

PROPOSALS TO CREATE SPECIALIZED COURT DOCKETS

Issue

Should the State Bar of Michigan adopt guiding principles to apply when considering a position on the adoption of specialized dockets or courts?

Synopsis

Because the structure of the court system and the nature of the types of adjudicative forums available to citizens affect access to justice and the quality of the functioning of the court system, the State Bar of Michigan seeks to be a primary source for comment, advice, and advocacy on proposals that would create specialized docketing systems or specialized administrative courts for the adjudication of particular types of cases. Recent examples of this include: the Michigan State Medical Society proposal to create a “Patient Compensation Act of Michigan”; legislation introduced in the 05-06 legislative session by Representative John Stakoe for land use dockets; and legislation introduced in the 07-08 legislative session by Senator Liz Brater to create mental health dockets.

Introduction of these proposals is often aimed at creating greater efficiencies in the court system, increased access to justice, and better service for a specialized need or population that may require a unique or expert review. Nevertheless, even where deficiencies of the current system are acknowledged, the proposed solutions are often contentious. In order to ensure that core legal and constitutional rights remain secure in the creation of any specialized dockets, the State Bar of Michigan should offer guiding principles that must be met under all circumstances to guarantee the end result of fair and equitable justice.

Background

The State Bar of Michigan has a history of supporting the creation of specialized dockets when the specialized dockets will not create a substantial drain on the current court system and will improve access to justice. An example of past State Bar support is the funding of drug courts.

The following guiding principles are proposed by the proponent to be applied to consideration of any proposed position on the creation of a specialized docket or court:

A specialized docket or court should

- **increase access to justice.**
- **improve the functioning of the courts.**
- **guarantee Constitutional rights, such as the right to counsel and a trial by jury.**
- **use the Michigan Court Rules and the Michigan Rules of Evidence.**
- **not unreasonably limit a defendant’s or plaintiff’s ability to represent his/her case (i.e. expert testimony).**
- **not unduly burden the court’s resources.**

Opposition

None known.

Prior Action by Representative Assembly

None known.

Fiscal Impact to the State Bar of Michigan

None known.

**STATE BAR OF MICHIGAN POSITION
By vote of the Representative Assembly on April 21, 2007**

Should the State Bar of Michigan adopt the above **guiding principles** to be used when considering support or opposition to proposals to create specialized dockets or courts?

(a) Yes

or

(b) No