	(14.73%)	60,647	123,553	203.72%
Bar Journal Directory	213	-	213	0.00%	-	213	0.00%
Bar Journal	93,519	94,301	(782)	(0.83%)	68,044	25,475	37.44%
Print and Design	4,578	6,830	(2,252)	(32.97%)	6,838	(2,260)	(33.05%)
e-Journal	16,484	16,250	234	1.44%	18,368	(1,884)	(10.26%)
Digital	6,955	7,917	(962)	(12.15%)	6,300	655	10.40%
<b>Operations and Policy Total</b>	<b>2,111,638</b>	<b>2,144,948</b>	<b>(33,310)</b>	<b>(1.55%)</b>	<b>1,411,128</b>	<b>700,510</b>	<b>49.64%</b>
<b>Non-Operating Revenue</b>							
Investment Income - SBM Operations	48,990	32,334	16,656	51.51%	7,872	41,118	522.33%
Investment Income - Ret HC Trust	395,178	-	395,178	0.00%	5,964	389,214	6,526.06%
<b>Total Non-Operating Revenue</b>	<b>444,168</b>	<b>32,334</b>	<b>411,834</b>	<b>1,273.69%</b>	<b>13,836</b>	<b>430,332</b>	<b>3,110.23%</b>
<b>Total Revenue</b>	<b>2,691,339</b>	<b>2,289,176</b>	<b>402,163</b>	<b>17.57%</b>	<b>1,567,072</b>	<b>1,124,267</b>	<b>71.74%</b>

State Bar of Michigan  
Statement of Revenue, Expense and Net Assets  
Administrative Fund  
For the Two Months Ending November 30, 2022

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
<b>Expense</b>							
<b>Legal</b>							
Ethics	\$2,077	\$1,935	\$142	7.34%	\$1,968	\$109	5.54%
Client Protection Fund Dept	1,168	1,317	(149)	(11.31%)	621	547	88.08%
Character & Fitness	2,172	9,497	(7,325)	(77.13%)	3,007	(835)	(27.77%)
UPL	2,361	3,455	(1,094)	(31.66%)	1,281	1,080	84.31%
General Counsel	577	7,157	(6,580)	(91.94%)	2,507	(1,930)	(76.98%)
Human Resources	329,806	342,171	(12,365)	(3.61%)	326,966	2,840	0.87%
Salaries	201,414	207,684	(6,270)	(3.02%)	176,336	25,078	14.22%
<b>Legal Total</b>	<b>539,575</b>	<b>573,216</b>	<b>(33,641)</b>	<b>(5.87%)</b>	<b>512,686</b>	<b>26,889</b>	<b>5.24%</b>
<b>Public and Bar Services</b>							
Inaugural and Awards Luncheon (Formerly Annual Meeting)	25	-	25	0.00%	-	25	0.00%
Lawyer Services	5,999	5,145	854	16.60%	4,500	1,499	33.31%
UMLI	13	-	13	0.00%	-	13	0.00%
50 Yr. Golden Celebration	4,375	3,500	875	25.00%	-	4,375	0.00%
Practice Management Resource Center	2,137	2,839	(702)	(24.73%)	462	1,675	362.55%
Lawyer Referral Service	3,954	4,083	(129)	(3.16%)	911	3,043	334.03%
Outreach	12,733	17,248	(4,515)	(26.18%)	3,871	8,862	228.93%
Diversity	6,525	6,916	(391)	(5.65%)	225	6,300	2,800.00%
LJAP	3,831	5,016	(1,185)	(23.62%)	335	3,496	1,043.58%
Technical Services	81,691	103,631	(21,940)	(21.17%)	95,714	(14,023)	(14.65%)
Salaries	325,580	323,730	1,850	0.57%	297,643	27,937	9.39%
<b>Total Public and Bar Services</b>	<b>446,863</b>	<b>472,108</b>	<b>(25,245)</b>	<b>(5.35%)</b>	<b>403,661</b>	<b>43,202</b>	<b>10.70%</b>
<b>Operations and Policy</b>							
Administration	45,935	45,199	736	1.63%	36,367	9,568	26.31%
Financial Services	192,447	253,182	(60,735)	(23.99%)	222,649	(30,202)	(13.56%)
Bar Journal	47,416	48,396	(980)	(2.02%)	50,332	(2,916)	(5.79%)
Print and Design	8,197	10,166	(1,969)	(19.37%)	4,693	3,504	74.66%
Digital	51,780	54,416	(2,636)	(4.84%)	53,665	(1,885)	(3.51%)
e-Journal	2,908	3,500	(592)	(16.91%)	2,293	615	26.82%
General Communications	1,380	5,208	(3,828)	(73.50%)	454	926	203.96%
Executive Office	2,510	7,526	(5,016)	(66.65%)	3,944	(1,434)	(36.36%)
Board of Commissioners	5,805	6,190	(385)	(6.22%)	4,579	1,226	26.77%
Governmental Relations	9,971	9,790	181	1.85%	9,328	643	6.89%
Research and Development	180	1,450	(1,270)	(87.59%)	197	(17)	(8.63%)
Facilities Services	54,282	55,849	(1,567)	(2.81%)	42,512	11,770	27.69%
Justice Initiatives	706	417	289	69.30%	455	251	55.16%
Salaries	348,865	367,772	(18,907)	(5.14%)	346,577	2,288	0.66%
<b>Operations and Policy Total</b>	<b>772,382</b>	<b>869,061</b>	<b>(96,679)</b>	<b>(11.12%)</b>	<b>778,045</b>	<b>(5,663)</b>	<b>(0.73%)</b>
<b>Total Expense</b>	<b>1,758,820</b>	<b>1,914,385</b>	<b>(155,565)</b>	<b>(8.13%)</b>	<b>1,694,392</b>	<b>64,428</b>	<b>3.80%</b>
<b>Increase (Decrease) in Net Assets</b>	<b>\$932,518</b>	<b>\$374,790</b>	<b>\$557,728</b>	<b>148.81%</b>	<b>(\$127,320)</b>	<b>\$1,059,838</b>	<b>(832.42%)</b>
<b>Human Resources Detail</b>							
Payroll Taxes	65,245	69,376	(4,131)	(5.95%)	59,295	5,950	10.03%
Benefits	256,124	263,997	(7,873)	(2.98%)	258,321	(2,197)	(0.85%)
Other Expenses	8,437	8,798	(361)	(4.10%)	9,350	(913)	(9.76%)
<b>Total Human Resources</b>	<b>329,806</b>	<b>342,171</b>	<b>(12,365)</b>	<b>(3.61%)</b>	<b>326,966</b>	<b>2,840</b>	<b>0.87%</b>
<b>Financial Services Detail</b>							
Depreciation	78,841	77,000	1,841	2.39%	74,900	3,941	5.26%
Credit Card Processing Fees	90,118	153,000	(62,882)	(41.10%)	127,608	(37,490)	(29.38%)
Other Expenses	23,488	23,182	306	1.32%	20,141	3,347	16.62%
<b>Total Financial Services</b>	<b>192,447</b>	<b>253,182</b>	<b>(60,735)</b>	<b>(23.99%)</b>	<b>222,649</b>	<b>(30,202)</b>	<b>(13.56%)</b>
<b>Salaries</b>							
Legal	201,414	207,684	(6,270)	(3.02%)	176,336	25,078	14.22%
Public and Bar Services	325,580	323,730	1,850	0.57%	297,643	27,937	9.39%
Operations and Policy	348,865	367,772	(18,907)	(5.14%)	346,577	2,288	0.66%
<b>Total Salaries Expense</b>	<b>875,859</b>	<b>899,186</b>	<b>(23,327)</b>	<b>(2.59%)</b>	<b>820,556</b>	<b>55,303</b>	<b>6.74%</b>
<b>Non-Labor Expense Summary</b>							
Legal	16,792	32,159	(15,367)	(47.78%)	18,734	(1,942)	(10.37%)
Public and Bar Services	121,283	148,378	(27,095)	(18.26%)	106,018	15,265	14.40%
Operations and Policy	423,517	501,289	(77,772)	(15.51%)	431,468	(7,951)	(1.84%)
<b>Total Non-Labor Expense</b>	<b>561,592</b>	<b>681,826</b>	<b>(120,234)</b>	<b>(17.63%)</b>	<b>556,220</b>	<b>5,372</b>	<b>0.97%</b>

