

**MICHIGAN DOMESTIC AND SEXUAL VIOLENCE
PREVENTION AND TREATMENT BOARD
MEETING MINUTES
March 10, 2023**

***** APPROVED*****

Members Present:

Kristen Howard

Hon. Melissa Lopez Pope - conference line (per AG Opinion No. 7318. Will be counted toward quorum).

Hon. Elizabeth Pollard Hines (Ret.) - Chairperson

Rebecca Shiemke

Matt Wiese

Kyla Williams - conference line (Not counted toward quorum).

Members Absent with Notice:

Dr. NiCole Buchanan

Staff Present:

Jess Averill

Tonya Avery

Michael Bobbitt, Board Secretary

Kathy Hagenian

Gail Krieger

Beth Nagel

Angela Povilaitis

Karen Porter

Lore Rogers

Guests:

Amanda Barratt - Michigan Coalition to End Domestic and Sexual Violence

Stephanie Beyersdorf - State Court Administrative Office

Luther Blue

F/Lt. Yvonne Brantley

Debi Cain

Hon. Thomas Cameron

Josef Canaria - Michigan Coalition to End Domestic and Sexual Violence

Rachel Carr-Shunk - Uniting Three Fires Against Violence

Beth Fink

James Fink

Kelsey Fink

Sam Fink

Elizabeth Fink

WELCOME AND INTRODUCTIONS

E. Hines convened the March 10, 2023 Michigan Domestic and Sexual Violence Prevention and Treatment Board meeting at the Grand Tower Building, Dempsey Room in Lansing, Michigan at 1:33 p.m.

BOARD CONSENT

Review of March 10, 2023 agenda and approval of February 10, 2023 meeting minutes.

MOTION: Moved by R. Shiemke to approve the March 10, 2023 agenda. Motion seconded by M. Wiese. Motion carried.

MOTION: Moved by M. Wiese to approve the February 10, 2023 meeting minutes. Motion seconded by R. Shiemke. Motion carried.

CHAIR REPORT

E. Hines recognized several past Board members for their exceptional service to the Michigan Domestic and Sexual Violence Prevention and Treatment Board.

First Lieutenant Yvonne Brantley is the Flint Post Commander for the Michigan State Police. She was first appointed to the Board in December 2012 and reappointed in 2015 and 2018. She is passionate about protecting victims and their children. F/Lt. Brantley is currently the highest ranking African-American woman serving with the MSP. She is so well respected that she was invited to be part of Governor Whitmer's roundtable discussion in Flint to address public safety. She has also been active in the Bay County Women's Shelter and Domestic response Team and has trained in various aspects of DV. She just completed the elite, prestigious national FBI Leadership Academy which only allows the top 1% of law enforcement executives. F/Lt Brantley was an incredible asset to the Board for a decade, as her law enforcement perspective was most helpful on so much within the Board's purview. Her dedication to the Board was surpassed by none. She was at every meeting, with her smile, infectious laugh, enthusiasm, ready to go, and prepared and ready to do the work to benefit victims and survivors. She was fun-- and kept us on task. Members and staff also acknowledge the added sense of safety whenever Yvonne was in the room.

The Honorable Tom Cameron was first appointed to the Board in January 2017 and reappointed in November 2018. He currently sits as a judge on the Michigan Court of Appeals. Prior to his current position, he served as Judge for the 3rd Circuit Court in Wayne County. Tom was an Assistant Attorney general, and an Assistant Prosecuting Attorney in both Wayne and Kalamazoo counties. While at the AG's office, Judge Cameron played a critical role in helping to develop a cold case sexual assault team. During his time as a judge in Wayne County, Judge Cameron played a lead role in reforming the indigent defense appointment process, ensuring the process was fair to all. During COVID, while on the Court of Appeals, Tom even volunteered to preside over jury trials in Wayne County to help out. Judge Cameron was a valued member of the Board for five years. He was always prepared and actively participated in discussions. Judge Cameron's expertise was particularly valuable when it came to legislation. His wise and thoughtful review and comments were insightful and incredibly helpful to the Board and staff. He was able to skillfully wordsmith complex legislation to make sure the legislation actually did what it was meant to do. His passion for ensuring victim needs were met in the law was apparent to all of us. Judge Cameron served as a reasoned, calm, and steadying hand and always displayed the utmost respect for other Board members and Board staff.

Sue Snyder was also provided an award for her service to the Board but could not accept it in person. Ms. Snyder was appointed to the Board in November 2018. As First Lady of Michigan, she was a tireless advocate bringing awareness to campus sexual assault. She orchestrated four campus sexual assault

summits at higher education institutions around the state. She also spearheaded the creation of the campus sexual assault workgroup, tasked with developing resources for campus sexual assault survivors, that are still in use throughout the State's vast university and college systems. She was also instrumental in launching Michigan's first sexual assault hotline, which provides free, 24/7, confidential support to survivors throughout our state. While on the Board, Ms. Snyder was a valued member. She was always prepared and kept the needs of victims first. The commitment and passion for victim and survivors she expressed was genuine and heart-felt.

James Fink was named the recipient of the 2023 "Debi Cain Champion of Justice Award". E. Hines acknowledged James' many accolades, and Debi Cain presented him the award. Mr. Fink served on the Michigan Domestic and Sexual Violence Prevention and Treatment Board for 12 years, from 1999-2003 and again from 2011-2019. He also served as Chair of the Board for several of those years. The following is an excerpt of the prepared comments for Mr. Fink.

