

STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
FRIDAY, JUNE 8, 2018
GRAND HOTEL – GRAND PAVILION ROOM
MACKINAC ISLAND
9:00 A.M.
AGENDA

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

NO COMMITTEE MEETINGS SCHEDULED

- I. Call to Order.....Donald G. Rockwell, President

CONSENT AGENDA

- II. **Minutes**
A. April 20, 2018 Board of Commissioners meeting*
- III. **President’s Activities**.....Donald G. Rockwell, President
A. Recent Activities*
- IV. **Executive Director’s Activities**.....Janet K. Welch, Executive Director
A. Recent Activities*
- V. **Public Policy**.....Jennifer M. Grieco, Chairperson
A. Model Criminal Jury Instructions*
- VI. **Finance**.....Dana M. Warnez, Chairperson
A. FY 2018 Financial reports through April 2018*
- VII. **Executive Office – General Counsel** Clifford T. Flood
A. Bid Waiver and Independent Contractor Extension - K2dnn.net**

COMMISSIONER COMMITTEES

- VIII. **Finance**.....Dana M. Warnez, Chairperson
A. FY 2018 Financial Update
- IX. **Audit Committee**.....Dana M. Warnez, Chairperson
- X. **Professional Standards** Robert J. Buchanan, Chairperson

- XI. **Communications and Member Services**Dennis M. Barnes, Chairperson
 - A. Liberty Bell Award recommendation*

- XII. **Public Policy**.....Jennifer M. Grieco, Chairperson
 - A. Court Rules**
 - B. Legislation**
 - C. Other**

SBM STRATEGIC PLAN - STEERING COMMITTEES

- XIII. **Strategic Plan Update**
 - A. Communications and Member Services Steering Committee.....Dennis M. Barnes, Chairperson
 - B. Implementation and Innovation Steering CommitteeDana M. Warnez, Chairperson
 - C. Professional Standards Steering Committee..... Robert J. Buchanan, Chairperson
 - D. Public Policy Steering CommitteeJennifer M. Grieco, Chairperson

LEADERSHIP REPORTS

- XIV. **President’s Report**.....Donald G. Rockwell, President
 - A. Introduction of Guests

- XV. **Executive Director’s Report**Janet K. Welch, Executive Director
 - A. FY 2019 Preliminary Budget – Key Budget Assumptions*
 - B. SBM Election Update
 - C. Committee Restructuring

- XVI. **Representative Assembly (RA) Report**.....Joseph P. McGill, Chairperson
 - A. September 27, 2018 meeting

OTHER REPORTS

- XVII. **American Bar Association (ABA) Report**.....Delegates

- XVIII. **Young Lawyers Section Report**Syeda F. Davidson, Chairperson

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

- XIXI. **Comments or questions from Commissioners**

- XX. **Comments or questions from the public**

- XXI. **Adjournment**

*Materials included with agenda,
** Materials delivered or to be delivered under separate cover or handed out
#Materials that can be found on the confidential Connect Page.

President Rockwell called the meeting to order at 9:45 a.m. on April 20, 2018 in the Boardroom of the Michael Franck building.

Commissioners present:

Danielle Mason Anderson
Dennis M. Barnes, Vice-President
Aaron V. Burrell
Joseph J. Baumann
Robert J. Buchanan, Secretary
Hon. Clinton Canady III
B.D. "Chris" Christenson
Richard L. Cunningham
Syeda F. Davidson
Shauna L. Dunning
Andrew F. Fink III
Robert C. Gardella
Jennifer M. Grieco, President Elect
Edward L. Haroutunian

James W. Heath
Michael S. Hohaus
E. Thomas McCarthy Jr.
Joseph P. McGill
Hon. Maureen M. McGinnis
Shenique A. Moss
Jules B. Olsman
Daniel D. Quick
Victoria A. Radke
Donald G. Rockwell, President
Brian D. Shekell
Gregory L. Ulrich
Dana M. Warnez, Treasurer
Erane C. Washington

Commissioners absent and excused:

David C. Anderson
Krista L. Haroutunian
Kara R. Hart-Negrich

Hon. David A. Perkins
Hon. Michael J. Riordan

State Bar Staff present:

Janet Welch, Executive Director
Marge Bossenbery, Executive Coordinator
Nancy Brown, Director, Member and Communications Services
Gregory Conyers, Director, Diversity
Candace Crowley, Assistant Executive Director and Director, External Development
Peter Cunningham, Assistant Executive Director and Director, Governmental Relations
Darin Day, Director, Outreach and Constituent Development
Cliff Flood, General Counsel
Danon Goodrum-Garland, Director, Professional Services Division
Kathryn Hennessey, Public Policy Counsel
Nkrumah Johnson-Wynn, Assistant General Counsel
James Horsch, Director, Finance and Administration Division
Robert Mathis, Pro Bono Service Counsel
Samantha Meinke, Communications Manager
Jeanette Socia, Human Resources Manager
Kari Thrush, Assistant Division Director, Member Services
Anne Vrooman, Director, Research and Development

Guests

David Watson, Executive Director, Institute for Continuing Legal Education
Chelsea Rebeck, SBM Finance Committee member

Consent Agenda

Mr. Rockwell asked the Board if there were any items that needed to be removed from the consent agenda. There were none.

The Board received the minutes from January 26, 2017 Board of Commissioners meeting.
The Board received the minutes from the January 9, February 13, and March 20, 2018 Executive Committee 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 2018 Financial Reports through February 2018.

The Board received the 2017 Report of the SBM Retirement Plans

The Board received Client Protection Fund Claims.

The Board received Unauthorized Practice of Law Claims.

The Board received Model Criminal Jury Instructions

The Board received a Business Law Section Dues Amendment.

A motion was offered and supported to approve the consent agenda. The motion was approved.

COMMISSIONER COMMITTEES REPORTS

Audit, Dana M. Warnez, Chairperson

Auditor Selection and Rotation Policy

A motion was offered and supported to adopt a new auditor rotation and selection policy, which requires the SBM to conduct an RFP for audit services every three years, an audit firm rotation at least every 9 years, and an audit partner rotation every 5 years, unless waived by the Board upon recommendation of the audit committee. The motion was approved.

Auditor Recommendation

A motion was offered and supported to contract with the firm of Andrews Hooper Pavlik as the SBM auditor for FY 2018-19 and FY 2019-20 with a partner rotation. The motion was approved.

Finance, Dana M. Warnez, Chairperson

Ms. Warnez provided the Board with the FY 2018 financial report.

SBM Proposed Investment Policy

Mr. Warnez indicated that a recommendation from the work group is included in the board book.

A motion was offered and supported to approve the amendment to the Investment Policy. The motion was approved.

Computer consulting firm K2DNN.net

A motion was offered and supported to ratify the existing contract with K2DNN.net to the extent that it exceeded 100K for the current contract. The motion was approved.

Professional Standards, Robert J. Buchanan, Chairperson

Proposed Formal Ethics Opinion R-25 - For-Profit Online Matching Services

Mr. Buchanan stated that the proposed formal ethics opinion R-25 that addresses for-profit online matching services is included in the Board materials for initial review and discussion. He informed the Board that this item will not be voted on before the June meeting.

House of Delegates Appointments

A motion was offered and supported to re-appoint Mr. James W. Low and Mr. Thomas C. Rombach as SBM delegates to the ABA House of Delegates for two-year terms. The motion was approved.

Communications and Member Services, Dennis M. Barnes, Chairperson

Mr. Barnes reported that the deadline for registration for BLF is Monday, April 23 and that online registration for the 2018 NEXT Conference will begin in May.

Mr. Barnes provided the Board with information regarding the Michigan Center for Civic Education's bid to host the National High School Mock Trial Championship in Kalamazoo, MI in 2021.

50 Year Honoree resolution

A motion was offered and supported to approve the SBM 50-Year Golden Celebration Resolution. The motion was approved.

2018 John W. Cummiskey Award

A motion was offered and supported to award the Access to Justice Initiative John W. Cummiskey Award to Mr. Charles "David" Jones. The motion was approved.

2018 SBM Awards Committee Recommendations

A motion was offered and supported to award the Roberts P. Hudson Award to Bruce A. Courtade and Julie I. Fershtman; the Frank J. Kelley Distinguished Public Service Award to the Hon. Marilyn J. Kelly and Robert P. Young Jr.; the Champion of Justice Award to Miriam J. Aukerman and Robert J. Heimbuch; the Kim Cahill Bar Leadership Award to the Women Lawyers Association of Michigan; and the John W. Reed Michigan Lawyer Legacy Award to Professor Lawrence Dubin. The motion was approved.

Public Policy, Jennifer Grieco, Chairperson

The Board members received a written Public Policy report.

Court Rules

ADM File No. 2017-12: Proposed Addition of Rule 2.228 of the Michigan Court Rules

MCL 600.6404(3) allows defendant to transfer a case to the Court of Claims. This proposed rule would require such a transfer to be made at or before the time the defendant files an answer, which is the same period mandated for change of venue under MCR 2.221. This proposal arose from the Court's consideration of *Baynesan v Wayne State University* (docket 154435), in which defendant waited until just a month before trial before transferring a case he could have transferred nearly a year sooner.

A motion was offered and supported to approve the proposed addition to the rule with the amendments proposed by the Civil Procedure and Courts Committee. The motion was approved.

ADM File No. 2017-10 - Proposed Addition of Rule 6.417 of the Michigan Court Rules

This proposed new rule, based on FR Crim P 26.3, would require a trial court to provide parties an opportunity to comment on a proposed order of mistrial, to state their consent or objection, or suggest alternatives. The proposal was pursued following the Court's consideration of *People v Howard*, docket 153651.

A motion was offered and supported to support the addition of Rule 6.417 with the following amendment: Before ordering a mistrial, the court must give each defendant and the government prosecutor an opportunity to comment on the record regarding the propriety of the order, to state whether that party consents or objects, and to suggest alternatives. The motion was approved.

ADM File No. 2015-04 - Proposed Amendment of Rule 6.429 of the Michigan Court Rules

This proposed amendment is intended to provide trial courts with broader authority to *sua sponte* address erroneous judgments of sentence, following the Court's recent consideration of the issue in *People v Comer*, 500 Mich 278 (2017).

For purposes of publication, the Court included a six-month time period in which such a correction must be made *sua sponte*, and the Court is especially interested in input related to this aspect of the proposed amendments. In balancing the interest in correcting a sentence at any time against the interest in promoting finality and definiteness, adoption of a prescribed time period seems appropriate. Parties have six months to file such a motion under MCR 6.429(B)(3), and a good argument can be made that if the Court adopted a different time period for *sua sponte* corrections, the six-month period for parties would be irrelevant, as a party could simply ask the court to do *sua sponte* what the party could not do by motion. But there may be good reason to adopt a time period longer than that allowed for parties, or to consider a more flexible provision that does not include a specific time period but focuses on application of a standard such as "reasonableness," "good cause," or other language that leaves the determination to the trial court. Therefore, the Court is particularly interested in comments that address this issue.

The Access to Justice Policy Committee recommended supporting the proposal with amendments. The Criminal Jurisprudence & Practice Committee opposed amending Rule 6.429 and support the addition of Rule 6.430.

Rule 6.429 Correction and Appeal of Sentence of an Illegal Sentence

(A) The court may correct an illegal sentence at any time, either on its own motion after a hearing, or on motion filed by either party.

(B) An illegal sentence is one the maximum or minimum of which does not conform to the applicable statutory provision, which omits a term required by law, or which includes a term unauthorized by law. The court may not modify a valid sentence after it has been imposed except as provided by law.

(B) Time For Filing Motion.

(1) A motion to correct an invalid sentence may be filed before the filing of a timely claim of appeal.

(2) If a claim of appeal has been filed, a motion to correct an invalid sentence may only be filed in accordance with the procedure set forth in MCR 7.208(B) or the remand procedure set forth in MCR 7.211(C)(1).

(3) If the defendant may only appeal by leave or fails to file a timely claim of appeal, a motion to correct an invalid sentence may be filed within 6 months of entry of the judgment of conviction and sentence.

(4) If the defendant is no longer entitled to appeal by right or by leave, the defendant may seek relief pursuant to the procedure set forth in subchapter 6.500.

~~(C) Preservation of Issues Concerning Sentencing Guidelines Scoring and Information Considered in Sentencing. A party shall not raise on appeal an issue challenging the scoring of the sentencing guidelines or challenging the accuracy of information relied upon in determining a sentence that is within the appropriate guidelines sentence range unless the party has raised the issue at sentencing, in a proper motion for resentencing, or in a proper motion to remand filed in the court of appeals.~~

A motion was offered and supported to support the proposed amendments recommended by Timothy A. Baughman, and listed above, which differentiates between an invalid and an illegal sentence. The motion was approved

ADM File No. 2017-14 - Proposed Adoption of Administrative Order 2018-XX

This administrative order would direct circuit courts in collaboration with county clerks to establish an agreed upon plan that outlines those duties not codified in statute or court rule that must be performed within the scope of the county clerk's role as clerk of the circuit court. The plan would be required to be approved by the Supreme Court.

A motion was offered and supported to support the concept provided in ADM File No. 2017-14 compelling the administrator and the court to enter into an agreement. However, courts that already have an agreement in place should not be forced to renegotiate that agreement until and unless a dispute arises, and SCAO should also provide a model agreement as an example. The motion was approved.

ADM File No. 2016-49 - Proposed Addition of Rule 1.18 and Proposed Amendment of Rule 7.3 of the Michigan Rules of Professional Conduct

The proposed addition of new rule MRPC 1.18 and amendment of MRPC 7.3 would clarify the ethical duties that lawyers owe to prospective clients and create consistency in the use of the term "prospective client." This proposal was submitted to the Court by the Representative Assembly of the State Bar of Michigan.