State Bar of Michigan  
Statement of Revenue, Expense and Net Assets  
For the Two Months Ending November 30, 2022

**YTD FY 2023 Increase (Decrease) in Net Position Summary**

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year Actual YTD	Variance	Percentage
<b>Operating Revenue</b>							
- License Fees, Dues & Related	1,805,689	1,803,634	2,055	0.1%	1,250,931	554,758	44.3%
- All Other Op Revenue	441,482	453,208	(11,726)	(2.6%)	302,305	139,177	46.0%
Total Operating Revenue	2,247,171	2,256,842	(9,671)	(0.4%)	1,553,236	693,935	44.7%
<b>Operating Expenses</b>							
- Labor-related Operating Expenses							
Salaries	875,859	899,186	(23,327)	(2.6%)	820,556	55,303	6.7%
Benefits and PR Taxes	321,369	333,373	(12,004)	(3.6%)	317,616	3,753	1.2%
Total Labor-related Operating Expenses	1,197,228	1,232,559	(35,331)	(2.9%)	1,138,172	59,056	5.2%
- Non-labor Operating Expenses							
Legal	16,792	32,159	(15,367)	(47.8%)	18,734	(1,942)	(10.4%)
Public and Bar Services	121,283	148,378	(27,095)	(18.3%)	106,018	15,265	14.4%
Operations and Policy	423,517	501,289	(77,772)	(15.5%)	431,468	(7,951)	(1.8%)
Total Non-labor Operating Expenses	561,592	681,826	(120,234)	(17.6%)	556,220	5,372	1.0%
Total Operating Expenses	1,758,820	1,914,385	(155,565)	(8.1%)	1,694,392	64,428	3.8%
Operating Income (Loss)	488,351	342,457	145,894	42.6%	(141,156)	629,507	(446.0%)
<b>Non-operating Revenue (Expenses)</b>							
Investment Income	48,990	32,334	16,656	51.5%	7,872	41,118	522.3%
Investment Income - Ret HC Trust	395,178	-	395,178	N/A	5,964	389,214	N/A
Loss on Disposal of Capital Asset	-	-	-	N/A	-	-	N/A
Net Non-operating Revenue (Expenses)	444,168	32,334	411,834	1,274%	13,836	430,332	3,110%
<b>Increase (Decrease) in Net Position</b>	<b>932,519</b>	<b>374,791</b>	<b>557,728</b>	<b>N/A</b>	<b>(127,320)</b>	<b>1,059,839</b>	<b>N/A</b>
Net Position - Beginning the Year	9,813,122	9,813,122	-	0.0%	11,773,220	(1,960,098)	(16.6%)
<b>Net Position - Year-to-Date</b>	<b>10,745,641</b>	<b>10,187,913</b>	<b>557,728</b>	<b>5.5%</b>	<b>11,645,900</b>	<b>(900,259)</b>	<b>(7.7%)</b>
<b>Increase (Decrease) in Net Position Excluding Ret HC Trust Investment Income (Loss)</b>	<b>537,341</b>	<b>374,791</b>	<b>162,550</b>	<b>43.4%</b>	<b>(133,284)</b>	<b>670,625</b>	<b>(503.2%)</b>



State Bar of Michigan  
Administrative Fund  
FY 2023 Capital Expenditures vs Budget  
For the Two Months Ending November 30, 2022

	YTD Actual	YTD Budget	YTD Variance	Notes and Variance Explanations	Total Approved FY 2023 Budget	FY 2023 Year-End Forecast	Projected Year-end Variance
<b>FACILITIES, FURNITURE &amp; OFFICE EQUIPMENT</b>							
Replacement of Floor Copiers/Scanners	-	-	-	Completed in FY 2022	\$ 27,000	\$ -	\$ 27,000
HVAC System Controller Upgrade	-	-	-		35,600	35,600	\$ -
Projector replacement for meeting rooms	-	-	-		20,000	20,000	\$ -
Wiring closet racks	-	-	-		10,000	10,000	\$ -
New microfiche machine	-	-	-		8,000	8,000	\$ -
New security system camera and DVR replacement	-	-	-		10,000	10,000	\$ -
Print center color printer	-	-	-		46,700	46,700	\$ -
Upgrade of the virtual meeting room equipment for BOC meetings	-	-	-		20,000	20,000	\$ -
<b>Total Facilities, Furniture &amp; Office Equipment:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>		<b>\$ 177,300</b>	<b>\$ 150,300</b>	<b>\$ 27,000</b>
<b>INFORMATION TECHNOLOGY</b>							
<b><u>IT Infrastructure:</u></b>							
Replacement of ethernet switches for rooms 2, 3, 4 and garden level	-	-	-		\$ 52,000	\$ 52,000	\$ -
Wiring upgrade for the data center	-	-	-		10,000	10,000	\$ -
<b><u>Application Software Development:</u></b>							
Receivership /Interim Administrator Program data portal	11,600	11,600	-		40,600	40,600	\$ -
E-commerce Store	-	-	-		11,600	11,600	\$ -
E-commerce Events	11,600	11,600	-		29,000	29,000	\$ -
API Development for NetSuite or Sage Intacct	-	-	-		11,600	11,600	\$ -
E-commerce License Fee Updates	-	-	-		34,800	34,800	\$ -
e-Services Application to Court e-Filing (mi-File)	-	-	-		11,600	11,600	\$ -
Firm Administration and Billing	-	-	-		23,200	23,200	\$ -
Website Functionality Enhancements	11,600	11,600	-		11,600	11,600	\$ -
Character & Fitness Application Module (for BLE)	-	-	-		11,600	11,600	\$ -
Volunteer Application (Accessibility updates)	-	-	-		5,800	5,800	\$ -
Consumer Portal (LRS)	-	-	-		17,400	17,400	\$ -
<b>Total Information Technology:</b>	<b>\$ 34,800</b>	<b>\$ 34,800</b>	<b>\$ -</b>		<b>\$ 270,800</b>	<b>\$ 270,800</b>	<b>\$ -</b>
<b>Total Capital Budget:</b>	<b>\$ 34,800</b>	<b>\$ 34,800</b>	<b>\$ -</b>		<b>\$ 448,100</b>	<b>\$ 421,100</b>	<b>\$ 27,000</b>

**STATE BAR OF MICHIGAN  
CLIENT PROTECTION FUND**

**Unaudited and For Internal Use Only**

**FINANCIAL REPORTS  
November 30, 2022**

**FY 2023**

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

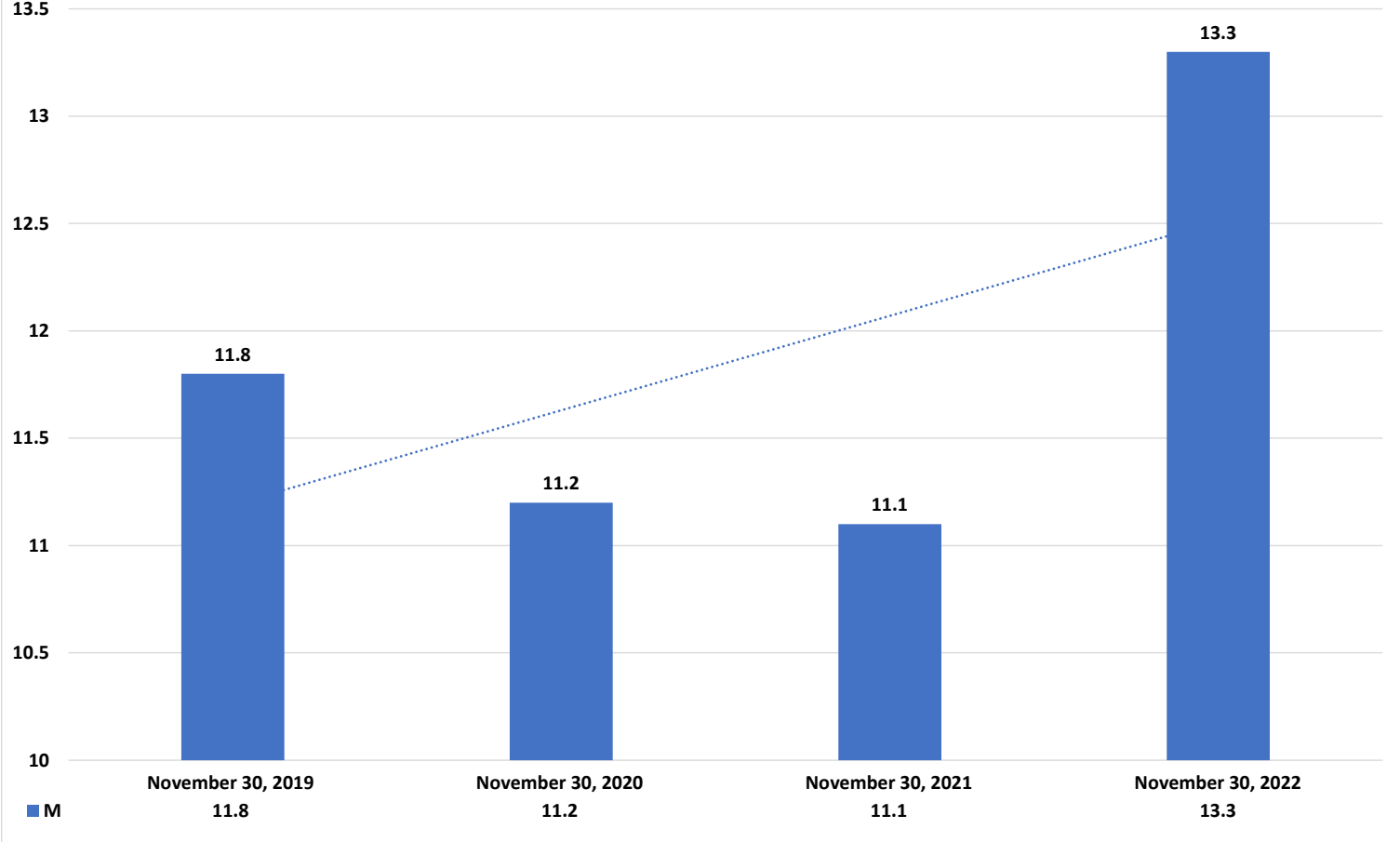
State Bar Of Michigan  
Client Protection Fund  
Comparative Statement of Net Assets  
For the Two Months Ending November 30, 2022