This proposal was approved by the Representative Assembly with no changes made in this version published by the Court for comment. No action was taken on this amendment.

ADM File No. 2016-27 - Proposed Alternative Amendments of Rule 7.2 of the Michigan Rules of Professional Conduct

The first proposed amendment of Rule 7.2 of the Michigan Rules of Professional Conduct (Alternative A) would require certain lawyer advertisements to identify the lawyer or law firm providing services. This proposal was submitted by the State Bar of Michigan Representative Assembly. Alternative B is the model rule provision that relates to providing information about the lawyer or law firm responsible for the advertisement's content.

A motion was offered and supported to support Alternative A and to direct the Executive Director to include the essence of the Board discussion on the proposal in the letter to the Court. The motion was approved.

Legislation

HB 5702 (Runestad) Criminal procedure; forfeiture; prosecutorial review of civil asset forfeiture in controlled substances cases; require. Amends sec. 7523 of 1978 PA 368 (MCL 333.7523).

A motion was offered and supported that this legislation is not *Keller*-permissible. The motion was approved.

Wrongful Imprisonment Compensation Legislation

SB 0895 (Bieda) Civil procedure; other; court of claims notification requirements and statute of limitations; exempt claims under the wrongful imprisonment compensation act. Amends secs. 6431 & 6452 of 1961 PA 236 (MCL 600.6431 & 600.6452).

SB 0896 (Jones) Civil procedure; other; wrongful imprisonment compensation act; extend the time for claims by individuals who were released before the effective date of the act. Amends sec. 7 of 2016 PA 343 (MCL 691.1757).

A motion was offered and supported that this legislation is *Keller*-permissible because it impacts the availability of legal services to society. The motion was approved.

A motion was offered and supported to support the legislation. The motion was approved.

SBM STRATEGIC PLAN – STEERING COMMITTEES

Communications and Member Services Steering Committee, Dennis M. Barnes, Chairperson
Mr. Barnes reported that the steering committee met three times during the year with the charge to monitor and coordinate the Awards, Michigan Bar Journal, Professional Education and Events, Public Education and Outreach, and Social Media and Website committees, together with all of their affiliated work groups.

Mr. Barnes stated that the work of the committee is to provide important insight about the work of each committee and work group under the committee's jurisdictions, and that sharing that information provided for better bar services and insured that all committees remain focused on the strategic plan and goals of the State Bar.

Mr. Barnes commented that it was the consensus of the committee that its work can be accomplished in one in-person meeting, with further communications by email. If there is an item of particular concern an in-person meeting could be scheduled. Mr. Barnes reported that the annual reporting process worked very effectively and that the new form and format for reporting was very good.

Implementation and Innovation Steering Committee, Dana M. Warnez, Chairperson
Ms. Warnez reported that the I & I committee covers the umbrella of the Delivery of Legal Services for All, Diversity and Inclusion Advisory Standing Committee, Law School Deans Standing Committee, Past President Advisory Standing Committees and within those committees are subcomponents such as Access to Justice, Affordable Legal Services Initiatives, Limited Scope Representation, and Modest Means Program.

Ms. Warnez stated that it was the opinion of the committee that the current structure has too many layers. Although the new structure had proponents, the primary focus of the discussion of the steering committees on concerns and ideas for improvements. That discussion is ongoing, but there is a consensus that the structure and the committee needs to be tweaked to be more effective. There are no concerns about all of the initiatives being on task.

Professional Standards Steering Committee, Robert J. Buchanan, Chairperson

Mr. Buchanan reported that the Professional Standard Steering Committee has met two times to date with another meeting scheduled in May. He stated that the committee deals with the regulatory side of the profession and has responsibility for the Character and Fitness Standing committee, Client Protection Fund Standing committee, Payee Notification workgroup, Judicial Ethics Standing committee, Judicial Qualifications Standing committee, Lawyers and Judges Assistance Standing committee, Professional Ethics Standing committee, Unauthorized Practice of Law and the Regulatory Objectives workgroup.

Mr. Buchanan reported that the committee has had substantial background to review to fully understand how the standing committees and workgroups operate and what they are doing and Steering Committee members are now just getting their hands around it all. The plan is to get any recommendations they may have during the upcoming meeting. He reported that he thinks that the Bar is doing an excellent job of meeting the objectives of the strategic plan.

Public Policy Steering Committee, Jennifer M. Grieco, Chairperson

Ms. Grieco reported that the Public Policy Steering committee has a number of public policy committees underneath it, including Civil Procedure and Courts, Discovery Special committee, U.S. Courts, Criminal Jurisprudence, and American Indian Law Standing committees.

Ms. Grieco stated that Public Policy steering committee functioned almost like a workgroup, looking at proactive issues of timely and responsive public policy positions, proactive public policy work, and communicating public policy issues to members.

The steering committee had three full meeting and a number of subcommittee meetings and will have recommendations for the Board to consider at its June meeting. The proposals include changes to the public policy website and how it reaches our members, and on how the board handles public policy issues in between board meetings. The members of the steering committee want to continue next year as there remain many issues still to address.

Ms. Grieco stated that if any of the Board members would like to serve on a steering committee and get more involved in the process, to let her know because she is making committee appointments soon.

LEADERSHIP REPORTS

President's Report, Donald G. Rockwell, President

Board Officer Election Procedure, Matrix, and 2018 Timeline

Mr. Rockwell informed the Board that the deadline to submit a letter of interest, resume, and completed matrix for an officer position, other than for president and president-elect, for the 2018-2019 Bar year is June 12, 2018. Materials should be submitted to him and Ms. Welch.

Executive Director's Report, Janet K. Welch, Executive Director

FY 2019 Budget Process, Roles, and Calendar

Ms. Welch asked Mr. Horsch to describe the FY 2019 budget process to the Board. He reported that current plans are for the FY 2019 key budget assumptions to be reviewed with the Board at its June meeting and for the proposed FY 2019 budget to be brought before the Board at its July meeting.

Meeting with the Michigan Supreme Court

Ms. Welch reported that she has had individual meetings with Chief Justice Markman and Justice Zahra on a regular basis over the course of the last year. She stated that she was invited to meet with the Court in an Administrative Conference on March 28, where she provided them with information on the status of the State Bar, spoke on issues impacting bar associations around the country, and answered questions. Key points made to the Court:

- The State Bar continues to be in very good financial shape.
- We are on the downward side of the dues cycle.
- In the big picture, professional associations in the U.S. are struggling, and voluntary bar associations are struggling to maintain membership and services and develop more meaningful services for members and the public.
- What the SBM did with the 21st Century Task Force and the output of that included in our strategic plan is really vital to our success and future success
- The status of mandatory bars is uncertain given a case pending in the US Supreme Court, *Janus v American Federation of State, County and Municipal Employees (AFSCME)*. Other challenges are in the pipeline.
- The State Bar is committed to continuing its focus on legal service industry innovation and using technology to advance access to justice. The Court appeared interested in SBM innovation efforts, as well as on how the regulatory structure it oversees responds to changes in the legal services marketplace, including the draft ethics opinion R-25.
- We are working on transitioning the AGC's receivership responsibilities to the State Bar, and developing the gold standard for a program that protects the public when a lawyers are unable to carry out responsibilities to their clients due to death or disability.

Ms. Welch reported that, consistent with the recommendations of the 21st Century Task Force to create an Innovation Center to assist with the delivery of legal services, she is in conversation with the ABA Center for Innovation on collaboration, particularly in terms of data sharing among state bars and courts. Alecia Ruswinckel will be the SBM point person for this effort.

Annual Reports from SBM Committees and Work Groups

Ms. Welch asked Ms. Crowley to provide the Board with information about the annual reports. Ms. Crowley stressed the importance of reading the annual committee and work group reports because they will inform the Board of the progress of the strategic direction that has been set for the Bar. She stated that the reports lead to the development of the committee structure that will operate in the next Bar year. She also noted the challenge of managing the volunteer appointment process, with applications received and appointments for the upcoming bar year made in the spring and early summer, but confirmation of the committee structure not taking place until July or August.

Satellite Office

Ms. Welch informed the Board that she had a conversation with the Dean of the University of Detroit Mercy Law School about the possibility of occupying space at the law school for a satellite office in Southeast Michigan. Dean Crocker was interested, the school had space, and a price was negotiated for a possible office. Similar arrangements at other law schools could be an option.

Additional Items

Ms. Welch responded to a question from Mr. Ulrich regarding the need for a succession plan for the Executive Director. She will continue to work with SBM officers and the Executive Committee on succession issues.

Mr. Ulrich asked if the SBM has ever been contacted to verify if person is in fact an attorney when he or she registers to use a .law domain. Ms. Goodrum Garland responded that we do not have that requirement in Michigan, but that in some jurisdictions that practice is in place.

Ms. Welch reported that the SBM learned three days ago that a member of the Negligence Law section submitted an amicus brief in violation of 2004-1. She stated that we are in the process of gathering facts about this and that an update will be provided to the Board at its June meeting. The case is the Ann Arbor gun case.

Representative Assembly (RA) Report, Joseph P. McGill, Chairperson

Mr. McGill reported that at its April 21 meeting, the Assembly will empanel 145 RA members or 97% of the allotted membership. Ms. Michelle Fuller will be nominated for the Unsung Hero award and the Hon. Victoria Roberts will be nominated to receive the Michael Franck Award. Matters to be considered are Payee Notification, Indigent Fee waiver applications, and Civil Discovery rules. Plans are underway for the September meeting that center around RA procedure and governance issues and the manner in which the RA does business. Mr. Richard Cunningham suggested that this is a process that will take two or three years to complete.

OTHER REPORTS

American Bar Association (ABA) Report

No report was provided.

Young Lawyers Section (YLS) Report, Syeda F. Davidson, Chairperson

Ms. Davidson provided the Board with an update on recent activities of the YLS. The 11th Annual YLS Summit is taking place at Boyne Highlands on June 15 and 16. Justice Bridget McCormack is the keynote speaker. The deadline for nominations for the Regeana Myrick Outstanding YLS Award is April 27. The award will be presented at the Summit.

Ms. Davidson reminded the Board that the “Bowling Challenge” event between the Board of Commissioners and the Young Lawyers Section Executive Council will take place after today’s Board meeting beginning at 3:00 p.m.

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

Comments or Questions from Commissioners

Ms. Radke inquired about ongoing challenges to the mandatory status of the state bars, and their implications for SBM planning, budgetary and otherwise. Ms. Welch responded that staff is monitoring, analyzing, and evaluating options on an ongoing basis.

Comments or Questions from the Public

Mr. Rockwell recognized Mr. David Watson, Executive Director, ICLE who expressed his pleasure at being affiliated with the SBM and the work that it accomplishes. Ms. Welch noted that at the meeting with the Court that a mini discussion took place about mandatory CLE. She stated that Michigan is now one of only four states without mandatory CLE, but that Michigan's ICLE is widely recognized as the best in the country, and that the Court was aware of that. She stated that the other three states are Maryland, Massachusetts and South Dakota.

Adjournment

The meeting was adjourned at 12:25 pm.

**President Donald G. Rockwell
Calendar of Events
April 22 through June 9, 2018**

Date	Event	Location
April 27	Women Lawyers Association of Michigan 100 Anniversary Celebration	Detroit
April 30	Ottawa County Bar Association Law Day Dinner	Holland
May 4	Washtenaw County Bench Bar	Ann Arbor
May 4	WMU Cooley Law School Ethics Orientation at Oakland Campus.	Auburn Hills
May 16	Grand Traverse, Leelanau, and Antrim County Bar Association meeting	Traverse City
May 16 – 17	ICLE Probate Conference	Traverse City
May 18	Michigan District Judges Association meeting	Lansing
May 22	Former SBM President Wally Riley's funeral	Grosse Pointe
May 22	SBM Spring Pro Bono Workshop	Lansing
June 8	State Bar of Michigan Board of Commissioners meeting	Mackinac Island
June 7 – 9	Bar Leadership Forum and Upper Michigan Legal Institute	Mackinac Island

**Executive Director Janet K. Welch
Calendar of Events
April 22 through June 9, 2018**

Date	Event	Location
April 23	International. Institute of Law Association Chief Executives (IILACE) 2018 program committee conference call	Lansing
April 26	Meeting with Richard A. Bierschbach, Dean Wayne State University Law School	Detroit
April 27	Women Lawyers Association of Michigan 100 year Anniversary Celebration	Detroit
May 1 – 2	NYC/Harvard: Smart Collaboration 2.0. Hot Topics in Cross-Silo Working in the Legal Profession and Beyond Seminar	New York
May 7	Cloud Law meeting	Lansing
May 9	Professional Standards Steering Committee meeting	Lansing
May 10	Meeting with David Watson, Executive Director ICLE	Ann Arbor
May 10	Meeting with Commissioner Erane Washington	Ann Arbor
May 10	Meeting with Commissioner Andrew Fink III	Ann Arbor
May 10	US Courts Committee dinner	Detroit
May 16	ABA Cloud Law meeting	Chicago
May 17 – 18	ICLE Probate seminar	Traverse City
May 22	Former SBM President Wallace B. Riley's funeral	Grosse Pointe
May 23	Michigan Supreme Court Administrative Hearing	Lansing
May 24	Cloud Law conference call	Lansing
May 24	SBM Receivership Workgroup meeting	Lansing
May 30	Meeting with Justice Brian Zahra	Lansing
May 30	Meeting with Jennifer Bentley, Executive Director Michigan State Bar Foundation	Lansing

Date	Event	Location
June 1	Professional Ethics Committee meeting	Lansing
June 4	Affordable Legal conference call	Lansing
June 6	Public Policy Committee Conference Call	Lansing
June 7 – 9	Bar Leadership Forum Upper Michigan Leadership Forum	Mackinac Island
June 8	SBM Board of Commissioners meeting	Mackinac Island



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

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The Committee solicits comment on the following proposal by July 1, 2018. Comments may be sent in writing to Samuel R. Smith, 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 .
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PROPOSED

The Committee proposes amending M Crim JI 7.16a, the instruction that applies to the rebuttal presumption regarding self-defense found in MCL 780.951, to clarify that the presumption is rebuttable, and to make the instruction easier to understand and in accord with the statutory language. Deletions are in strike-through, and additions are underlined.

**[AMENDED] M Crim JI 7.16a Rebuttable Presumption
Regarding Fear of Death, Great Bodily Harm,
or Sexual Assault**

(1) If you find both that —

(a) the deceased was in the process of breaking and entering a business or dwelling, or committing home invasion, or had broken into and entered a business or dwelling, or committed home invasion and was still present in the business or dwelling, or is was unlawfully attempting to remove a person from a dwelling, business, or vehicle against the person's will,

and

(b) the defendant honestly and reasonably believed the deceased was engaged in any of the conduct just described

— ~~you must presume~~ it is presumed that the defendant had an honest and reasonable belief that imminent [death / great bodily harm / sexual assault] would occur. The prosecutor can overcome this presumption by proving beyond a reasonable doubt that the defendant did not have an honest and reasonable belief that [death / great bodily harm / sexual assault] was imminent.

(2) This presumption does not apply if—

[Use the appropriate paragraph below based on the claims of the parties and the evidence admitted.]

- (a) the deceased has the legal right to be in the dwelling, business, or vehicle and there is not a “no contact” [court order / pretrial supervision order / probation order / parole order] against the deceased, or
- (b) the individual being removed is a child or grandchild or otherwise in the lawful custody of the deceased victim, or
- (c) the defendant was engaged in the commission of a crime or using the dwelling, business premises, or vehicle to further the commission of a crime, or
- (d) the deceased was a peace officer who was entering or attempting to enter the premises or vehicle in the performance of his or her duties, or
- (e) the deceased was [the spouse of the defendant / the former spouse of the defendant / a person with whom the defendant had or previously had a dating relationship / a person with whom the defendant had a child in common / a resident or former resident of the defendant’s household], and the defendant had a prior history of domestic violence as the aggressor.

**Public Policy Position
Model Criminal Jury Instructions 7.16a**

SUPPORT AS WRITTEN

Number who voted in favor and opposed to the position:

Voted For position: 10

Voted against position: 0

Abstained from vote: 0

Did not vote: 7

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org



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

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=====

PROPOSED

The Committee proposes amending, M Crim JI 11.37a and 11.37b, the instructions that apply to discharging a firearm at or in a building, contrary to MCL 750.234b. The current instructions incorrectly require that the prosecutor prove an element of “physical injury” to establish the underlying crime, whereas “physical injury” is an aggravating element in both cases. Deletions are in strike-through, and additions are underlined.

[AMENDED] M Crim JI 11.37a Discharge of a Firearm at a Building

(1) The defendant is charged with intentionally discharging a firearm at a dwelling or potentially occupied structure. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant discharged a firearm.¹

(3) Second, that [he / she] did so intentionally, that is, on purpose.

(4) Third, that [he / she] discharged the firearm at a building that [he / she] had reason to believe was either a dwelling or a potentially occupied structure.

A dwelling is a building where people usually live. It does not matter whether or not someone was actually in the building at the time.

A potentially occupied structure is a building that a reasonable person knows or should know was likely to be occupied by one or more persons due to its nature, function, or location. It does not matter whether a person was actually present in the structure.

~~(5) [Fourth, that when the defendant discharged the firearm, [he / she] caused physical injury to / caused serious body injury to / caused the death of] (name complainant)].~~

[Select from paragraphs (5) through (7) where one of the following aggravating factors has been charged:]

(5) Fourth, that when the defendant discharged the firearm [he / she] caused the death of [name complainant].

(6) Fourth, that when the defendant discharged the firearm [he / she] caused serious impairment of a body function to [name complainant].

~~[Use (6) where it is alleged that the complainant suffered serious body injury]²~~

(6) Serious impairment² of a body function includes, but is not limited to, one or more of the following:

- (a) Loss of a limb or loss of use of a limb.
- (b) Loss of a foot, hand, finger, or thumb or loss of the use of a foot, hand, finger, or thumb.
- (c) Loss of an eye or ear or loss of the use of an eye or ear.
- (d) Loss or substantial impairment of a body function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.
- (j) Loss of an organ.

(7) Fourth, that, when the defendant discharged the firearm, [he / she] caused physical injury to (name complainant) [not amounting to serious impairment of a body function]³.

Use Note

1. *Firearm* is defined in MCL 28.421(1)(c) and MCL 750.222(e).
2. MCL 750.234a(10)(b) references MCL 257.58c for the definition of *serious impairment of a body function*.
3. Use this language only when there is a dispute over the level of injury, and the jury is considering the lesser offense that the defendant caused a “physical injury,” rather than a “serious impairment of a body function.”

This charge does not apply to a peace officer in the performance of his or her duties. MCL 750.234b(6).

Self-defense or defense of others is a defense to this charge. MCL 750.234b(7). Appropriate instructions from M Crim JI 7.15 through 7.24 must be given where such a defense is raised.

[AMENDED] M Crim JI 11.37b Discharge of a Firearm in a Building

(1) The defendant is charged with intentionally discharging a firearm in a dwelling or potentially occupied structure. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant discharged a firearm.¹

(3) Second, that [he / she] did so intentionally, that is, on purpose.

(4) Third, that [he / she] discharged the firearm in a building that [he / she] had reason to believe was either a dwelling or a potentially occupied structure.

A dwelling is a building where people usually live. It does not matter whether or not someone was actually in the building at the time.

A potentially occupied structure is a building that a reasonable person knows or should know was likely to be occupied by one or more persons due to its nature, function, or location. It does not matter whether a person was actually present in the structure.

(5) Fourth, that the defendant acted with reckless disregard for the safety of other persons.

~~(6) [Fifth, that when the defendant discharged the firearm, [he / she] caused physical injury to / caused serious body injury to / caused the death of] (name complainant)].~~

~~[Select from paragraphs (5) through (7) where one of the following aggravating factors has been charged:]~~

~~[Select from paragraphs (6) through (8) where one of the following aggravating factors has been charged:]~~

(6) Fifth, that when the defendant discharged the firearm [he / she] caused the death of [name complainant].

(7) Fifth, that when the defendant discharged the firearm [he / she] caused serious impairment of a body function to [name complainant].

~~[Use (6) where it is alleged that the complainant suffered serious body injury]²~~

(6) Serious impairment² of a body function includes, but is not limited to, one or more of the following:

(a) Loss of a limb or loss of use of a limb.

- (b) Loss of a foot, hand, finger, or thumb or loss of the use of a foot, hand, finger, or thumb.
- (c) Loss of an eye or ear or loss of the use of an eye or ear.
- (d) Loss or substantial impairment of a body function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.
- (j) Loss of an organ.

(8) Fifth, that when the defendant discharged the firearm, [he / she] caused physical injury to [name complainant] [not amounting to serious impairment of a body function]³.

Use Note

1. *Firearm* is defined in MCL 28.421(1)(c) and MCL 750.222(e).
2. MCL 750.234a(10)(b) references MCL 257.58c for the definition of *serious impairment of a body function*.
3. Use this language only when there is a dispute over the level of injury, and the jury is considering the lesser offense that the defendant caused a “physical injury,” rather than a “serious impairment of a body function.”

This charge does not apply to a peace officer in the performance of his or her duties. MCL 750.234b(6).

Self-defense or defense of others is a defense to this charge. MCL 750.234b(7). Appropriate instructions from M Crim JI 7.15 through 7.24 must be given where such a defense is raised.

**Public Policy Position
Model Criminal Jury Instructions 11.37a and 11.37b**

SUPPORT WITH AMENDMENTS

Explanation

The committee voted to support the Model Criminal Jury Instructions 11.37a and 11.37b with the following amendments:

1. Replace the reference to MCL 750.234a(10)(b) in Use Note 2 with MCL 750.234b(10)(d) in both 11.37a and 11.37b.
2. In 11.37b, strike-through “Select from paragraphs (5) through (7) where one of the following aggravating factors has been charged.”
3. In 11.37b, underline “Select from paragraphs (6) through (8) where one of the following aggravating factors has been charged.”

Number who voted in favor and opposed to the position:

Voted For position: 10

Voted against position: 0

Abstained from vote: 0

Did not vote: 7

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org



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

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The Committee solicits comment on the following proposal by July 1, 2018. Comments may be sent in writing to Samuel R. Smith, 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 .

=====

PROPOSED

The Committee proposes new instructions, M Crim JI 11.43 and 11.43a, where violations of MCL 750.210 and 750.209a are charged and the penalty may be enhanced under MCL 750.212a, involving the crimes of carrying or possessing explosive or combustible substances or compounds with intent to frighten, injure or kill, or carrying explosives in a public place.

**[NEW] M Crim JI 11.43 Carrying or Possessing Explosive or
Combustible Substances with Intent to Damage
Property or to Frighten, Injure, or Kill a Person**

(1) The defendant is charged with possessing or carrying an explosive or combustible substance with intent to damage property or to frighten, injure, or kill a person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant possessed [(an explosive or combustible substance or compound / a substance or compound that will become an explosive or combustible substance or compound when combined with another substance or compound) / an article containing (an explosive or combustible substance or compound / a substance or compound that will become an explosive or combustible substance or compound when combined with another substance or compound)].¹

(3) Second, that the defendant knew that the substance or compound that [he / she] possessed was explosive or combustible, or would become an explosive or combustible substance or compound when combined with another substance or compound.

(4) Third, that when the defendant possessed the explosive or combustible substance or compound, [he / she] intended to [frighten, terrorize, intimidate, threaten, harass, injure, or kill another person / damage or destroy (any real or personal property without permission from the owner / any public property without permission from the governmental agency having authority over the property²)].

[Select from paragraphs (5) through (9) where one of the following aggravating factors has been charged:]

(5) Fourth, that the explosive or combustible substance or compound damaged another person's property.

(6) Fourth, that the explosive or combustible substance or compound caused the death of another person.

(7) Fourth, that the explosive or combustible substance or compound caused the serious impairment of a body function to another person.³

(8) Fourth, that the explosive or combustible substance or compound caused physical injury [not amounting to serious impairment of a body function⁴] to another person.

(9) Fourth, that the explosive or combustible substance or compound was possessed in or was directed at [a child care or day care facility / a health care facility or agency / a building or structure open to the general public / a church, synagogue, mosque, or other place of religious worship / a school of any type / an institution of higher learning / a stadium / a transportation structure or facility open to the public (such as a bridge, tunnel, highway, or railroad) / an airport / a port / a natural gas refinery, storage facility, or pipeline / an electric, steam, gas, telephone, power, water, or pipeline facility / a nuclear power plant, reactor facility, or waste storage area / a petroleum refinery, storage facility, or pipeline / a vehicle, locomotive or railroad car, aircraft, or watercraft used to transport persons or goods / a government-owned building, structure, or other facility].⁵

Use Note

1. There is no statutory definition for explosive or combustible substances or compounds.
2. Use the second alternative only where the property is public property.
3. Use this language only when there is a dispute over the level of injury, and the jury is considering the lesser offense that the defendant caused a "physical injury," rather than causing a "serious impairment of a body function."

4. A definitional statute, MCL 750.200h, cites MCL 257.58c, which provides that serious impairment of a body function includes, but is not limited to, one or more of the following:

- (a) Loss of a limb or loss of use of a limb.
- (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
- (c) Loss of an eye or ear or loss of use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.
- (j) Loss of an organ.

5. MCL 750.212a.

[NEW] M Crim JI 11.43a Possessing Explosive Substance or Device in a Public Place

(1) The defendant is charged with possessing an explosive substance or device in a public place with unlawful intent. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant possessed an explosive substance or device.¹

(3) Second, that the defendant knew that the substance or device that [he / she] possessed was explosive.

(4) Third, that the defendant possessed the explosive substance or device in a public place.¹

(5) Fourth, that when the defendant possessed the explosive substance or device, [he / she] intended to frighten, terrorize, intimidate, threaten, harass, or annoy another person.

[Provide paragraph (6) where the aggravating factor has been charged:]

(6) Fifth, that the explosive substance or device was possessed in [a child care or day care facility / a health care facility or agency / a building or structure

open to the general public / a church, synagogue, mosque, or other place of religious worship / a school of any type / an institution of higher learning / a stadium / a transportation structure or facility open to the public (such as a bridge, tunnel, highway, or railroad) / an airport / a port / a natural gas refinery, storage facility, or pipeline / an electric, steam, gas, telephone, power, water, or pipeline facility / a nuclear power plant, reactor facility or waste storage area / a petroleum refinery, storage facility, or pipeline / a vehicle, locomotive or railroad car, aircraft, or watercraft used to transport persons or goods / a government-owned building, structure or other facility].²

Use Note

1. There is no statutory definition for explosive or combustible substances or compounds.

2. MCL 750.212a.

**Public Policy Position
Model Criminal Jury Instructions 11.43 and 11.43a**

SUPPORT WITH AMENDMENTS

Explanation

The committee voted to support the Model Criminal Jury Instructions 11.43a as written and 11.43 with the amendments presented in the attached document.