	10/31/2022	11/30/2022	Increase (Decrease)	%	Beginning of FY 2023 10/1/22
<b>Assets</b>					
Cash-Checking	\$36,164	\$123,840	\$87,676	242.4%	\$27,190
Savings	287,525	227,891	(59,634)	(20.7%)	183,275
Investments	2,061,532	2,316,603	255,070	12.4%	2,081,625
Account Receivable	-	-	-	0.0%	1,625
Due From SBM	22,263	19,685	(2,578)	(11.6%)	4,068
<b>Total Assets</b>	<b>\$2,407,484</b>	<b>\$2,688,019</b>	<b>\$280,534</b>	<b>11.7%</b>	<b>\$2,297,783</b>
<b>Liabilities</b>					
Claims Payable	\$12,300	\$74,038	\$61,738	501.9%	\$56,531
Deferred Revenue	229,505	469,203	239,698	104.4%	119,460
<b>Total Liabilities</b>	<b>241,805</b>	<b>543,241</b>	<b>301,436</b>	<b>124.7%</b>	<b>175,991</b>
<b>Fund Balance</b>					
Fund Balance at Beginning of Year	2,121,791	2,121,791	-	0.0%	1,834,119
Net Income (Expense) Year to Date	43,888	22,987	(20,902)	(47.6%)	287,672
<b>Total Fund Balance</b>	<b>2,165,679</b>	<b>2,144,778</b>	<b>(20,902)</b>	<b>(1.0%)</b>	<b>2,121,791</b>
<b>Total Liabilities and Fund Balance</b>	<b>\$2,407,484</b>	<b>\$2,688,019</b>	<b>\$280,534</b>	<b>11.7%</b>	<b>\$2,297,782</b>

Client Protection Fund  
Statement of Revenue, Expenses, and Changes in Net Assets□  
For the Two Months Ended November 30, 2022

	2023 YTD	2022 YTD
Income:		
3-7-00-000-0005 Contributions Received	100	1,916
3-7-00-000-0050 License Fees Assessment	107,750	106,724
3-7-00-000-0051 Pro Hac Vice Fees	1,920	1,755
3-7-00-000-0890 Claims Recovery	3,329	5,342
<b>Total Income</b>	<b>113,099</b>	<b>115,737</b>
Expenses:		
3-9-00-000-0200 Claims Payment	69,238	176,690
3-9-00-000-0910 Administrative Fee	30,000	28,750
3-9-00-000-0994 Bank Service Charges	70	70
<b>Total Expenses</b>	<b>99,308</b>	<b>205,510</b>
3-7-00-000-0921 Gain or Loss on Investment	8,779	-
3-7-00-000-0920 Interest and Dividends	417	379
	<b>9,196</b>	<b>379</b>
<b>Increase/Decrease in Net Position</b>	<b>22,987</b>	<b>(89,394)</b>
3-5-00-000-1010 Fund Balance	2,121,791	1,834,119
<b>Net Position, End of Period</b>	<b>2,144,778</b>	<b>1,744,725</b>

**State Bar of Michigan Cash & Investments**  
**Excluding Sections, Client Protection Fund and Retiree Health Care Trust**  
**For the Two Months Ending November 30, 2022**  
**\$13.3M**



Note: The State Bar of Michigan has no bank debt outstanding

**Monthly SBM Attorney and Affiliate Report - November 30, 2022**

**FY 2023**

	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	September 30 2021	September 30 2022	November 30 2022	FY Increase (Decrease)
<b>Attorneys and Affiliates In Good Standing</b>									
Active	41,921	42,100	42,342	42,506	42,401	42,393	42,395	42,070	(325)
Less than 50 yrs serv	40,725	40,833	40,973	41,036	40,559	40,504	40,680	40,052	(628)
50 yrs or greater	1,196	1,267	1,369	1,470	1,842	1,889	1,715	2,018	303
Voluntary Inactive	1,250	1,243	1,169	1,139	1,192	1,097	1,072	1,235	163
Less than 50 yrs serv	1,230	1,217	1,142	1,105	1,149	1,055	1,030	1,174	144
50 yrs or greater	20	26	27	34	43	42	42	61	19
Emeritus	1,841	1,973	2,204	2,447	2,727	3,033	3,306	3,539	233
<b>Total Attorneys in Good Standing</b>	<b>45,012</b>	<b>45,316</b>	<b>45,715</b>	<b>46,092</b>	<b>46,320</b>	<b>46,523</b>	<b>46,773</b>	<b>46,844</b>	<b>71</b>
<b>Fees paying Attorneys (Active &amp; Inactive less than 50 yrs of Serv)</b>	<b>41,955</b>	<b>42,050</b>	<b>42,115</b>	<b>42,141</b>	<b>41,708</b>	<b>41,559</b>	<b>41,710</b>	<b>41,226</b>	<b>(484)</b>
<b>Affiliates</b>									
Legal Administrators	13	13	10	10	8	5	2	2	-
Legal Assistants	405	400	401	393	317	219	214	222	8
<b>Total Affiliates in Good Standing</b>	<b>418</b>	<b>413</b>	<b>411</b>	<b>403</b>	<b>325</b>	<b>224</b>	<b>216</b>	<b>224</b>	<b>8</b>
<b>Total Attorneys and Former Attorneys in the Database</b>									
	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	September 30 2021	September 30 2022	November 30 2022	FY Increase (Decrease)
<b>State Bar of Michigan Attorney and Affiliate Type</b>									
<b>Attorneys in Good Standing:</b>									
ATA (Active)	41,921	42,100	42,342	42,506	42,401	42,393	42,395	42,070	(325)
ATVI (Voluntary Inactive)	1,250	1,243	1,169	1,139	1,192	1,097	1,072	1,235	163
ATE (Emeritus)	1,841	1,973	2,204	2,447	2,727	3,033	3,306	3,539	233
<b>Total Attorneys in Good Standing</b>	<b>45,012</b>	<b>45,316</b>	<b>45,715</b>	<b>46,092</b>	<b>46,320</b>	<b>46,523</b>	<b>46,773</b>	<b>46,844</b>	<b>71</b>
<b>Attorneys Not in Good Standing:</b>									
ATN (Suspended for Non-Payment of Dues)	5,743	5,888	6,072	6,246	6,416	6,472	6,588	6,572	(16)
ATDS (Discipline Suspension - Active)	418	430	439	440	445	449	454	455	1
ATDI (Discipline Suspension - Inactive)	18	19	19	24	25	25	25	25	-
ATDC (Discipline Suspension - Non-Payment of Court Costs)	3	16	15	16	16	14	14	14	-
ATNS (Discipline Suspension - Non-Payment of Other Costs)	99	94	95	98	100	102	106	107	1
ATS (Attorney Suspension - Other)*	1	-	1	1	2	-	-	-	-
ATR (Revoked)	534	562	583	596	613	623	634	638	4
ATU (Status Unknown - Last known status was inactive)**	2,074	2,070	2,070	2,070	2,070	2,070	2,047	2,047	-
<b>Total Attorneys Not in Good Standing</b>	<b>8,890</b>	<b>9,079</b>	<b>9,294</b>	<b>9,491</b>	<b>9,687</b>	<b>9,755</b>	<b>9,868</b>	<b>9,858</b>	<b>(10)</b>
<b>Other:</b>									
ATSC (Former special certificate)	145	152	155	157	158	164	167	168	1
ATW (Resigned)	1,539	1,612	1,689	1,798	1,907	2,036	2,143	2,193	50
ATX (Deceased)	8,720	9,042	9,287	9,524	9,793	10,260	10,664	10,707	43
<b>Total Other</b>	<b>10,404</b>	<b>10,806</b>	<b>11,131</b>	<b>11,479</b>	<b>11,858</b>	<b>12,460</b>	<b>12,974</b>	<b>13,068</b>	<b>94</b>
<b>Total Attorneys in Database</b>	<b>64,306</b>	<b>65,201</b>	<b>66,140</b>	<b>67,062</b>	<b>67,865</b>	<b>68,738</b>	<b>69,615</b>	<b>69,770</b>	<b>155</b>

\* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

\*\* ATU is a new status added in 2010 to account for approximately 2,600 attorneys who were found not to be accounted for in the iMIS database  
The last known status was inactive and many are likely deceased. We are researching these attorneys to determine a final disposition.

N/R - not reported

Notes: Through November 30, 2022 a total of 156 new attorneys joined SBM.

# Memorandum

**To:** State Bar of Michigan Board of Commissioners

**From:** Lisa Hamameh, Chair  
Professional Standards Commissioner Committee

**RE:** State Bar of Michigan's (SBM) Recommendation for Appointment to the Michigan Indian Legal Services (MILS) Board of Trustees

**Date:** January 12, 2023

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The Professional Standards Commissioner Committee met on January 11, 2023, to review and discuss the applications received for the State Bar of Michigan's appointment to the MILS Board of Trustees.

There is one vacancy for the remainder of a term that expires on September 30, 2023, due to the retirement of the Hon. Allie Greenleaf Maldonado. There were four candidates for the vacancy, Michelle A. Bostic, Traverse City; Linda A. Jordan, Royal Oak; Stephanie M. Shannon, Sault Ste. Marie; and Amy L. Wesaw, Vicksburg.

The Professional Standards Committee recommends to the SBM Board of Commissioners the appointment of **Amy L. Wesaw** to the MILS Board of Trustees to serve the remainder of the term expiring on September 30, 2023.



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by February 1, 2022. Comments may be sent in writing to Andrea Crumback, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes amending and combining M Crim JI 7.16 and 7.19, which address conditions for the use of force or deadly force in self-defense or the defense of others in different contexts. The combination and amendments are an effort to reduce confusion in the use of the self-defense instructions involving the duty to retreat. Deletions are in strike-through, and new language is underlined.

**[AMENDED and COMBINED] M Crim JI 7.16 ~~Duty to Retreat to Avoid~~  
Conditions for Using Force  
or Deadly Force**

**~~M Crim JI 7.19 Nondeadly Aggressor~~  
~~Assaulted with Deadly~~  
Force**

*[Select from the following depending on the evidence and circumstances:]*

(1) A person can use [force / deadly force] in self-defense only where it is necessary to do so. If the defendant could have safely retreated but did not do so, you may consider that fact in deciding whether the defendant honestly and reasonably believed [he / she] needed to use [force / deadly force] in self-defense.<sup>1</sup>

[or]



(1) A defendant who [assaults someone else with fists or a weapon that is not deadly / insults someone with words / trespasses on someone else's property / tries to take someone else's property in a nonviolent way] does not lose all right to self-defense. If someone else assaults [him / her] with deadly force, the defendant may act in self-defense but only if [he / she] ~~retreats~~ retreated if it is where it would have been safe to do so.<sup>1</sup>

(2) However,<sup>1</sup> a person is never required to retreat under some circumstances. [He / She] does not need to retreat if [attacked in (his / her) own home / (he / she) reasonably believes that an attacker is about to use a deadly weapon / (he / she) is subjected to a sudden, fierce, and violent attack].<sup>2</sup>

(3) Further, a person is not required to retreat if he or she

(a) has not or is not engaged in the commission of a crime at the time the [force / deadly force] is used,

(b) has a legal right to be where he or she is at that time, and

*[Select from the following according to whether the defendant used deadly force or nondeadly force:]*

(c) has an honest and reasonable belief that the use of [~~force~~ / deadly force] is necessary to prevent imminent [death / great bodily harm / sexual assault] of [himself / herself] or another person.

[or]

(c) has an honest and reasonable belief that the use of force is necessary to prevent the imminent unlawful use of force ~~of~~ against [himself / herself] or another person.

### *Use Note*

Use this instruction when requested where some evidence of self-defense has been introduced or elicited. Where there is evidence that, at the time that the defendant used force or deadly force, he or she was engaged in the commission of some other crime, the Committee on Model Criminal Jury Instructions believes that circumstances of the case may provide the court with a basis to instruct the jury that the defendant does not lose the right to self-defense if the commission of that other offense was not likely to lead to the other person's assaultive behavior. See *People v Townes*, 391 Mich

578, 593; 218 NW2d 136 (1974). The Committee expresses no opinion regarding the availability of self-defense where the other offense may lead to assaultive behavior by another.

1. Paragraph (1) and “However” should be given only if there is a dispute whether the defendant had a duty to retreat. *See People v Richardson*, 490 Mich 115; 803 NW2d 302 (2011).
2. The court may read whatever alternatives may apply or adapt them to other circumstances that may apply to the evidence presented at trial.

**Public Policy Position**  
**Model Criminal Jury Instructions 7.16 and 7.19**

**Support as Drafted**

**Explanation:**

The Committee voted unanimously (21) to support Model Criminal Jury Instructions 7.16 and 7.19 as drafted.

**Position Vote:**

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 6

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by February 1, 2023. Comments may be sent in writing to Andrea Crumback, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes two new instructions, M Crim JI 37.1b and M Crim JI 37.2b, for the crimes of offering bribes to employees or agents or the acceptance of bribes by employees or agents in violation of MCL 750.125(1) and (2), respectively. These instructions are entirely new.

**[NEW] M Crim JI 37.1b Offering Commission, Gift, or Gratuity to Agent or Employee**

- (1) The defendant is charged with the crime of offering or promising a commission, gift, or gratuity to an agent or employee to influence how the agent or employee performs the employer's business. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that [*identify agent or employee*] was the agent or employee of [*name principal or employer*].
- (3) Second, that the defendant [*Select (a) or (b):*]
  - (a) [*gave / offered or promised*] a [*commission / gift / gratuity*] to [*identify agent or employee*].
  - (b) offered to or promised that [*he / she*] would perform some act that would benefit [*identify agent or employee*] or another person.

- (4) Third, that when the defendant [(gave / offered or promised) a (commission / gift / gratuity) to (*identify agent or employee*) / offered to or promised that (he / she) would perform some act or offer to perform some act that would benefit (*identify proposed donor*) or another person], the defendant did so with the intent to influence [*identify agent or employee*]'s actions regarding [*name principal or employer*]'s business.