Number who voted in favor and opposed to the position:

Voted For position: 10

Voted against position: 0

Abstained from vote: 0

Did not vote: 7

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org

**[NEW] M Crim JI 11.43 Carrying or Possessing Explosive or
Combustible Substances with Intent to Damage
Property or to Frighten, Injure, or Kill a Person**

(1) The defendant is charged with possessing or carrying an explosive or combustible substance with intent to damage property or to frighten, injure, or kill a person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant possessed [(an explosive or combustible substance or compound / a substance or compound that will become an explosive or combustible substance or compound when combined with another substance or compound) / an article containing (an explosive or combustible substance or compound / a substance or compound that will become an explosive or combustible substance or compound when combined with another substance or compound)].¹

(3) Second, that the defendant knew that the substance or compound that [he / she] possessed was explosive or combustible, or would become an explosive or combustible substance or compound when combined with another substance or compound.

(4) Third, that when the defendant possessed the explosive or combustible substance or compound, [he / she] intended to [frighten, terrorize, intimidate, threaten, harass, injure, or kill another person / damage or destroy (any real or personal property without permission from the owner / any public property without permission from the governmental agency having authority over the property²)].

[Select from paragraphs (5) through (9) where one of the following aggravating factors has been charged:]

(5) Fourth, that the explosive or combustible substance or compound damaged another person's property.

(6) Fourth, that the explosive or combustible substance or compound caused the death of another person.

(7) Fourth, that the explosive or combustible substance or compound caused the serious impairment of a body function to another person.³

4.—A definitional statute, MCL 750.200h, cites MCL 257.58c, which provides that serious impairment of a body function includes, but is not limited to, one or more of the following:

- (a) Loss of a limb or loss of use of a limb.
- (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
- (c) Loss of an eye or ear or loss of use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.
- (j) Loss of an organ.

(8) Fourth, that the explosive or combustible substance or compound caused physical injury [not amounting to serious impairment of a body function³⁴] to another person.

(9) Fourth, that the explosive or combustible substance or compound was possessed in or was directed at [a child care or day care facility / a health care facility or agency / a building or structure open to the general public / a church, synagogue, mosque, or other place of religious worship / a school of any type / an institution of higher learning / a stadium / a transportation structure or facility open to the public (such as a bridge, tunnel, highway, or railroad) / an airport / a port / a natural gas refinery, storage facility, or pipeline / an electric, steam, gas, telephone, power, water, or pipeline facility / a nuclear power plant, reactor facility, or waste storage area / a petroleum refinery, storage facility, or pipeline / a vehicle, locomotive or railroad car, aircraft, or watercraft used to transport persons or goods / a government-owned building, structure, or other facility].⁵

Use Note

1. There is no statutory definition for ~~explosive or combustible~~ substances or ~~compounds~~devices.
2. Use the second alternative only where the property is public property.
3. Use this language only when there is a dispute over the level of injury, and the jury is considering the lesser offense that the defendant caused a “physical injury,” rather than causing a “serious impairment of a body function.”

~~4. A definitional statute, MCL 750.200h, cites MCL 257.58c, which provides that serious impairment of a body function includes, but is not limited to, one or more of the following:~~

- ~~(a) Loss of a limb or loss of use of a limb.~~
- ~~(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.~~
- ~~(c) Loss of an eye or ear or loss of use of an eye or ear.~~
- ~~(d) Loss or substantial impairment of a bodily function.~~
- ~~(e) Serious visible disfigurement.~~
- ~~(f) A comatose state that lasts for more than 3 days.~~
- ~~(g) Measurable brain or mental impairment.~~
- ~~(h) A skull fracture or other serious bone fracture.~~
- ~~(i) Subdural hemorrhage or subdural hematoma.~~
- ~~(j) Loss of an organ.~~

54. MCL 750.212a.



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

=====

The Committee solicits comment on the following proposal by July 1, 2018. Comments may be sent in writing to Samuel R. Smith, 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 .

=====

PROPOSED

The Committee proposes new instructions, M Crim JI 11.44 and 11.44a, where violations of MCL 750.211a are charged, and the penalty may be enhanced under MCL 750.212a, involving the crimes of making, selling, buying, or possessing Molotov cocktails, or of making, selling, buying, or possessing incendiary explosive devices with intent to frighten, injure or kill, or carrying explosives in a public place.

[NEW] M Crim JI 11.44 Manufacturing, Buying, Selling, Furnishing, or Possessing Molotov Cocktails

(1) The defendant is charged with manufacturing, selling, furnishing, buying, or possessing a Molotov cocktail. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [manufactured / sold / furnished / bought / possessed] a Molotov cocktail or similar device.

A Molotov cocktail is an improvised incendiary device that is constructed from a bottle or other container filled with a flammable or combustible material or substance and that has a wick, a fuse, or other device that is designed or intended to ignite the contents of the bottle or container when it is thrown or placed near a target.

(3) Second, that when the defendant [manufactured / sold / furnished / bought / possessed] it, [he / she] knew that it was a Molotov cocktail or similar incendiary device.

[NEW] M Crim JI 11.44a Manufacturing, Buying, Selling Furnishing, or Possessing an Incendiary Explosive Device with Intent to Damage Property or to Frighten, Injure or Kill a Person

(1) The defendant is charged with manufacturing, selling, furnishing, buying, or possessing an incendiary device with intent to damage property or to frighten, injure, or kill a person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [manufactured / sold / furnished / bought / possessed] a device that [would explode on impact / would explode with the application of heat or a flame / was highly incendiary].

(3) Second, that when the defendant [manufactured / sold / furnished / bought / possessed] the device, [he / she] knew that it [would explode on impact / would explode with the application of heat or a flame / was highly incendiary].

(4) Third, that when the defendant [manufactured / sold / furnished / bought / possessed] the device, [he / she] intended to frighten, terrorize, intimidate, threaten, harass, injure, or kill another person or intended to [damage or destroy any real or personal property without permission from the owner / damage or destroy any public property without permission from the governmental agency with authority over the public property¹].

[Select from paragraphs (5) through (9) where one of the following aggravating factors has been charged:]

(5) Fourth, that the device damaged [another person's property without permission from the owner / public property without permission from the governmental agency with authority over the property¹].

(6) Fourth, that the device caused the death of another person.

(7) Fourth, that the device caused the serious impairment of a body function to another person.²

(8) Fourth, that the device caused physical injury [not amounting to serious impairment of a body function³] to another person.

(9) Fourth, that the device was manufactured, sold, furnished, bought, or possessed in or was directed at [a child care or day care facility / a health care facility or agency / a building or structure open to the general public / a church,

synagogue, mosque, or other place of religious worship / a school of any type / an institution of higher learning / a stadium / a transportation structure or facility open to the public (such as a bridge, tunnel, highway, or railroad) / an airport / a port / a natural gas refinery, storage facility, or pipeline / an electric, steam, gas, telephone, power, water, or pipeline facility / a nuclear power plant, reactor facility, or waste storage area / a petroleum refinery, storage facility, or pipeline / a vehicle, locomotive or railroad car, aircraft, or watercraft used to transport persons or goods / a government-owned building, structure, or other facility].⁴

Use Note

1. Use the second alternative only where the property is public property.
2. A definitional statute, MCL 750.200h, cites MCL 257.58c, which provides that serious impairment of a body function includes, but is not limited to, one or more of the following:
 - (a) Loss of a limb or loss of use of a limb.
 - (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
 - (c) Loss of an eye or ear or loss of use of an eye or ear.
 - (d) Loss or substantial impairment of a bodily function.
 - (e) Serious visible disfigurement.
 - (f) A comatose state that lasts for more than 3 days.
 - (g) Measurable brain or mental impairment.
 - (h) A skull fracture or other serious bone fracture.
 - (i) Subdural hemorrhage or subdural hematoma.
 - (j) Loss of an organ.
3. Use this language only when there is a dispute over the level of injury, and the jury is considering the lesser offense that the defendant caused a “physical injury,” rather than causing a “serious impairment of a body function.”
4. MCL 750.212a.

**Public Policy Position
Model Criminal Jury Instructions 11.44 and 11.44a**

SUPPORT WITH AMENDMENTS

Explanation

The committee voted to support the Model Criminal Jury Instructions 11.44 as written and 11.44a with the amendments presented in the attached document.

Number who voted in favor and opposed to the position:

Voted For position: 12

Voted against position: 0

Abstained from vote: 0

Did not vote: 5

Contact Person: Nimish R. Ganatra

Email: ganatran@ewashtenaw.org

[NEW] M Crim JI 11.44a Manufacturing, Buying, Selling Furnishing, or Possessing an Incendiary Explosive Device with Intent to Damage Property or to Frighten, Injure or Kill a Person

(1) The defendant is charged with manufacturing, selling, furnishing, buying, or possessing an incendiary device with intent to damage property or to frighten, injure, or kill a person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [manufactured / sold / furnished / bought / possessed] a device that [would explode on impact / would explode with the application of heat or a flame / was highly incendiary].

(3) Second, that when the defendant [manufactured / sold / furnished / bought / possessed] the device, [he / she] knew that it [would explode on impact / would explode with the application of heat or a flame / was highly incendiary].

(4) Third, that when the defendant [manufactured / sold / furnished / bought / possessed] the device, [he / she] intended to frighten, terrorize, intimidate, threaten, harass, injure, or kill another person or intended to [damage or destroy any real or personal property without permission from the owner / damage or destroy any public property without permission from the governmental agency with authority over the public property¹].

[Select from paragraphs (5) through (9) where one of the following aggravating factors has been charged:]

(5) Fourth, that the device damaged [another person's property without permission from the owner / public property without permission from the governmental agency with authority over the property¹].

2.—A definitional statute, MCL 750.200h, cites MCL 257.58c, which provides that serious impairment of a body function includes, but is not limited to, one or more of the following:

- (a) Loss of a limb or loss of use of a limb.
- (b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.
- (c) Loss of an eye or ear or loss of use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain or mental impairment.

- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.
- (j) Loss of an organ.

(6) Fourth, that the device caused the death of another person.

(7) Fourth, that the device caused the serious impairment of a body function to another person.²

(8) Fourth, that the device caused physical injury [not amounting to serious impairment of a body function^{2,3}] to another person.

(9) Fourth, that the device was manufactured, sold, furnished, bought, or possessed in or was directed at [a child care or day care facility / a health care facility or agency / a building or structure open to the general public / a church, synagogue, mosque, or other place of religious worship / a school of any type / an institution of higher learning / a stadium / a transportation structure or facility open to the public (such as a bridge, tunnel, highway, or railroad) / an airport / a port / a natural gas refinery, storage facility, or pipeline / an electric, steam, gas, telephone, power, water, or pipeline facility / a nuclear power plant, reactor facility, or waste storage area / a petroleum refinery, storage facility, or pipeline / a vehicle, locomotive or railroad car, aircraft, or watercraft used to transport persons or goods / a government-owned building, structure, or other facility].^{3,4}

Use Note

1. Use the second alternative only where the property is public property.

~~2. A definitional statute, MCL 750.200h, cites MCL 257.58c, which provides that serious impairment of a body function includes, but is not limited to, one or more of the following:~~

- ~~(a) Loss of a limb or loss of use of a limb.~~
- ~~(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.~~
- ~~(c) Loss of an eye or ear or loss of use of an eye or ear.~~
- ~~(d) Loss or substantial impairment of a bodily function.~~
- ~~(e) Serious visible disfigurement.~~
- ~~(f) A comatose state that lasts for more than 3 days.~~
- ~~(g) Measurable brain or mental impairment.~~
- ~~(h) A skull fracture or other serious bone fracture.~~
- ~~(i) Subdural hemorrhage or subdural hematoma.~~
- ~~(j) Loss of an organ.~~

| 32. Use this language only when there is a dispute over the level of injury, and the jury is considering the lesser offense that the defendant caused a “physical injury,” rather than causing a “serious impairment of a body function.”

| 43. MCL 750.212a.

FY 2018 Financial Dashboard

Results as of the seven months ended April 30, 2018

	FY 2018 Year-to-Date	FY 2018 YTD Budget	FY 2018 Budget YTD Variance	Last Year YTD Actual	Actual vs last yr Variance	Comments
<u>Administrative Fund</u>						
Operating Revenue	\$5,589,080	\$5,708,025	(\$118,945)	\$5,573,775	\$15,305	Worse than budget; better than last year
Operating Expense	\$5,931,437	\$6,201,744	(\$270,307)	\$5,628,458	\$302,979	Better than budget; higher than last year
Investment Income	\$102,725	\$75,833	\$26,892	\$65,861	\$36,864	Better than budget; higher than last year
Change in Net Position	(\$239,632)	(\$417,886)	\$178,254	\$11,178	(\$250,810)	Better than budget; lower than last year
Net Position	\$12,038,243	\$11,859,989	\$178,254	\$12,607,952	(\$569,709)	Better than budget; lower than last year
Cash & Investments (Excluding Sections and CPF)	\$11,170,484	N/A	N/A	\$11,573,756	(\$403,272)	Decrease from last year
Investment Rate of Return	1.50%	N/A	N/A	0.91%	0.59%	Better than last year - higher rates and fund mgt
<u>Client Protection Fund</u>						
Change in Net Position	(\$175,224)	N/A	N/A	\$25,994	(\$201,218)	Lower than last year - higher claims
Net Position	\$2,064,358	N/A	N/A	\$2,450,695	(\$386,337)	Decrease from last year - higher claims
<u>SBM Retiree Health Care Trust</u>						
Change in Net Position	\$108,637	N/A	N/A	\$202,915	(\$94,278)	Decrease from last year
Net Position	\$2,879,815	N/A	N/A	\$2,647,410	\$232,405	Increase over last year - Investment performance
<u>Membership</u>						
Members in Good Standing						
- Active	42,039	N/A	N/A	41,836	203	0.5% Active Member growth
- Inactive	1,173	N/A	N/A	1,256	(83)	(6.6%) Inactive Member growth
- Emeritus	2,218	N/A	N/A	1,986	232	11.7% Emeritus Member growth
- Total	45,430	N/A	N/A	45,078	352	0.8% Total Member growth
Active members as a percent of total	92.5%	N/A	N/A	92.8%	-0.3%	Decrease from last year
New Members	645	N/A	N/A	627	18	Increase over last year

**STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
April 30, 2018**

FY 2018

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

State Bar of Michigan
Administrative Fund
Statement of Net Position
For the Months Ending April 30, 2018 and March 31, 2018

	Mar 31, 2018	April 30, 2018	Increase (Decrease)	%	Beginning of Fiscal Year October 1, 2017
ASSETS AND DEFERRED OUTFLOWS					
Assets					
Cash	4,580,763	3,879,466	(701,297)	(15.3%)	3,001,328
Investments (CDARS and CD's)	10,155,000	10,205,000	50,000	0.5%	8,821,684
Accounts Receivable	199,763	148,388	(51,374)	(25.7%)	241,174
Due from (to) CPF	(43,743)	(29,022)	14,721	33.7%	(216,426)
Due from (to) Sections	(2,969,276)	(2,884,960)	84,316	2.8%	(2,205,771)
Inventory	21,449	46,959	25,511	118.9%	27,238
Prepaid Expenses	193,153	167,666	(25,487)	(13.2%)	361,666
Retiree Health Care Trust Asset	170,221	170,221	0	0.0%	170,221
Capital Assets, net	4,103,337	4,108,793	5,456	0.1%	4,229,194
Total Assets	\$16,410,666	\$15,812,512	(\$598,154)	(3.6%)	\$14,430,308
Deferred Outflows of Resources	43,353	43,353	0	0.0%	43,353
TOTAL ASSETS AND DEFERRED OUTFLOWS	\$16,454,019	\$15,855,865	(\$598,154)	(3.6%)	\$14,473,661
LIABILITIES, DEFERRED INFLOWS AND NET POSITION					
Liabilities					
Accounts Payable	20,459	29,935	9,476	46.3%	372,435
Accrued Expenses	499,300	436,488	(62,812)	(12.6%)	473,998
Unearned Revenue	3,675,383	3,081,890	(593,493)	(16.2%)	1,080,045
Net Pension Liability	269,288	269,288	0	0.0%	269,288
Total Liabilities	\$4,464,430	\$3,817,602	(\$646,828)	(14.5%)	\$2,195,766
Deferred Inflows of Resources	20	20	0	N/A	20
Total Liabilities and Deferred Inflows	\$4,464,450	\$3,817,622	(\$646,828)	(14.5%)	\$2,195,786
Net Position					
Invested in capital assets, net of related debt	4,103,337	4,108,793	5,456	0.1%	4,229,194
Unrestricted	7,886,232	7,929,450	43,218	0.6%	8,048,681
Total Net Position	\$11,989,570	\$12,038,243	48,674	0.4%	\$12,277,875
TOTAL LIABILITIES, DEFERRED INFLOWS AND NET POSITION	\$16,454,019	\$15,855,865	(\$598,154)	(3.6%)	\$14,473,661

NOTE: Cash and investments actually available to the State Bar Administrative Fund, after deduction of the "Due to Sections" and "Due to CPF" is \$11,170,484 (See below):

	Mar 31, 2018	April 30, 2018	Increase (Decrease)	%	Beginning of Fiscal Year October 1, 2017
CASH AND INVESTMENT BALANCES					
Cash	4,580,763	3,879,466	(701,297)	(15.3%)	3,001,328
Investments	10,155,000	10,205,000	50,000	0.5%	8,821,684
Total Available Cash and Investments	\$14,735,763	\$14,084,466	(651,297)	(4.4%)	\$11,823,012
Less:					
Due to Sections	2,969,276	2,884,960	(84,316)	(2.8%)	2,205,771
Due to CPF	43,743	29,022	(14,721)	(33.7%)	216,426
Due to Sections and CPF	\$3,013,019	\$2,913,982	(99,037)	(3.3%)	\$2,422,197
Net Administrative Fund Cash and Investment Balance	\$11,722,744	\$11,170,484	(\$552,260)	(4.7%)	\$9,400,815

State Bar of Michigan
Statement of Revenue, Expense, and Net Assets
For the seven months ending April 30, 2018
YTD FY 2018 Revenue

	YTD Actual	YTD Budget	Variance	Percentage
Revenue				
Finance & Administration				
Dues & Related	4,616,165	4,656,610	(40,445)	(0.9%)
Investment Income	102,725	75,833	26,892	35.5%
Other Revenue	227,137	226,907	230	0.1%
Finance & Administration Total	<u>4,946,027</u>	<u>4,959,350</u>	<u>(13,323)</u>	<u>(0.3%)</u>
Member & Communication Services				
Bar Journal Directory	66,078	88,800	(22,722)	(25.6%)
Bar Journal 11 issues	121,262	123,696	(2,434)	(2.0%)
Print Center	41,855	43,727	(1,872)	(4.3%)
e-Journal and Internet	45,434	45,833	(399)	(0.9%)
BCBSM Insurance Program	58,333	58,333	0	0.0%
Credit Card Program	10,857	13,000	(2,143)	(16.5%)
Annual Meeting	15,787	13,000	2,787	21.4%
Labels	962	2,333	(1,371)	(58.8%)
Upper Michigan Legal Institute	8,126	6,100	2,026	33.2%
Bar Leadership Forum	6,811	5,400	1,411	26.1%
Practice Management Resource Center	605	1,808	(1,203)	(66.5%)
Other Member & Endorsed Revenue	82,702	87,781	(5,079)	(5.8%)
Member & Communication Services Total	<u>458,812</u>	<u>489,811</u>	<u>(30,999)</u>	<u>(6.3%)</u>
Professional Standards				
Ethics	7,690	7,500	190	2.5%
Character & Fitness	179,665	214,013	(34,348)	(16.0%)
Lawyer Referral Service (LRS)*	75,216	84,017	(8,801)	(10.5%)
Lawyers and Judges Assistance Program	24,395	29,167	(4,772)	(16.4%)
Professional Standards Total	<u>286,966</u>	<u>334,697</u>	<u>(47,731)</u>	<u>(14.3%)</u>
*Note - LRS has been transferred to Member & Communications Services Division				
Total Revenue	5,691,805	5,783,858	(92,053)	(1.6%)
Less: Investment Income	<u>102,725</u>	<u>75,833</u>	<u>26,892</u>	<u>35.5%</u>
Total Operating Revenue	5,589,080	5,708,025	(118,945)	(2.1%)

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the seven months ending April 30, 2018
YTD FY 2018 Expenses

Expenses	YTD Actual	YTD Budget	Variance	Percentage
Executive Offices				
Executive Office	35,118	45,137	(10,019)	(22.2%)
Representative Assembly	12,896	13,433	(537)	(4.0%)
Board of Commissioners	39,872	41,508	(1,636)	(3.9%)
General Counsel	2,920	10,567	(7,647)	(72.4%)
Governmental Relations	41,024	40,775	249	0.6%
Human Resources (incl. empl benefits)	1,131,156	1,152,270	(21,114)	(1.8%)
Outreach, Local Bar & Section Support	106,621	116,563	(9,942)	(8.5%)
Research and Development	5,591	13,567	(7,976)	(58.8%)
Standing Committee on Justice Initiatives	51,161	55,658	(4,497)	(8.1%)
Resource Development Initiative	76,349	75,875	474	0.6%
Pro Bono Initiative	5,222	7,500	(2,278)	(30.4%)
Justice Policy Initiative	76	175	(99)	(56.6%)
Equal Access Initiative	8,636	10,933	(2,297)	(21.0%)
Criminal Issues Initiative	227	1,447	(1,220)	(84.3%)
Salaries	866,720	896,626	(29,906)	(3.3%)
Executive Offices Total	2,383,589	2,482,034	(98,445)	(4.0%)
Finance & Administration				
Administration	17,096	21,985	(4,889)	(22.2%)
Facilities Services	221,085	233,418	(12,333)	(5.3%)
Financial Services	546,304	526,735	19,569	3.7%
Salaries	259,374	266,209	(6,835)	(2.6%)
Finance & Administration Total	1,043,859	1,048,347	(4,488)	(0.4%)
Member & Communication Services				
Bar Journal Directory	46,396	59,200	(12,804)	(21.6%)
Bar Journal 11 Issues	270,677	302,152	(31,475)	(10.4%)
Print Center	36,179	40,402	(4,223)	(10.5%)
Internet Department	80,664	99,225	(18,561)	(18.7%)
e-Journal	18,226	25,721	(7,495)	(29.1%)
Media Relations	41,286	44,783	(3,497)	(7.8%)
Member & Endorsed Services	64,605	85,583	(20,978)	(24.5%)
Annual Meeting	3,502	2,500	1,002	40.1%
Bar Leadership Forum	1,062	800	262	32.8%
Practice Mgt Resource Center (PMRC)	3,669	4,204	(535)	(12.7%)
UMLI	3,740	4,500	(760)	(16.9%)
Information Technology Services	226,970	258,583	(31,613)	(12.2%)
Salaries	995,737	1,002,727	(6,990)	(0.7%)
Member & Communication Services Total	1,792,713	1,930,380	(137,667)	(7.1%)
Professional Standards				
Character & Fitness (C&F)	15,281	35,625	(20,344)	(57.1%)
Client Protection Fund Dept	6,704	6,579	125	1.9%
Ethics	6,532	7,738	(1,206)	(15.6%)
Unauthorized Practice of Law (UPL)	9,598	12,458	(2,860)	(23.0%)
Lawyer Referral Service (LRS)*	11,193	9,303	1,890	20.3%
Lawyer & Judges Assistance Program	15,697	21,242	(5,545)	(26.1%)
Salaries	646,271	648,038	(1,767)	(0.3%)
Professional Standards Total	711,276	740,983	(29,707)	(4.0%)
Total Expense	5,931,437	6,201,744	(270,307)	(4.4%)
*Note - LRS has been transferred to Member & Communications Services Division				
Human Resources Detail				
Payroll Taxes	201,671	213,870	(12,199)	(5.7%)
Benefits	894,901	904,333	(9,432)	(1.0%)
Other Expenses	34,584	34,067	517	1.5%
Total Human Resources	1,131,156	1,152,270	(21,114)	(1.8%)
Financial Services Detail				
Depreciation	277,317	277,317	0	0.0%
Other Expenses	268,987	249,418	19,569	7.8%
Total Financial Services	546,304	526,735	19,569	3.7%
Salaries				
Executive Offices	866,720	896,626	(29,906)	(3.3%)
Finance & Administration	259,374	266,209	(6,835)	(2.6%)
Member Services & Communications	995,737	1,002,727	(6,990)	(0.7%)
Professional Standards	646,271	648,038	(1,767)	(0.3%)
Total Salaries Expense	2,768,102	2,813,600	(45,498)	(1.6%)
NonLabor Summary				
Executive Offices	420,297	467,205	(46,908)	(10.0%)
Finance & Administration	784,485	782,138	2,347	0.3%
Member Services & Communications	796,976	927,653	(130,677)	(14.1%)
Professional Standards	65,005	92,945	(27,940)	(30.1%)
Total NonLabor Expense	2,066,763	2,269,941	(203,178)	(9.0%)

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the seven months ending April 30, 2018
YTD FY 2018 Increase (Decrease) in Net Position Summary

	Actual YTD	Budget YTD	Variance	Percentage	Last Year Actual YTD
Operating Revenue					
- Dues and Related	4,616,165	4,656,610	(40,445)	(0.9%)	4,012,527
- All Other Op Revenue	972,915	1,051,415	(78,500)	(7.5%)	820,481
Total Operating Revenue	5,589,080	5,708,025	(118,945)	(2.1%)	4,833,008
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	2,768,102	2,813,600	(45,498)	(1.6%)	2,290,173
Benefits and PR Taxes	1,096,572	1,118,203	(21,631)	(1.9%)	893,202
Total Labor-related Operating Expenses	3,864,674	3,931,803	(67,129)	(1.7%)	3,183,375
- Non-labor Operating Expenses					
Executive Offices	420,297	467,205	(46,908)	(10.0%)	317,972
Finance & Administration	784,485	782,138	2,347	0.3%	626,925
Member & Communication Services	796,976	927,653	(130,677)	(14.1%)	738,419
Professional Standards	65,005	92,945	(27,940)	(30.1%)	49,301
Total Non-labor Operating Expenses	2,066,763	2,269,941	(203,178)	(9.0%)	1,732,617
Total Operating Expenses	5,931,437	6,201,744	(270,307)	(4.4%)	4,915,992
Operating Income (Loss)	(342,357)	(493,719)	151,362	N/A	(82,984)
Nonoperating Revenue (Expenses)					
Investment Income	102,725	75,833	26,892	35.5%	56,336
Net Nonoperating revenue (expenses)	102,725	75,833	26,892	35.5%	56,336
Increase (Decrease) in Net Position	(239,632)	(417,886)	178,254	N/A	(26,648)
Net Position - Beginning the Year	12,277,875	12,277,875	0	0.0%	12,596,774
Net Position - Year-to-Date	\$12,038,243	\$11,859,989	\$178,254	1.5%	\$12,570,126