**[NEW] M Crim JI 37.2b Accepting Commission, Gift, or Gratuity  
by Agent or Employee**

- (1) The defendant is charged with the crime of requesting or accepting a commission, gift, or gratuity as an agent or employee to perform [his / her] employer's business according to an agreement with some other person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant was the agent or employee of [*name principal or employer*].
- (3) Second, that the defendant [*Select (a), (b), or (c):*]
  - (a) [requested / accepted] a [commission / gift / gratuity] from [*identify proposed donor*] for [himself / herself] or another person.
  - (b) [requested / accepted] a promise of a [commission / gift / gratuity] from [*identify proposed donor*] for [himself / herself] or another person.
  - (c) [requested / accepted] that [*identify proposed donor*] would perform some act or offer to perform some act that would benefit [himself / herself] or another person.
- (4) Third, that when the defendant [requested / accepted] [(the commission / the gift / the gratuity) from (*identify proposed donor*) / the promise of a (commission / gift / gratuity) from (*identify proposed donor*) / that (*identify proposed donor*) would perform some act or offer to perform some act that would benefit the defendant or another person], the defendant did so agreeing or understanding with [*identify proposed donor*] that [he / she] would [*describe conduct agreed on between defendant and donor*] regarding [*name principal or employer*]'s business.

**Public Policy Position**  
**Model Criminal Jury Instructions 37.1b and 37.2b**

**Support as Drafted**

**Explanation:**

The Committee voted unanimously (21) to support Model Criminal Jury Instructions 37.1b and 37.2b as drafted.

**Position Vote:**

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 6

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by February 1, 2022. Comments may be sent in writing to Andrea Crumback, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov).

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**PROPOSED**

The Committee proposes amending M Crim JI 37.3b, 37.4, 37.4a, 37.4b, 37.5b, 37.6, 37.8b and 37.9a, which address bribery and intimidation of witnesses under MCL 750.122. The published Court of Appeals case of *People v Arthur Johnson, Jr.* (MCOA # 353825) held that “true threat” instructional language was required to avoid infringement of the First Amendment right to free speech where the crime is carried out by the use of threats. The amendments add that language to the current jury instructions for these offenses. Deletions are in strike-through, and new language is underlined.

**[AMENDED] M Crim JI 37.3b Bribing Witnesses - Crime/Threat to Kill**

(1) The defendant is charged with the crime of witness bribery. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name complainant*] was an individual who was testifying, going to testify, or going to provide information at an ongoing or future official proceeding. An official proceeding is a proceeding heard by a legislative, judicial, administrative, or other governmental agency or official authorized to hear evidence under oath.<sup>1</sup>

(3) Second, that the defendant [*gave / offered to give / promised to give*] anything of value to [*name complainant*].<sup>2</sup>

(4) Third, that when the defendant [*gave / offered to give / promised to give*] something of value to [*name complainant*], [*he / she*] intended to [*discourage*



(*name complainant*) from attending the proceeding, testifying at the proceeding, or giving information at the proceeding / influence (*name complainant*)'s testimony at the proceeding / encourage (*name complainant*) to avoid legal process, withhold testimony, or testify falsely]. It does not matter whether the official proceeding took place, as long as the defendant knew or had reason to know that [*name complainant*] could be a witness or was going to provide information at the ongoing or future proceeding.

(5) Fourth, that the defendant's actions involved [committing or attempting to commit a crime / a threat to kill or injure a person / a threat to cause property damage].

*[Read the following bracketed material where the charge involves a threat:]*

[A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

## **[AMENDED] M Crim JI 37.4 Intimidating Witnesses**

(1) The defendant is charged with the crime of witness intimidation. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name complainant*] was an individual who was testifying, going to testify, or going to provide information at an ongoing or future official proceeding. An official proceeding is a proceeding heard by a legislative, judicial, administrative, or other governmental agency or official authorized to hear evidence under oath.<sup>1</sup>

(3) Second, that the defendant [threatened / tried to intimidate] [*name complainant*].

*[Read the following bracketed material where the charge is that the defendant threatened the complainant:]*

[A threat is a written or spoken statement that shows an intent to injure or harm another person or that person's property or family in some way. No particular words are necessary, and it can be said or written in vague terms that do not state exactly what injury will occur. But it must be definite enough so that a person of ordinary intelligence would understand it as a threat. A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

(4) Third, that when the defendant [threatened / tried to intimidate] [*name complainant*], [he / she] intended to [discourage (*name complainant*) from attending the proceeding, testifying at the proceeding, or giving information at the proceeding / influence (*name complainant*)'s testimony at the proceeding / encourage (*name complainant*) to avoid legal process, withhold testimony, or testify falsely]. It does not matter whether the official proceeding took place, as long as the defendant knew or had reason to know that [*name complainant*] could be a witness or was going to provide information at the ongoing or future proceeding.

**[AMENDED] M Crim JI 37.4a Intimidating Witnesses - Criminal Case, Penalty More Than Ten Years**

(1) The defendant is charged with the crime of witness intimidation. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name complainant*] was an individual who was testifying, going to testify, or going to provide information at an ongoing or future official proceeding. An official proceeding is a proceeding heard by a legislative, judicial, administrative, or other governmental agency or official authorized to hear evidence under oath.<sup>1</sup>

(3) Second, that the defendant [threatened / tried to intimidate] [*name complainant*].

[*Read the following bracketed material where the charge is that the defendant threatened the complainant:*]

[A threat is a written or spoken statement that shows an intent to injure or harm another person or that person's property or family in some way. ~~No particular words are necessary, and it can be said or written in vague terms that do not state exactly what injury will occur. But it must be definite enough so that a person of ordinary intelligence would understand it as a threat.~~ A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

(4) Third, that when the defendant [threatened / tried to intimidate] [*name complainant*], [he / she] intended to [discourage (*name complainant*) from attending the proceeding, testifying at the proceeding, or giving information at the proceeding / influence (*name complainant*)'s testimony at the proceeding / encourage (*name complainant*) to avoid legal process, withhold testimony, or testify falsely]. It does not matter whether the official proceeding took place, as long as the defendant knew or had reason to know that [*name complainant*] could be a witness or was going to provide information at the ongoing or future proceeding.

(5) Fourth, that the official proceeding was a criminal case charging a crime with a maximum punishment of more than ten years or life in prison.

**[AMENDED] M Crim JI 37.4b Intimidating Witnesses - Crime/Threat to Kill**

(1) The defendant is charged with the crime of witness intimidation. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name complainant*] was an individual who was testifying, going to testify, or going to provide information at an ongoing or future official proceeding. An official proceeding is a proceeding heard by a legislative,

judicial, administrative, or other governmental agency or official authorized to hear evidence under oath.<sup>1</sup>

(3) Second, that the defendant [threatened / tried to intimidate] [*name complainant*].

[*Read the following bracketed material where the charge is that the defendant threatened the complainant:*]

[A threat is a written or spoken statement of that shows an intent to injure or harm another person or that person's property or family in some way. ~~No particular words are necessary, and it can be said or written in vague terms that do not state exactly what injury will occur. But it must be definite enough so that a person of ordinary intelligence would understand it as a threat~~ A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

(4) Third, that when the defendant [threatened / tried to intimidate] [*name complainant*], [he / she] intended to [discourage (*name complainant*) from attending the proceeding, testifying at the proceeding, or giving information at the proceeding / influence (*name complainant*)'s testimony at the proceeding / encourage (*name complainant*) to avoid legal process, withhold testimony, or testify falsely]. It does not matter whether the official proceeding took place, as long as the defendant knew or had reason to know that [*name complainant*] could be a witness or was going to provide information at the ongoing or future proceeding.

(5) Fourth, that the defendant's actions involved [committing or attempting to commit a crime / a threat to kill or injure a person / a threat to cause property damage].

**[AMENDED] M Crim JI 37.5b Interfering with Witnesses -  
Crime/Threat to Kill**

(1) The defendant is charged with the crime of witness interference. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name complainant*] was an individual who was testifying, going to testify, or going to provide information at an ongoing or future official proceeding. An official proceeding is a proceeding heard by a legislative, judicial, administrative, or other governmental agency or official authorized to hear evidence under oath.<sup>1</sup>

(3) Second, that the defendant impeded, interfered with, prevented, or obstructed [*name complainant*] from attending, testifying, or providing information or tried to impede, interfere with, prevent, or obstruct [*name complainant*]. It does not matter whether the official proceeding took place, as long as the defendant knew or had reason to know that [*name complainant*] could be a witness at the proceeding.

(4) Third, that the defendant intended to impede, interfere with, prevent, or obstruct [*name complainant*] from attending, testifying at, or providing information at the official proceeding.

(5) Fourth, that the defendant's actions involved [committing or attempting to commit a crime / a threat to kill or injure a person / a threat to cause property damage].