State Bar of Michigan Administrative Fund
Revenues, Expenses and Net Assets
FY 2018 - Year-End Forecast
Updated April 10, 2018

	FY 2018 Year-End Forecast	FY 2018 Budget	Variance	Percentage	FY 2017 Actual
Operating Revenue					
- Dues and Related	7,765,460	7,795,460	(30,000)	(0.4%)	7,754,415
- All Other Op Revenue	1,612,291	1,691,291	(79,000)	(4.7%)	1,635,365
Total Operating Revenue	<u>9,377,751</u>	<u>9,486,751</u>	<u>(109,000)</u>	<u>(1.1%)</u>	<u>9,389,780</u>
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	4,809,553	4,922,153	(112,600)	(2.3%)	4,625,399
Benefits, PR Taxes, and Ret HC Exp	1,812,038	1,808,038	4,000	0.2%	1,670,745
Total Labor-related Operating Expenses	<u>6,621,591</u>	<u>6,730,191</u>	<u>(108,600)</u>	<u>(1.6%)</u>	<u>6,296,144</u>
- Non-labor Operating Expenses					
Executive Offices	756,340	765,840	(9,500)	(0.8%)	629,999
Finance & Administration	1,292,775	1,237,775	55,000	7.2%	1,075,682
Member & Communication Services	1,843,975	1,868,475	(24,500)	(1.3%)	1,676,544
Professional Standards	170,825	170,825	0	0.0%	152,009
Total Non-labor Operating Expenses	<u>4,063,915</u>	<u>4,042,915</u>	<u>21,000</u>	<u>0.5%</u>	<u>3,534,234</u>
Total Operating Expenses	<u>10,685,506</u>	<u>10,773,106</u>	<u>(87,600)</u>	<u>(0.8%)</u>	<u>9,830,378</u>
Operating Income (Loss)	<u>(1,307,755)</u>	<u>(1,286,355)</u>	<u>(21,400)</u>	N/A	<u>(440,598)</u>
Nonoperating Revenue (Expenses)					
Capital Contributions	0	0	0	N/A	112,863
Investment Income	155,000	130,000	25,000	19.2%	8,836
Net Nonoperating revenue (expenses)	<u>155,000</u>	<u>130,000</u>	<u>25,000</u>	<u>19.2%</u>	<u>121,699</u>
Increase (Decrease) in Net Position	<u>(1,152,755)</u>	<u>(1,156,355)</u>	<u>3,600</u>	N/A	<u>(318,899)</u>
Net Position - Beginning the Year	<u>12,277,875</u>	<u>12,277,875</u>	<u>0</u>	<u>0.0%</u>	<u>12,596,774</u>
Net Position - End of the Year	<u>\$11,125,120</u>	<u>\$11,121,520</u>	<u>\$3,600</u>	<u>0.0%</u>	<u>\$12,277,875</u>

Operating Revenue forecast

- Late fees - \$30,000 under
- Directory revenue - \$20,000 under and Bar Journal revenue - \$11,000 under
- C&F fee Revenue - \$45,000 under
- LRS fees (net) - \$7,000 favorable
- Member services (discontinuance of credit card contract) & PMRC - \$10,000 under

Labor forecast:

- Vacancies - LRS FT - part year, IT part time - part year; Gen Counsel and Outreach (less vac payout) reduced salaries - \$112,600
- Payroll taxes and unemployment net of higher net retiree health care - over by \$4,000

Nonlabor forecast:

- Executive Offices - \$9,500 under (Pro Bono, JI, CII)
- Finance & Administration - Facilities \$5,000 under, Financial Services \$25,000 over - higher credit card fees net of other savings, and higher depreciation due to early retirement of phone system - \$35,000
- Member Services & Communications - \$24,500 under (MS, BLF, Internet, Media, other, net of higher IT)
- Professional Standards - On target at this time

Non-Operating Income forecast:

- Investment Income - will be better than budget by \$25,000

Other forecast issues not reflected in the forecast:

- Potential additional savings in other operating expenses not reflected
- Potential cost of Detroit Sattelite Office not reflected
- Potential legal expenses exceeding budgeted amount

State Bar of Michigan
Administrative Fund
Capital Expenditures vs Budget
For the seven months ending April 30, 2018

	YTD Actual	YTD Budget	YTD Variance	Variance Explanations	Total Approved FY 2018 Budget	FY 2018 Year-End Forecast	Projected Year-end Variance
Building security enhancements	0	0	0		10,000	10,000	0
Security audit appliance (PCI)	0	0	0	Was expensed and not capitalized	20,000	0	(20,000)
Update /redesign of pro hac vice site	14,092	15,000	(908)		20,000	20,000	0
E-commerce upgrades	19,386	20,000	(614)		20,000	20,000	0
Web services tool for courts	4,000	4,000	0		10,000	10,000	0
Investigations/C&F software	4,833	0	4,833	Forecast - Scope more than planned	0	10,000	10,000
Bar applicant online form to replace NCBE server transition	35,287	35,000	287	Forecast - Scope more than planned	25,000	35,000	10,000
e-service application for court e-filing (e-mail addresses)	0	0	0		20,000	20,000	0
Dues billing enhancements for firms	0	0	0		10,000	10,000	0
Lawyer referral portal	25,401	20,000	5,401	Forecast - Higher expense than planned	20,000	40,000	20,000
Database application for soliciting volunteers for committees and work groups	8,973	9,000	(27)		10,000	10,000	0
SBM website functionality enhancements	22,948	23,000	(52)		40,000	40,000	0
Meeting Room Technology Upgrades	21,995	23,000	(1,005)		23,000	23,000	0
Total	<u>\$156,915</u>	<u>\$149,000</u>	<u>7,915</u>		<u>\$228,000</u>	<u>\$248,000</u>	<u>\$20,000</u>

**STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
April 30, 2018**

FY 2018

Note: Dues 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 Months Ending April 30, 2018 and March 31, 2018
FY 2018

	March 31, 2018	April 30, 2018	Increase (Decrease)	%	Beginning of Fiscal Year October 1, 2017
Assets					
Cash	739,706	738,258	(1,448)	(0.2%)	895,592
Investments (CD's & CDARS)	1,556,307	1,556,307	0	0.0%	1,191,633
Accounts Receivable	0	0	0	N/A	0
Due from (to) Administrative Fund	43,743	29,022	(14,721)	(33.7%)	216,426
Accrued Interest Receivable	4,049	4,869	820	20.3%	3,761
Total Assets	\$ 2,343,805	\$ 2,328,456	(\$15,349)	(0.7%)	\$ 2,307,412
Liabilities					
Accounts Payable	14,000	0	(14,000)	N/A	0
Unearned Revenue	316,929	264,097	(52,832)	(16.7%)	67,830
Total Liabilities	\$ 330,929	\$ 264,097	(\$66,832)	(20.2%)	\$ 67,830
Net Position					
Net Position at Beginning of Year	2,239,582	2,239,582	0	0.0%	2,424,701
Increase (Decrease) in Net Position	(226,707)	(175,224)	51,483	(22.7%)	(185,119)
Total Net Position	2,012,875	2,064,358	51,483	2.6%	2,239,582
Total Liabilities and Net Position	\$ 2,343,804	\$ 2,328,455	(\$15,349)	(0.7%)	\$ 2,307,412

* Note: In addition, there are authorized but unpaid claims totaling \$140,297 awaiting signatures of subrogation agreements.

State Bar of Michigan
Client Protection Fund
Statement of Revenue, Expenses, and Changes in Net Assets
For the seven months ending April 30, 2018
FY 2018

	YTD	
Revenue		
Contributions Received	17,191	
Membership Dues Assessment	376,467	
Pro Hac Vice Fees	6,690	
Claims Recovery	19,264	
Miscellaneous Income	0	
Total Revenue	419,612	
Expense		
Claims Payments	487,032	* See Note Below
Administrative Fee	116,865	
Litigation and Miscellaneous Expense	0	
Total Expense	603,897	
Operating Income (Loss)	(184,285)	
Investment Income	9,061	
Increase (Decrease) in Net Position	(175,224)	
Net Position - Beginning of the Year	2,239,582	
Net Position - End of the Period	2,064,358	

* Note: In addition, there are authorized but unpaid claims totaling \$140,297 awaiting signatures of subrogation agreements.

State Bar of Michigan Financial Results Summary

7 Months Ended April 30, 2018

Fiscal Year 2018

Administrative Fund

Summary of YTD April 30, 2018 Actual Results

For the seven months ended April 30, 2018, the State Bar had an Operating Loss of \$342,357 and Non-Operating Income of \$102,725, for a decrease in Net Position of \$239,632 so far in FY 2018. Net Position as of April 30, 2018 totaled \$12,038,243.

YTD Variance from Budget Summary:

YTD Operating Revenue - \$118,945 unfavorable to YTD budget, or 2.1%

YTD Operating Expense - \$270,307 favorable to YTD budget, or 4.4%

YTD Non-Operating Income - \$26,892 favorable to YTD budget, or 35.5%

YTD Change in Net Position - \$178,254 favorable to YTD budget

YTD Key Budget Variances:

YTD Operating Revenue variance - \$118,945 unfavorable to budget:

- Operating revenue was unfavorable to budget in Member & Communication Services by \$30,999, or 6.3%, due primarily to the Directory sales; in Professional Standards by \$47,731, or 14.3%, due primarily to C&F fees (due to delay of the C&F fee increase) and to a lesser extent, LRS fees and LJAP fees; and in Dues & Related and Other Revenue totaling \$40,215, or 0.8%, due to lower late fees.

YTD Operating Expense variance - \$270,307 favorable to budget:

- Salaries and Employee Benefits/ Payroll Taxes - \$67,129 favorable - (1.7%)
 - Underage in salaries and benefits due to vacancies and positions changing from full-time to part-time. Additionally, health care expenses are under due to timing.
- Non-Labor Operating Expenses - \$203,178 favorable - (9.0%)
 - Exec Offices - \$46,908 favorable - (10.0%) - Primarily Executive Office, JI programs, Outreach, General Counsel, and R&D – some timing.
 - Finance & Admin - \$2,347 unfavorable - (0.3%) – Primarily Financial Services due to higher credit card fees with higher online dues payments; partially offset by Facilities Services and to a lesser extent Administration – some timing.

- Member & Communication Services - \$130,677 favorable - (14.1%) - Primarily IT, Bar Journal, Member and Endorsed Services, Internet, and Bar Journal Directory; and to a lesser extent, other departments – some timing.
- Professional Standards - \$27,940 favorable - (30.1%) - Primarily C&F; and to a lesser extent, LJAP and other – some timing.

YTD Non-Operating Revenue Budget Variance - \$26,892 favorable to budget

- Investment income is 35.5% higher due to higher interest rates and more favorable cash management opportunities than planned.

Cash and Investment Balance – Admin Fund

As of April 30, 2018, the cash and investment balance in the State Bar Admin Fund (net of “*due to Sections and Client Protection Fund*”) was \$11,170,484.

Capital Budget – Admin Fund

Through April 30, 2018, YTD capital expenditures totaled \$156,915 which is 5.3% over the YTD capital budget. We are forecasting at fiscal year-end to be about \$20,000 over the Capital budget at this time due to IT project costs higher than planned.

Administrative Fund FY 2018 Year-End Financial Forecast

Based on our latest year-end financial forecast, we are projecting to meet the FY 2018 budget due primarily to expense savings net of lower late fees, lower non-dues revenue, and higher operating expenses (credit card fees and depreciation). We will have an updated forecast in June as part of the Preliminary FY 2019 Budget

Client Protection Fund

The Net Position of the Client Protection Fund as of April 30, 2018 totaled \$2,064,358, a decrease of \$175,224 since the beginning of the fiscal year. There are authorized but unpaid claims totaling \$140,297 awaiting signatures for subrogation agreements. If these claims were reflected, Net Position would be reduced to \$1,924,061.

Through April 30, 2018, claims payments of \$487,032 and administration expenses of \$116,865 were disbursed from the Client Protection Fund; offset by member dues assessments of \$376,467 (earned equally throughout the year) and other revenue of \$52,206.

SBM Retiree Health Care Trust

As of April 30, 2018, the SBM Retiree Health Care Trust had a fund balance of \$2,879,815 which is an increase of \$108,637 so far in FY 2018, due primarily to investment earnings.

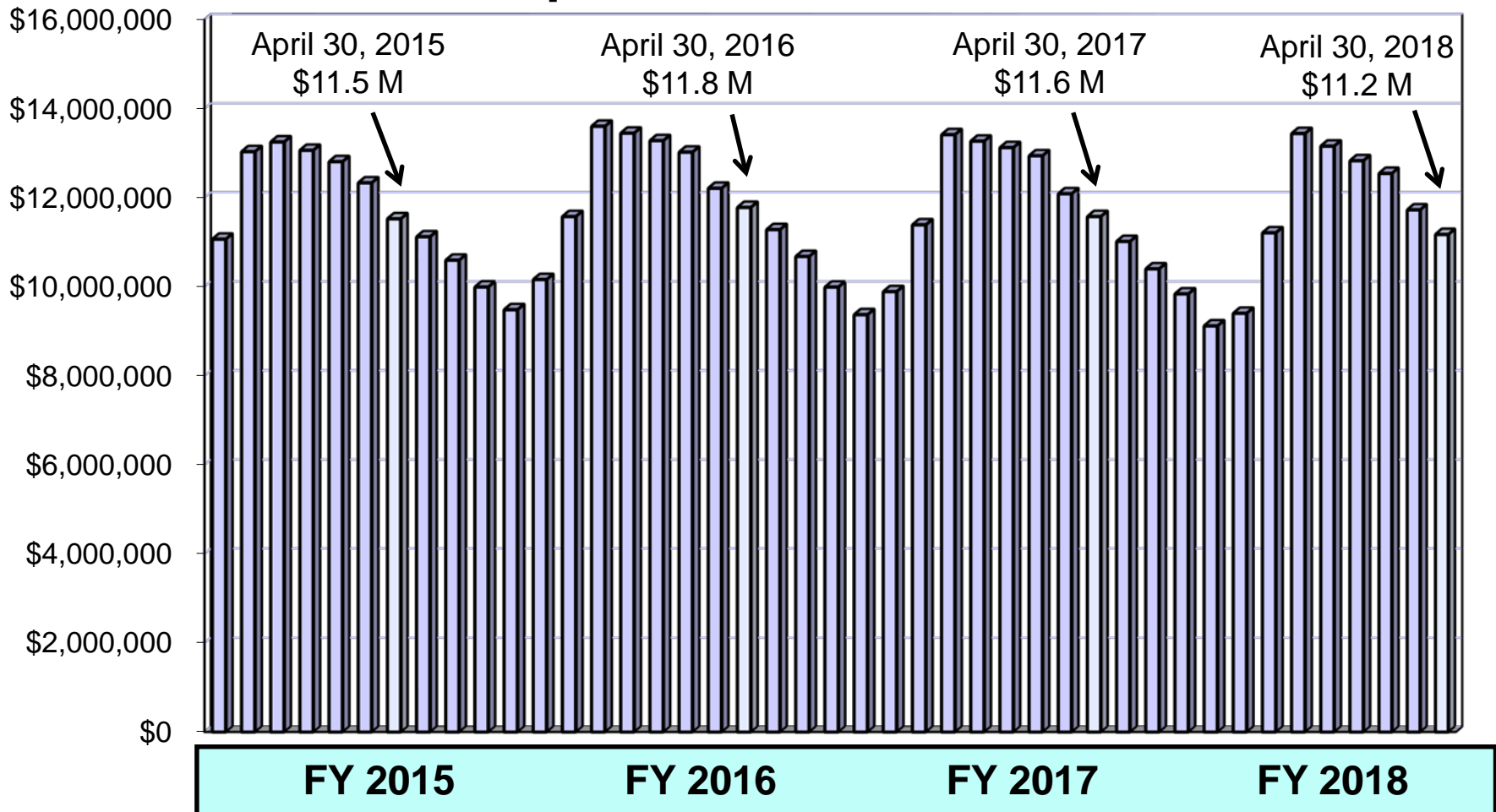
SBM Membership

As of April 30, 2018, the total active, inactive and emeritus membership in good standing totaled 45,430 attorney members, for a net increase of 114 members so far in FY 2018. A total of 645 new members have joined the SBM so far during FY 2018.

SBM Cash & Investment Balances

Excluding Sections, Client Protection Fund & Fiduciary Funds

April 30, 2018 - \$11.2 M



Note: The State Bar has no bank debt outstanding

Summary of Cash and Investment Balances by Financial Institution
4/30/2018

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Fund Summary
		SBM Chase Checking \$ 159,260.28		Client Protection Fund \$ 2,294,564.36
		SBM Chase Credit Card \$ 15,027.60		State Bar Admin Fund \$ 14,084,466.06
		SBM Chase Payroll \$ (0.00)	0.18%	(including Sections)
		SBM Chase Savings \$ 506,353.08		Attorney Discipline System \$ 4,655,397.04
		ADS Chase Checking \$ 11,885.24		SBM Retiree Health Care Trust \$ 2,879,814.64
		CPF Chase Checking \$ 23,676.07	0.18%	ADB Retiree Health Care Trust \$ 824,984.22
		CPF Chase Savings \$ 44,106.28		AGC Retiree Health Care Trust \$ 2,888,635.67
\$2.15 Trillion	4 stars	Chase Totals \$ 760,308.55		Total \$ 27,627,861.99
		ADS Bank of America Petty Cash \$ 2,702.19	0.00%	
	N/A	Bank of America Totals \$ 2,702.19		
		SBM Fifth Third Commercial Now \$ 12,698.93	0.00% ***	
\$138.7 Billion	4 stars	Fifth Third Totals \$ 12,698.93		
		Grand River Bank Money Market \$ 4,339.41	1.00%	
\$209.8 Million	4 stars	Grand River Bank Totals \$ 4,339.41		
		Grand River Bank Total w/CD \$ 249,339.41		State Bar Admin Fund Summary
		Community Shores Bank Savings \$ 12,496.90	0.75%	Cash and Investments \$ 14,084,466.06
\$192 Million	3 stars	Community Shores Bank Savings Total \$ 12,496.90		Less:
		Community Shores Bank Savings Total w/CD \$ 252,496.90		Due (to)/from Sections (2,884,959.81)
		First Community Bank \$ 2,718.48	0.60%	Due (to)/from CPF (29,022.04)
\$279 Million	5 stars	First Community Bank Total \$ 2,718.48		
		First Community Bank Total w/CD \$ 247,718.48		Due to Sections and CPF \$ (2,913,981.85)
		Sterling Bank \$ 2,311.78	0.40%	Net Administrative Fund \$ 11,170,484.21
\$2.4 Billion	5 stars	Sterling Bank Total \$ 2,311.78		
		Sterling Bank Total w/CD \$ 977,311.78		
		Citizens Bank Checking \$ 100.00		
\$120 Billion	4 stars	Citizens Bank Money Market \$ 1,975,413.27	1.00%	
		Citizens Bank Totals \$ 1,975,513.27		SBM Average Weighted Yield: 1.50%
		Mercantile Bank \$ 1,007,510.95	1.25%	ADS Average Weighted Yield: 0.58%
\$3 Billion	5 stars	Mercantile Bank Total \$ 1,007,510.95		CPF Average Weighted Yield: 0.65%
		Main Street Bank \$ 995,158.39	1.25%	Note: average weighted yields exclude retiree health care trusts
\$220 Million	4 stars	Main Street Bank \$ 995,158.39		
		MSU Credit Union \$ 6.29	0.10%	
\$3.65 Billion	5 stars	MSU Credit Union Total \$ 6.29		
		MSU Credit Union Total w/CD \$ 940,006.29		
		SBM Flagstar Savings Account \$ 496,036.98	1.09%	
		SBM Flagstar CDAR - 12 month \$ 1,000,000.00	0.70%	
		ADS Flagstar Checking Account \$ 843.33	0.25%	
		ADS Flagstar CDARS -12 Month \$ 1,520,000.00	0.80%	
		ADS Flagstar CDARS -12 Month \$ 810,000.00	0.70%	
		ADS Flagstar CDARS -12 Month \$ 1,000,000.00	0.70%	
		CPF Flagstar Savings \$ 670,475.38	1.09%	
		CPF Flagstar CDARS - 36 Month \$ 256,269.78	0.55%	
		CPF Flagstar CDARS - 24 Month \$ 450,036.85	0.75%	
		CPF Flagstar CDARS - 12 month \$ 500,000.00	0.55%	
		CPF Flagstar CDARS - 12 month \$ 350,000.00	0.70%	
\$15.8 Billion	4 stars	Flagstar Bank Totals \$ 7,053,662.32		
		SBM - CD Chemical Bank ** \$ 235,000.00	1.75%	
\$18 Billion	4 stars	SBM - CD Chemical Bank \$ 240,000.00	1.75%	
		SBM - CD Chemical Bank \$ 240,000.00	1.75%	
		SBM - CD Chemical Bank \$ 240,000.00	1.75%	
		SBM - CD Chemical Bank \$ 250,000.00	2.40%	
		SBM - CD Chemical Bank \$ 250,000.00	2.40%	
		SBM - CD Chemical Bank \$ 250,000.00	2.40%	
\$279 Million	4 stars	SBM- CD First Community Bank \$ 245,000.00	1.00%	
\$209.8 Million	4 stars	SBM - Grand River Bank \$ 245,000.00	1.15%	
\$3 Billion	4 stars	SBM-CD Horizon Bank \$ 240,000.00	1.00%	
		SBM-CD Horizon Bank \$ 245,000.00	1.30%	
		SBM-CD Horizon Bank \$ 245,000.00	1.30%	
		SBM-CD Horizon Bank \$ 245,000.00	1.30%	
		SBM-CD Horizon Bank \$ 250,000.00	2.66%	
		SBM-CD Horizon Bank \$ 250,000.00	2.66%	
		SBM-CD Horizon Bank \$ 250,000.00	2.48%	
		SBM-CD Horizon Bank \$ 250,000.00	2.48%	
\$1.2 Billion	4 stars	SBM-CD First National Bank of America \$ 240,000.00	1.60%	
		SBM-CD First National Bank of America \$ 240,000.00	1.60%	
		SBM-CD First National Bank of America \$ 240,000.00	1.85%	
		SBM-CD First National Bank of America \$ 240,000.00	1.85%	
\$192 Million	3 stars	SBM-CD Community Shores Bank \$ 240,000.00	1.25%	
\$190 Million	5 stars	SBM-CD Clarkston State Bank \$ 240,000.00	1.10%	
		SBM-CD Clarkston State Bank \$ 240,000.00	1.25%****	
		SBM-CD Clarkston State Bank \$ 240,000.00	1.25%****	
		SBM-CD Clarkston State Bank \$ 240,000.00	1.25%****	
\$263 Million	3 stars	SBM-CD First National Bank of St. Ignace \$ 245,000.00	1.25%	
\$2.4 Billion	5 stars	SBM-CD Sterling Bank \$ 245,000.00	1.55%	
		SBM-CD Sterling Bank \$ 245,000.00	1.55%	
		SBM-CD Sterling Bank \$ 245,000.00	1.55%	
		SBM-CD Sterling Bank \$ 240,000.00	1.55%	
\$383 Million	4 stars	SBM-CD The Dart Bank \$ 240,000.00	1.25%	
		SBM-CD The Dart Bank \$ 240,000.00	1.25%	
		SBM-CD The Dart Bank \$ 240,000.00	1.25%	
		SBM-CD The Dart Bank \$ 240,000.00	1.25%	
\$3.65 Billion	5 stars	SBM-CD MSU Credit Union \$ 235,000.00	2.05%	
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	
		SBM-CD MSU Credit Union \$ 235,000.00	2.05%	
		Bank CD Totals \$ 9,205,000.00		
		Total Cash & Investments (excluding Schwab) \$ 21,034,427.46		
		SBM - Charles Schwab (Ret HC Trust) \$ 2,879,814.64	Mutual Funds	
		ADB - Charles Schwab (Ret HC Trust) \$ 824,984.22	Mutual Funds	
		AGC - Charles Schwab (Ret HC Trust) \$ 2,888,635.67	Mutual Funds	
		Charles Schwab Totals \$ 6,593,434.53		
		Grand Total (including Schwab) \$ 27,627,861.99		
		Total amount of cash and investments (excluding Schwab) not FDIC insured \$ 11,140,661.82	52.96%	

Notes:
 - All amounts are based on reconciled book balance and interest rates as of 04/30/2018
 - CDARS 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 70% equity and 30% fixed income mutual funds
 - As of 04/30/2018, the funds held by SBM attributable to ADS was \$1,309,966.28
 * Flagstar Bank reserves the right to mature these CDARS at 12 months.
 ** Formerly Talmer West Bank
 ***Balance offsets lockbox fees by 0.35%.
 ****Actual unreconciled Chase balance per statements was \$900,674.96.
 ***** Variable interest rate-increases to 1.75% on 6/25/18.

Maturity
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5/16/19*
12/26/19*
05/31/18
01/03/19

Maturity
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10/25/20

Monthly SBM Member Report - April 30, 2018

FY 2018

<u>Attorney Members and Affiliates In Good Standing</u>	Current Fiscal Year						FY Increase (Decrease)
	September 30 2013	September 30 2014	September 30 2015	September 30 2016	September 30 2017	April 30 2018	
Active	40,475	41,093	41,608	41,921	42,100	42,039	(61)
Less than 50 yrs serv	39,335	40,036	40,490	40,725	40,833	40,664	(169)
50 yrs or greater	1,140	1,057	1,118	1,196	1,267	1,375	108
Voluntary Inactive	1,263	1,211	1,218	1,250	1,243	1,173	(70)
Less than 50 yrs serv	1,231	1,184	1,195	1,230	1,217	1,146	(71)
50 yrs or greater	32	27	23	20	26	27	1
Emeritus	1,391	1,552	1,678	1,841	1,973	2,218	245
Total Attorneys in Good Standing	43,129	43,856	44,504	45,012	45,316	45,430	114
Affiliates							
Legal Administrators	19	14	13	13	13	10	(3)
Legal Assistants	433	413	425	405	400	382	(18)
Total Affiliates in Good Standing	452	427	438	418	413	392	(21)
Total Attorney Members and Former Members in the Database							
<u>State Bar of Michigan Member Type</u>	Current Fiscal Year						FY Increase (Decrease)
	September 30 2013	September 30 2014	September 30 2015	September 30 2016	September 30 2017	April 30 2018	
Attorney Members in Good Standing:							
ATA (Active)	40,475	41,093	41,608	41,921	42,100	42,039	(61)
ATVI (Voluntary Inactive)	1,263	1,211	1,218	1,250	1,243	1,173	(70)
ATE (Emeritus)	1,391	1,552	1,678	1,841	1,973	2,218	245
Total Members in Good Standing	43,129	43,856	44,504	45,012	45,316	45,430	114
Attorney Members Not in Good Standing:							
ATN (Suspended for Non-Payment of Dues)	5,248	5,427	5,578	5,743	5,888	6,154	266
ATDS (Discipline Suspension - Active)	400	407	415	418	430	435	5
ATDI (Discipline Suspension - Inactive)	10	12	11	18	19	20	1
ATDC (Discipline Suspension - Non-Payment of Court Costs)	1	1	3	3	16	15	(1)
ATNS (Discipline Suspension - Non-Payment of Other Costs)	76	83	92	99	94	92	(2)
ATS (Attorney Suspension - Other)*	1	1	1	1	0	0	0
ATR (Revoked)	519	521	517	534	562	575	13
ATU (Status Unknown - Last known status was inactive)**	2,174	2,088	2,076	2,074	2,070	2,070	0
Total Members Not in Good Standing	8,429	8,540	8,693	8,890	9,079	9,361	282
Other:							
ATSC (Former special certificate)	134	136	140	145	152	156	4
ATW (Resigned)	1,354	1,429	1,483	1,539	1,612	1,688	76
ATX (Deceased)	7,797	8,127	8,445	8,720	9,042	9,211	169
Total Other	9,285	9,692	10,068	10,404	10,806	11,055	249
Total Attorney Members in Database	60,843	62,088	63,265	64,306	65,201	65,846	645

* 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 members 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 currently researching these members to determine a final disposition.