*[Read the following bracketed material where the charge is that the defendant threatened the complainant:]*

[A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

**[AMENDED] M Crim JI 37.6 Retaliating Against Witnesses**

(1) The defendant is charged with the crime of witness retaliation. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name complainant*] was a witness at an official proceeding. An official proceeding is a proceeding heard by a legislative, judicial, administrative, or other governmental agency or official that is authorized to hear evidence under oath.<sup>1</sup>

(3) Second, that the defendant retaliated, attempted to retaliate, or threatened to retaliate against [*name complainant*] for having been a witness. Retaliate means to commit or attempt to commit a crime against the witness, to threaten to kill or injure any person, or to threaten to cause property damage.

[*Read the following bracketed material where the charge is that the defendant threatened the complainant:*]

[A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

### **[AMENDED] M Crim JI 37.8b Retaliating for Crime Report**

(1) The defendant is charged with retaliating or attempting to retaliate against a person for reporting criminal conduct. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name complainant*] reported or attempted to report that [the defendant / (*identify other person*)] [*describe conduct to be reported*].<sup>1</sup>

(3) Second, that the defendant [committed or attempted to commit the crime of (*identify other crime that the defendant is alleged to have committed*) as I have previously described to you<sup>2</sup> against (*name complainant*) / threatened to kill or injure any person / threatened to cause property damage].

*[Read the following bracketed material where the charge is that the defendant threatened the complainant:]*

[A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

(4) Third, that when the defendant [committed or attempted to commit the crime of (*identify other crime that the defendant committed*) against (*name complainant*) / threatened to kill or injure any person / threatened to cause property damage], [he / she] did so as retaliation for [*name complainant*]'s having reported or attempting to report the crime of [*identify crime*].

**[AMENDED] M Crim JI 37.9a Influencing Statements to Investigators  
by Threat or Intimidation**

(1) [The defendant is charged with / You may also consider the less serious offense of] threatening or intimidating a person to influence that person's statement or presentation of evidence to a police investigator not involving [the commission or attempted commission of another crime / a threat to kill or injure any person / a threat to cause property damage]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant made a threat or said or did something to intimidate [*name witness*].

*[Read the following bracketed material where the charge is that the defendant threatened the witness:]*

[A threat does not have to be stated in any particular terms but must express a warning of danger or harm. Further, it must have been meant as a true threat and not, for example, idle talk, a statement made in jest, or a solely political comment. It must have been made under circumstances where a reasonable

person would think that others may take the threat seriously as expressing an intent to inflict harm or damage. It does not matter whether the defendant actually intended to carry out the threat or could carry out the threat.]

(3) Second, that when the defendant made the threat or used intimidating words or conduct, [he / she] was attempting to influence what [*name witness*] would tell [a police investigator / Officer (*name complainant*)] or whether [*name witness*] would give some evidence to [a police investigator / Officer (*name complainant*)] who [may be / was] conducting a lawful investigation of the crime of [*identify crime*].

[(4) Third, that when threatening or intimidating [*name witness*], the defendant [committed or attempted to commit the crime of (*identify other crime that the defendant committed*) as I have previously described to you / threatened to kill or injure any person / threatened to cause property damage.]



**Public Policy Position**  
**Model Criminal Jury Instructions 37.3b, 37.4, 37.4a, 37.4b, 37.5b, 37.6, 37.8b,**  
**and 37. 9a**

**Support as Drafted**

**Explanation:**

The Committee voted 19 to 2 to support Model Criminal Jury Instructions 37.3b, 37.4, 37.4a, 37.4b, 37.5b, 37.6, 37.8b, and 37. 9a as drafted, but recommended that the alignment of these proposed instructions with relevant statutory provisions be reviewed again prior to adopting the instructions.

**Position Vote:**

Voted For position: 19

Voted against position: 2

Abstained from vote: 0

Did not vote (absent): 6

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by February 1, 2023. Comments may be sent in writing to Andrea Crumback, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes a new jury instruction, M Crim JI 40.5, for the offense of public intoxication found at MCL 750.167(e). The instruction is entirely new.

**[NEW] M Crim JI 40.5 Public Intoxication**

- (1) The defendant is charged with the crime of being intoxicated in public and causing a disturbance or endangering persons or property. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that the defendant was in a place open to the public, [*state location*].
- (3) Second, that the defendant was intoxicated. A person is intoxicated when he or she is mentally or physically impaired as a result of consuming an intoxicating substance, such as an alcoholic beverage.
- (4) Third, that the defendant [directly endangered the safety of another person or property / disrupted the peace and quiet of other persons present / interfered with the ability of other persons to perform actions or duties permitted by law].<sup>1</sup>

*Use Note*

See *People v Mash*, 45 Mich App 459; 206 NW2d 767 (1973), and *People v Weinberg*, 6 Mich App 345; 149 NW2d 248 (1967), for *public disturbance* language.

1. The court may read any of the alternatives that apply to the prosecutor's theory of the case that are supported by the evidence.

**Public Policy Position**  
**Model Criminal Jury Instructions 40.5**

**Support with Amendment**

**Explanation:**

The Committee voted unanimously (21) to support Model Criminal Jury Instruction 40.5, with the addition of “or other substances” to (3). Further, the Court may wish to add other examples where appropriate.

**Position Vote:**

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 6

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)



**FROM THE COMMITTEE  
ON MODEL CRIMINAL  
JURY INSTRUCTIONS**

=====

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by February 1, 2023. Comments may be sent in writing to Andrea Crumback, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to [MCrimJI@courts.mi.gov](mailto:MCrimJI@courts.mi.gov) .

=====

**PROPOSED**

The Committee proposes a new jury instruction, M Crim JI 41.2, for the crime of eavesdropping on a private conversation found at MCL 750.539c. The instruction is entirely new.

**[NEW] M Crim JI 41.2 Using a Device to Eavesdrop on a Private Conversation**

- (1) The defendant is charged with the crime of using a device to eavesdrop on a private conversation. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
- (2) First, that [*identify complainants*] were having a private conversation where the defendant was not a participant.
- (3) Second, that the defendant [used a device / knowingly aided another person in using a device / knowingly employed or procured another person to use a device] to overhear, record, amplify, or transmit the private conversation between [*identify complainants*].
- (4) Third, that defendant did not have the consent of all persons who were part of the private conversation to overhear, record, amplify, or transmit the conversation.

**Public Policy Position**  
**Model Criminal Jury Instructions 41.2**

**Support as Drafted**

**Explanation:**

The committee voted unanimously (21) to support Model Criminal Jury Instructions 41.2 as drafted.

**Position Vote:**

Voted For position: 21

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 6

**Contact Persons:**

Nimish R. Ganatra [ganatran@washtenaw.org](mailto:ganatran@washtenaw.org)

Sofia V. Nelson [snelson@sado.org](mailto:snelson@sado.org)



## MEMORANDUM

**To:** SBM Communications and Member Services (CAMS) Committee  
**From:** Darin Day, Director of Outreach  
**Date:** January 09, 2023  
**Re:** Proposed Section Bylaws Amendments: **Senior Lawyers Section**

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The Senior Lawyers Section proposes to revise its section bylaws. Under the Supreme Court Rules Concerning the State Bar of Michigan (Rule 12, Section 2), amendments to SBM section bylaws “shall become effective when approved by the Board of Commissioners...” Rule 12 also requires section bylaws that are “not inconsistent with these Rules or the bylaws of the State Bar of Michigan.” In the BOC-approval process, the first step is CAMS review. This memo outlines the section’s proposed bylaws revisions and provides staff analysis. Please see the attached copy of the section’s current bylaws, redlined to highlight the changes proposed by the section.

Staff confirms that no amendment proposed by the section is inconsistent with Supreme Court Rules or SBM bylaws. The Senior Lawyers Section submitted its proposed amendments to staff along with documentation showing that it followed all the bylaws amendment procedures set forth in the section’s current bylaws. CAMS reviewed the proposed amendments and, on December 21, 2022, voted to send recommendations to the section council and ask them to make a handful of edits. The council agreed with CAMS proposed edits, as reflected in the attached redlined document, and scheduled a full section meeting and final vote for this Thursday, January 12, 2023.

With CAMS approval, and approval by section membership on January 12, the bylaws amendments will be added to the January 20, 2023 BOC consent agenda.

PROPOSED BYLAWS  
OF THE SENIOR LAWYERS SECTION  
OF THE STATE BAR OF MICHIGAN  
Proposed adoption: January 2023

ARTICLE I  
NAME, PURPOSE, AND GOALS

SECTION 1. Name. This Section shall be known as the Senior Lawyers Section (“Section”) of the State Bar of Michigan.

SECTION 2. Purpose. The purpose of this Section shall be to promote the particular interests of the members of the Section, to plan and carry out programs and activities of interest to members of the Section, to coordinate programs for members of the Section with national and local bar associations, to protect the public by providing resources on the ethical and practical issues related to transitioning from the practice of law, to be a resource for retirement planning, and to expand opportunities for contributions by members of the Section to the community, as well as to utilize and administer any open forum on ~~the~~ State Bar of Michigan internet site for discussion of topics of interest which may be assigned to the members Section.

SECTION 3. Goals. The goals of the Section shall be to provide service to members of this Section, to aid in protecting the public, and to contribute to the community.

ARTICLE II  
MEMBERSHIP

SECTION 1. Membership. Active, inactive, and emeritus members of the State Bar of Michigan who have been licensed to practice law and have been in good standing for at least twenty (20) years, or are at least age fifty (50), and pay dues in the amount set forth by the Council, are members of the Section. Upon payment of dues, membership is immediately effective, for the duration of a bar year (through September 30). Thereafter, dues shall be payable in advance at the beginning of the fiscal year of the State Bar of Michigan.

SECTION 2. Voting. Except as set forth in these bylaws, all members of the Section shall be eligible to vote.

SECTION 3. Terminating Membership. A member may terminate membership upon written request, without prejudice to future membership or by failing to remit Section dues.

SECTION 4. Limitations. No member of the Section shall speak on behalf of or otherwise represent himself or herself to have the authority to speak on behalf of the Section without complying in all respects with the Bylaws of the State Bar of Michigan, and in particular Article IX thereof.



ARTICLE III  
COUNCIL AND OFFICERS

SECTION 1. Officers. The officers of the Section shall be Chair, Vice Chair, Secretary, and Treasurer. The Immediate Past Chair of the Section shall serve as a voting member of the Council but only for the purpose of resolving tie votes.

SECTION 2. Council. There shall be a Council of the Section consisting of the officers of the Section and nine (9) at-large members to be elected as provided in this Article. At-large members must be members of the Section.

SECTION 3. Selection of Officers. The Chair, Vice Chair, Secretary, Treasurer, any council position filled by appointment during the year, and expiring council seats, shall be nominated and elected at each annual meeting of the Section -- to hold office for a term beginning at the close of the annual meeting at which they are elected and ending at the close of the next succeeding annual meeting of the Section, for terms defined in Section 4 following.

SECTION 4. Terms of Office. The officers and nine (9) at-large members of the Council shall serve as follows: the officers for a one (1) year term; three (3) at-large members for three (3) years; three (3) at-large members for two (2) years; and three (3) at-large members for (1) year. Any vacancies shall be filled in accordance with these Bylaws. All subsequent elective terms of at-large members, once the Council has been filled by election, shall be for a period of three (3) years or in the case of appointments to fill vacancies, to the next annual election at which the seat will be filled by election, and the term for that Council position shall be for the remaining unexpired term of the Council position being filled. ("Year" is defined as a term beginning at the close of the annual meeting at which the Council members are elected and ending at the close of the succeeding annual meeting of the Section.)

SECTION 5. Term Limitations.

- (A) No Council member shall be eligible for re-election to the Council (other than as an officer) if she/he has served without interruption for two (2) consecutive elected terms preceding the term for which the election is held.
- (B) No person who has served as Chair or Vice Chair without interruption for two (2) consecutive elected terms shall be eligible for re-election to that office. Secretary and Treasurer shall not be subject to consecutive term limitations but must stand for election.

## ARTICLE IV ELECTIONS

SECTION 1. Nominations. At the last scheduled meeting of the Council prior to the annual meeting, or at such other time as shall be convenient but not later than three (3) months prior to the annual meeting, the Chair shall appoint a Nominating Committee consisting of three (3) members of the Section, at least two (2) of whom are appointed from the Council. The duties of the Nominating Committee are set forth in art VII, § 2.

SECTION 2. Elections. All elections shall be by voice vote unless otherwise ordered by resolution duly adopted by the Section at the annual meeting at which the election is held.

## ARTICLE V DUTIES OF OFFICERS

SECTION 1. Chair. The Chair shall preside at all meetings of the Section and of the Council. The Chair shall present at each annual meeting of the Section a report of the work of the Section for the current year. The Chair shall, in consultation with and with the assistance of the Executive Director of the State Bar of Michigan, perform such other duties and acts that pertain to the office.

SECTION 2. Vice Chair. In the absence of the Chair, the Vice Chair shall perform the duties of the Chair.

SECTION 3. Secretary. With the assistance of State Bar of Michigan staff, the Secretary shall cause to be kept all books, papers, documents, and other property of the Section, except money, and shall keep a true record of the proceedings of all meetings of the Section and of the Council. With the assistance of the Chair, the Secretary shall prepare a summary or digest of the proceedings of the Section for presentation at the annual meeting of the Section, and to be filed with the State Bar of Michigan no later than May 31 each year. In conjunction with the Chair, the Secretary, as authorized by the Council, shall attend generally to the business of the Section. With assistance of State Bar of Michigan staff, the Secretary shall track and maintain a record of the terms of the Council persons and shall provide a report to Council no later than two months prior to the annual meeting of the Section.

SECTION 4. Treasurer. The Treasurer of the Section shall, with the assistance of State Bar of Michigan staff:

- (A) Cause to be kept a record of all monies received and disbursed.
- (B) Review and approve all monthly financial reports supplied by the State Bar of Michigan.
- (C) Submit regular financial reports to the Council.
- (D) Annually provide for the presentation of a financial report to the Section and to the Board of Commissioners, no later than May 31 each year.

ARTICLE VI  
DUTIES AND POWERS OF THE COUNCIL

SECTION 1. General. The Council shall have general supervision and control of the affairs of the Section subject to the Supreme Court Rules Concerning the State Bar of Michigan and the Bylaws of the State Bar of Michigan and the Bylaws of the Section. The Council shall authorize all commitments or contracts which entail the payment of money and shall authorize the expenditure of all monies appropriated by the Council for the use or benefit of the Section.

SECTION 2. Committee Appointment. The Chair shall appoint committees and their chairs from members of the Section to perform such duties and exercise such powers as the Council may direct. The Council may remove any committee chair or committee member and fill vacancies created by such removal or by resignation.

SECTION 3. Vacancies. The Council shall fill vacancies in its own membership, and members of the Council so selected shall serve until their successors are elected at the next annual meeting or at a duly-noticed special meeting for that purpose.

SECTION 4. Quorum. A quorum of the Council shall consist of a majority of the membership of the Council. A quorum being present, the Council may act on an affirmative vote of a majority of the quorum. ~~of the majority of those present for the remainder of any meeting until adjournment.~~

SECTION 5. Council Meetings. The Council shall designate the time and place of its regular meetings but shall schedule no fewer than four (4) meetings per fiscal year. Special meetings may be called upon notice by the Chair or upon written request to the Secretary of any three (3) members of the Council. Council members shall receive three (3) days' notice of a special meeting. Notice of regular and special meetings shall be in writing by in-person delivery, first-class mail, electronic mail, facsimile, or posting on the Sections' Discussion Board or any other means reasonably likely to provide actual notice. The notice shall include the topic for which the meeting is being called.

SECTION 6. Council Meetings: Electronic Conferencing and Voting. Members may observe and participate in Council meetings by electronic conferencing, video or audible, however only Council members will be able to vote to adopt or reject on resolutions properly introduced and discussed. Participation in a meeting in this manner constitutes presence in person at the meeting. Any expense for electronic conferencing shall be borne by the member(s) not physically present at the meeting, unless otherwise authorized by the Council. The Council may establish additional rules for electronic conferencing. Council members may vote in-person, electronically, or by any other manner determined by the Council, default being by roll call of those present, or an otherwise secure and reliable method for conducting business. Participation by electronic conferencing during the annual meeting of the section shall be permitted and all members attending annual meetings shall be able to fully participate and vote. Annual Meetings shall be chaired by the Chair or Vice Chair in the Chair's absence.

SECTION 7. Absences. Any member of the Council who is absent, without having been excused by the Chair, from three (3) consecutive regular meetings of the Council shall be deemed to have resigned and the vacancy created shall be filled by the Council.