N/R - not reported

Notes: Through April 30, 2018, a total of 645 new members joined the SBM so far in FY 2018

State Bar of Michigan Retiree Health Care Trust
Balance Sheet
For the Seven Months Ending April 30, 2018

Assets	
Investment	<u>\$2,879,815</u>
Total Assets	<u><u>\$2,879,815</u></u>
Fund Balance	
Fund Balance at Beginning of Year	2,771,178
Net Income (Expense) Year to Date	<u>108,637</u>
Total Fund Balance	<u>2,879,815</u>
Total Liabilities and Fund Balance	<u><u>\$2,879,815</u></u>

State Bar of Michigan Retiree Health Care Trust
Income Statement
For the Seven Months Ending April 30, 2018

	April 2018	CURRENT YTD
Income:		
5-7-00-000-0921 Change In Market Value	12,839	(118,163)
5-7-00-000-1005 Investment Contributions	4,778	33,443
5-7-00-000-1920 Interest and Dividends	2,713	193,357
Total Income	<u>20,330</u>	<u>108,637</u>
Net Fund Income (Expense)	<u>20,330</u>	<u>108,637</u>



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To: Board of Commissioners
Communications and Member Services Committee
From: Dana Warnez and Dennis Barnes
Date: May 29, 2018
Subject: 2018 State Bar of Michigan Liberty Bell Award Recommendation

306 Townsend Street
Michael Franck Building
Lansing, MI
48933-2012

The State Bar of Michigan Awards Committee recommends that the **Grand Rapids Urban League** receive the 2018 State Bar of Michigan Liberty Bell Award.

The Grand Rapids Urban League received the Grand Rapids Bar Association’s 2018 Liberty Bell Award in acknowledgement of two of the organization’s programs that contribute to the effective functioning of institutions of government and foster a better understanding and appreciation of the rule of law.

The GRUL Center for Housing and Community Development works with tenants and landlords to educate both groups on rights and responsibilities and to advocate for homelessness prevention as the city undergoes unprecedented gentrification. The GRUL CHCD presents a project called “Free Legal Advice for Renters” four times a month, in collaboration with Legal Aid of Western Michigan, the GRBA and Western Michigan University Cooley Law School. The GRUL Parent Empowerment Network advocates to help parents navigate the complicated system of disciplinary and special education support and services to seek educational success for their children.

The GRUL also helps people become registered voters, educates citizens about voting rights and responsibilities, provides racial equity and anti-bias/implicit bias training for businesses, and works to ensure economic security by hosting job recruitment, referral and placement. Originally a civil rights organization, GRUL now serves people from all racial backgrounds and economic levels seeking to develop careers, avoid homelessness, find housing, access education, achieve health and wellness and become better informed citizens.

To view all SBM award nominations, visit <http://bit.ly/SBMAwards>. This is a password-protected website, so you will have to enter your SBM username or P number, and then the password you use to access the member area of michbar.org.

FY 2019 Preliminary Budget

Key Budget Assumptions

Draft - May 30, 2018

General

- Budget consistent with the Strategic Plan and in compliance with the financial safety margin policy
- No change to the current SBM dues structure
- Membership revenue growth of approximately 0.4% based on the current membership, adjusted for recent trends of new member applications, the number of character and fitness applications, members returning from suspension for non-payment of dues, and estimates of member attrition
- Budgeted staffing in FY 2019 to meet the needs of member and public service of 74.5 FTE, an increase of .5 FTE from the FY 2018 budget. This includes an additional part time intern to assist in the receivership program development, an additional full time attorney for UPL (due to transferring the existing attorney to LRS on a full time basis), a reduction of a full time to a part time position in General Counsel, and a reduction of a full time to a part time position in Outreach/External Development.
- New SBM satellite office at University of Detroit Mercy School of Law in downtown Detroit

Labor

Salaries

- Salary compensation adjustments (tentative) - a general salary increase in FY 2019 of 2% for all positions, based on comparisons to similar organizations, prorated for time worked in FY 2018. An additional \$50,000 is budgeted for discretionary incentive compensation increases awarded based on merit, and will not be rolled into base salaries. There will also be some salary adjustments to certain positions based on a benchmarking study.
- No vacancy float in salaries (and related benefits) is assumed in FY 2019, the same as in FY 2018 (turnover and vacancies are not anticipated)

Benefits

- Maintain the existing employee insurance benefits, with estimated inflationary increases:
 - Medical (Blue Cross Blue Shield of Michigan and Blue Care Network) at current coverages
 - Continued application of the hard cap established by PA 152, the Publicly Funded Health Insurance Contributions Act (PFHICA). The adjusted caps for FY 2019 are based on the current rates in effect for calendar year 2018 for the first 3 months of FY 2019, and escalated by an assumed 3% for the remainder of FY 2019. These blended rates are estimated for FY 2019 to be \$6,708.13 for single coverage, \$14,028.77 for two person coverage, and

\$18,294.94 for family coverage. The caps limit the employer portion cost of medical insurance, including the medical claims tax, with employees paying the amount over and above the caps.

- Continued Medical insurance opt-out payment to eligible employees of \$1,800 in order to encourage employees to opt-out of medical coverage.
 - Vision - 2% increase
 - Dental - 6% increase
 - Long-term Disability (LTD), Short-term Disability (STD), Group Term Life (GTL) and Accidental Death and Dismemberment (AD&D) – no change
- Maintain existing Retirement Plans, with estimated adjustments:
 - Defined Benefit Pension for 2 eligible Tier 1 employees - 3% increase from 24.60% of Tier 1 payroll to 25.34%
 - Defined Contribution Retirement for all Tier 2 employees – no change (4% contribution plus matching up to 3% of employee contributions)
 - Retiree Health Care premiums paid to the State of Michigan (projected 3% increase in actual premiums for current retirees billed by the State). Total defined benefit pension expense recognized is based on adjustments from the State of Michigan as determined by GASB 75.
 - Retiree Health Care Trust expense - the annual expense is based on the revised 2018 actuarial study calculation of the annual required contribution for FY 2019, less the amount paid directly to the State for current retirees. (Updated actuarial study to be performed in early FY 2019).

Payroll taxes

- No changes to the employer FICA rate of 6.2% for social security tax and 1.45% for Medicare tax- taxes are based on budgeted salaries, no wage cap for Medicare tax, and current social security wage cap of \$128,400, escalated by 2%.

Non-Labor

- Postage – no overall change in USPS rates currently in effect for 2018, adjusted for changes in mailing volumes
- Depreciation Expense – no change in the depreciation policy; expense based upon projected asset levels and capital spending
- Payment in Lieu of Property Tax (PILOT) – 2% escalation based on projected asset valuations and updated millage rates
- No short term or long term debt
- Investment Income – 1.50% of average projected cash and investment levels based on projected interest rates and the current investment policy
- Attorney Discipline System (ADS) fee revenue – 2% increase over the FY 2018 actual amount
- Michigan State Bar Foundation (MSBF) rent revenue – 2% increase over the FY 2018 actual amount

- Administrative Fee charged to the Client Protection Fund – 3% increase in non-labor CPF expenses and allocated staff labor

Specific Division Assumptions

Executive Offices

Executive Office, BOC and RA

- Programs and staffing at current FY 2018 budgeted levels except:
 - Modern governance consultant (TBD)
 - Further streamlining of committee structure

Human Resources

- Programs and staffing at current FY 2018 budgeted levels

Governmental Relations

- Programs and staffing at current FY 2018 budgeted levels

Justice Initiatives

- Programs and staffing at FY 2018 levels, although reorganized

Outreach

- Programs and staffing at current FY 2018 budgeted levels, except:
 - Reduction of 1 Outreach/External Development staff from full time to part time

Research & Development

- Programs and staffing at current FY 2018 budgeted levels except:
 - No Economics of Law Practice budgeted in FY 2019

Diversity

- Programs and staffing at current FY 2018 budgeted levels

General Counsel

- Programs and staffing at current FY 2018 budgeted levels except:
 - Reduction of General Counsel from full time to part time

Professional Standards Division

- Programs and staffing at current FY 2018 budgeted levels except:
 - Higher C&F fee based on a new cost and volume study, with Michigan Supreme Court approval anticipated to take effect in FY 2018 for a full year impact in FY 2019 of \$135,000 over FY 2018 actual.
 - Additional FTE – UPL Counsel
 - 1 additional PT intern position to support transitioning responsibility for the receivership function from AGC to SBM and to assist in conducting a business case for this function that would include a funding mechanism to make the fully implemented program cost-neutral,

including rule changes, operational framework, resources required and implementation plan for FY 2020 (no financial impact in FY 2019. Evaluation to remodel office space to accommodate this new function will be performed in FY 2019.

Member and Communication Services Division

- Programs and staffing at current FY 2018 budgeted levels except:
 - IT Capital projects - LRS portal upgrades, BLE/C&F portal upgrades, new CPF and UPL online portals, and Office 365/Outlook (tentative). IT staff currently charged in capital projects will be full operations expense in FY 2019.
 - Possible changes to issuing bar cards (decreased cost)
 - FY 2019 Annual Meeting (Next Conference) in Novi (Suburban Showcase)
 - Continued decline in MBJ advertising revenue (along with lower MBJ paper expense), lower Print Center revenue (from section newsletters) and higher Print Center expense, and lower PMRC seminar revenue and expense
 - Reduced sales of MBJ Directory based on FY 2018 experience (and related expense)

Finance & Administration Division

- Programs and staffing at current FY 2018 budgeted levels except:
 - Savings in printing and mailing of dues invoices and in eliminating the expenses currently incurred in manual payment processing and data entry by contract dues temps. Achieved by automating the FY 2019 dues process to have members enter their annual registration information online with the choice to pay either on-line by check or credit card, or by check by printing out a payment stub and mailing it to our lockbox. The lockbox will provide an electronic payment file for posting.
 - New facilities capital projects - electrical panel, carpet in office areas, remodeled handicap entrance, and necessary elevator upgrades.

Capital Expenditures:

- The capital budget includes facilities projects as well as IT applications identified previously.

FY 2019 Staffing Preliminary Budget Full Time Equivalent (FTE's)

	FY 2018 <u>Budget</u>	Actual <u>5/29/18</u>	Year-End <u>Forecast</u>	FY 2019 <u>Preliminary Budget</u>
Professional Standards	20.00	16.50*	16.50*	17.50****
Member & Communication Services	27.50	31.00*	31.50***	31.50***
Executive Offices	18.50	17.50**	17.50**	17.50**
Finance & Administration	<u>8.00</u>	<u>8.00</u>	<u>8.00</u>	<u>8.00</u>
Total FTE's	74.00	73.00	73.50	74.50

Notes:

* A total of 4 LRS FTE staff have transferred to Member and Communication Services from Professional Standards in FY 2018 (one staff was also spending 0.5 FTE on UPL). Member & Communication Services is 0.5 FTE under in IT intern position in FY 2018. Also, an increase of 1 PT intern in Professional Standards for receivership support, and under 1 PT intern in IT.

** Executive Offices has two full time staff who went part time in FY 2018

*** Expect to fill PT IT intern vacancy

**** Addition of 1 FT UPL attorney in Professional Standards to replace the UPL/LRS attorney who transferred to Member & Communications Services

In addition to employees, there is ongoing contractor support. There are 4-5 seasonal dues processing temps and 3 on-site janitor contractors in Finance & Administration. There is also 1 part-time contractor in Member Services & Communications and 1 programmer on contract. In addition, there are also periodic temp staff used during specific vacancies and leaves of absence.

FY 2019 Preliminary Budget

Potential Risks, Possible Upsides & Open Issues

Potential Upsides

- Labor savings above the 0% vacancy float assumed and expense efficiencies.

Potential Risks

- Higher than anticipated cost increases.
- Lower than anticipated non-dues revenue, including the timing of the C&F fee increase.
- Lower than anticipated dues revenue resulting from a reduction in new members caused by fewer law school grads choosing to practice in Michigan.
- Potential unanticipated litigation.

Open Issues

- Implementation impact of GASB 75, Accounting and Financial Reporting for Other Post-Employment Benefits – reduction of an estimated \$1.7 million to Net Position at the close of FY 2018.