## ARTICLE VII COMMITTEES

SECTION 1. Standing Committees. The Standing Committee of the Section shall be the Nominating Committee. The Council shall have the authority to create and discontinue special committees, and a Service to Senior Lawyers Committee and a Community Contribution Committee are strongly encouraged.

SECTION 2. Nominating Committee. The Nominating Committee shall recommend nominees to the Section for the offices of Chair, Vice Chair, Secretary, Treasurer, and Council persons on an annual basis. These nominations shall be submitted in writing to the Chair no later than sixty (60) days prior to the annual meeting of the Section. Nominations shall be published to Section members no later than thirty (30) days prior to the annual meeting of the Section. Nominations for those offices and Council positions up for election, as well as those which may have been filled by Council in the period since the last annual meeting may be made by the Nominating Committee and/or from the floor. The Nominating Committee shall seek to nominate the best candidates for all officer and Council openings and is encouraged to consider the diversity of Council membership in its selections.

SECTION 3. Service to Senior Lawyers Committee. The Service to Senior Lawyers Committee, if active, shall be responsible for developing and/or promoting materials and programs of interest to members of the Section, including but not limited to the following topics: professional education and development, planning for and adjusting to changes in a lawyer's professional status; identifying successors to law practices; and providing for the care and preservation of client records.

SECTION 4. Community Contribution Committee. The Community Contribution Committee, if active, shall identify and promote appropriate opportunities for members of the Section to contribute to their communities, collaborating with other State Bar of Michigan sections and affinity bar associations where a mutual interest exists.

SECTION 5. Committee Members. The committee chairs chosen by the Chair of the Section may recommend to the Council the names of additional members to be appointed to their respective committees for the purpose of assisting in the work of the committees.

SECTION 6. Committee Meetings. Committee meetings shall be called as necessary by the Council or by committee chairs.

SECTION 7. Committee Meetings: Electronic Conferencing and Voting. Members expressing an interest may participate in committee meetings by electronic conferencing. Participation in a meeting in this manner constitutes presence in person at the meeting. Any expense for electronic conferencing shall be borne by the member(s) not physically present at the meeting, unless otherwise authorized by the Council. The Council may establish additional rules for electronic conferencing. Committee members may vote in-person, electronically, or by any other manner determined by the Council to be a secure and reliable method for conducting business.

SECTION 8. Committee Reports. Each committee chair shall submit a written, verbal, or electronic report of committee activities to the Council at or prior to each scheduled Council meeting or at a date designated by the Chair.

## ARTICLE VIII SECTION MEETINGS

SECTION 1. Annual Meeting. The time, place, circumstances, and programs of the annual meeting of the members shall be determined by the Council at least sixty (60) days prior to the meeting and notice of such meeting shall be given to the members not less than forty-five (45) days in advance of the scheduled date for the annual meeting. The Council shall give notice of the annual meeting to the members by United States mail, electronic mail or as a part of a publication of general circulation to the Section members. Participation by electronic conferencing during the annual meeting of the Section shall be permitted.

SECTION 2. Special Meetings. Special meetings of the Section may be called by the Chair upon approval of the Council, at such time and place as the Council may determine. Members of the Section shall receive three (3) days' notice of the special meetings communicated in writing or electronically, in-person delivery, first-class mail, electronic mail, facsimile, or any other means reasonably likely to provide adequate actual notice. The notice shall include the topic for which the meeting is being called.

SECTION 3. Quorum. Ten (10) members of the Section who are eligible to vote and are present at any annual or special meetings shall constitute a quorum for the transaction of business. Business of the membership of the Section shall be by affirmative vote of a majority of the members present. ~~provided that for annual and special meetings a quorum must exist at the time of any vote.~~ Verbal roll call vote shall be the default, subject to change by adopted resolution of those present at the annual or special meeting.

SECTION 4. Section Meetings: Electronic Conferencing and Voting. Members may participate in Section meetings by electronic conferencing. Participation in a meeting in this manner constitutes presence in person at the meeting. Any expense for electronic conferencing shall be borne by the member(s) not physically present at the meeting, unless otherwise authorized by the Council. The Council may establish additional rules for electronic conferencing. Section members may vote in-person, electronically, or by any other manner

determined by the Council to be a secure and reliable method for conducting business and a verbal roll call vote shall be the default method.

## ARTICLE IX MISCELLANEOUS PROVISIONS

SECTION 1. Fiscal Year. The fiscal year of the Section shall be the same as that of the State Bar of Michigan.

SECTION 2. Disbursements. Any bills incurred by the Section to be forwarded to the State Bar of Michigan Fiscal Officer for payment shall first be approved by the Chair, Vice Chair, Treasurer, or otherwise as the Council shall direct, and checks for all disbursements shall be signed by an officer of the State Bar of Michigan, or someone designated by the Board of Commissioners of the State Bar of Michigan.

SECTION 3. Compensation. No officer, Council member, committee chair, committee member, or member of the Section shall receive compensation for services rendered in connection with the performance of his/her duties except as may be specifically authorized by law, court rule or by the State Bar of Michigan. Such persons may, however, be reimbursed for the necessary expenses incurred in connection with the performance of their duties. Unless authorized by law or court rule, no officer, Council member, committee chair, committee member, or member of the Section with decision-making authority concerning contracts or financial transactions shall directly or indirectly derive any personal profit or gain distinguishable from benefits provided to the public, members of the Section, or members of the State Bar of Michigan, by reason of his/her position with the Section. The Section or Council may give a person covered by this provision, and the person may accept, a gift at the termination of the person's tenure in office, as long as the gift is paid for by non-appropriated funds.

SECTION 4. Effective Date. These Bylaws shall become effective upon approval by the Board of Commissioners of the State Bar of Michigan.

SECTION 5. Non-Lawyer Participation. Persons other than members of the State Bar of Michigan and of this Section may be invited or selected by the Council to participate in the activities of the Section and to provide their expertise in assisting the Section to meet its goals. Such persons shall have no vote and are not required to pay dues to the Section. The Council shall maintain a roster of such persons for use by the Section.

## ARTICLE X AMENDMENTS

SECTION 1. Vote. These Bylaws may be amended at any meeting of the Section at which a quorum is present, by a two-thirds (2/3) vote of the members of the Section present and voting, provided such proposed amendment(s) has first been submitted to the Council for its

recommendation. No amendment(s) so adopted shall become effective until approved by the Board of Commissioners.

SECTION 2. Form of Amendment(s). Any proposed amendment shall be submitted in writing to the Council by at least three (3) members of the Section. The Council shall consider the proposed amendment(s), prepare recommendations, and provide to members of the Section a complete and accurate text of the proposed amendment(s) at least thirty (30) days prior to the meeting of the Section at which it is to be considered. Such notice of any proposed amendment(s) must be communicated to the entire Section membership in writing by in-person delivery, first-class mail, electronic mail, facsimile, or by other means reasonably likely to provide actual notice.



# Memorandum

To: Board of Commissioners

From: Communications and Member Services Committee

Date: January 2023

Re: Proposed 2023 New Preferred Partner Member Program – World Elite Business Card

**Action Required:** Communications & Member Services Commissioner Committee recommendations to the Board of Commissioners approval of this member Preferred Partner Program. If approved, staff will move forward with contract review by general counsel.

## History

The State Bar of Michigan formally held a partnership with Bank of America (BOA) that began in 1988 and ended in 2018 after Bank of America eliminated this partner program. Through that program, members signed up for an individual personal BOA credit card that showcased the SBM logo. The State Bar would then receive revenue based on member spending. This was a very lucrative non dues revenue program for us, generating at one point \$152,000 in a fiscal year. Since 2018 we and other bars across the country, have been in search of a replacement.

## World Elite Business Card by Mercantile

This program would promote a business co-branded Mastercard to our members. It would differ from the previous BOA program in that it would be a business card rather than an individual credit card. However, like before, the card would have the SBM logo displayed proximately and would generate non-dues revenue based on member spend.

### *Benefit to the Members:*

- 1.5% rewards on everything
- Signup bonus up to \$750 cashback
- No annual fee
- Supplier rebates with leading vendors
- Variable 6-26% purchase APR
- No impact on personal credit

### *Benefit to the Bar:*

- Increase member affinity
- \$50 for each customer card account opened
- Revenue share of 5 basis points (0.05%) of the transactions generated under each co-branded card.

### *Other Noteworthy Partnerships:*

Opticians Association of America, American Association of Orthodontists, American Optometric Association.



SBM

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