James Fink lives a life of honorable service. Beginning over 45 years ago in the Washtenaw County Sheriff's Department, Jim rose through the ranks from Marine Deputy to Commander, always acting with integrity and compassion—and his trademark humor. Jim is masterful at defusing tense situations with respectful humor.

While serving over 20 years at the Sheriff's Department, Jim was willing to listen and learn from domestic violence advocates at SAFE House Center in Washtenaw County. In those days, advocates and the police didn't speak. They certainly didn't work together. Jim became a staunch ally, and worked to implement law enforcement practices that were victim-centered and offender-focused. Jim was a pioneer in that mission. He helped advocates and officers understand each other—their respective roles and their limitations—and how to be patient with each other. Leading by example, Jim invited officers to learn like he had learned, and to build relationships of trust. Jim shared with advocates that his own evolution to understanding intimate partner violence took some time, and then one day it all "clicked" for him and he never looked at domestic violence in a dismissive or judgmental way again.

Jim has the ability to connect with people, listen to them, learn from them, and to meet them where they are. Just one quick story to illustrate what a remarkable officer Jim was: Jim was called to the scene where a suspect (not a domestic violence case) decided to run for it. Jim chased after the man and caught up to him, and then kept running next to him. The man clearly expected Jim to tackle him, but Jim just kept pace with him. When the man tired and figured out that he was not going to be able to outrun or outlast Jim, he stopped and allowed Jim to peacefully take him into custody.

After graduating from law school, Jim retired from law enforcement in order to practice law full time. While many in the domestic violence advocacy field worried about what a loss this would be, it didn't take long for Jim to bring his dedication to assisting survivors to his work as an attorney. Among other work in his general practice at Fink & Fink, PLLC, he represented survivors in PPO cases and in divorce and custody disputes.

Many here today first met Jim through his role at the Sheriff's Department and have stayed connected through his law career, but also through his decades-long work as an ally to victims of domestic violence and sexual assault.

Jim served with distinction on the Michigan Domestic and Sexual Violence Prevention and Treatment Board for 12 years, from 1999-2003 and again from 2011-2019. He served as Chair of the Board for several of those years, guiding meetings with focus and with disarming humor. Jim made sure everyone kept the needs of survivors at the forefront of decisions.

Along with participating in community organizations, Jim has been active on many boards and committees, providing insight on his work with domestic violence, including: the Michigan Law Enforcement Officers Training Council Board Training Curriculum and Model Policy Committees; the Board/PAAM Personal Protection Order Implementation Committee; and for the Michigan Judicial Institute's Sexual Assault Benchbook for judges.

Though his resume is impressive and accolades many, anyone who knows Jim knows that Jim's proudest accomplishment is being father of 6, grandfather of 13, and husband to the love of his life, Beth.

In short, James Fink is a remarkable, honorable man—a truly good and kind person. For the selfless work he has done for survivors and their children, no doubt saving lives, the Board is proud to honor him with the first ever, “Debi Cain Champion of Justice Award”.

E. Hines introduced Dr. April Zeoli from the University of Michigan. Dr. Zeoli is the Policy Core Director for the Institute for Firearm Injury Prevention and is an Associate Professor at the University of Michigan School of Public Health. Dr. Zeoli talked about the intersection of guns and intimate partner violence and the results of her research, distinguishing facts from myths.

STAFF REPORT

G. Krieger spoke about the annual Child Advocacy Centers (CAC) report. An annual audit is required of this funding, which was successfully conducted. Board members reviewed the annual financial statement and audit report for the CAC fund as required by MCL 722.1044, and it will be sent next week to the Senate and House majority and minority leaders regarding the audit.

MOTION: Moved by K. Howard to accept financial statement and audit report for the Child Advocacy Centers fund. Motion seconded by R. Shiemke. Motion carried.

G. Krieger said a VOCA funding update video was released to grantees. Board members were provided a link to the video. G. Krieger also notified the Board that the Governor has made a funding recommendation for general funds to supplement both VOCA and the Crime Victim's Rights Fund in the FY 24 budget.

G. Krieger said many staff from the Division of Victim Services were involved in responding to the mass shooting at Michigan State University. A. Povilaitis was instrumental in helping connect MSU officials with federal authorities who can help.

LEGISLATIVE REVIEW

A. Povilaitis discussed SB 83-86 and HB 4145-4148 regarding Extreme Risk Protection Orders (ERPO) in Michigan (*position was determined from SB 83 S-1, SB 84, SB 85, SB 86*). The ERPO is a civil remedy that would allow statutorily listed individuals to petition the circuit court to temporarily remove firearms from a person who poses a significant risk of personal injury to himself/herself or others by possessing a firearm. The restrained individual would be prohibited from possessing or purchasing a firearm for the duration of the Order. An ex parte (without notice of hearing) order can be issued in emergent circumstances to remove

firearms which can be potentially extended through an order of longer duration after an opportunity for a hearing.

Board concerns identified in SB 83:

The Board stresses the importance of the need to have immediate firearm surrender at the time of service of the extreme risk protection order with law enforcement present. In time of crisis, leaving a respondent with time and access to firearms and, in turn, to harm himself or herself and others, is too dangerous.

Further, ERPOs could be used in tandem with domestic violence, stalking, or sexual assault Personal Protection Orders. An extreme risk order could result in a much more immediate path to safety for a victim by eliminating access to a firearm. ERPOs cannot and should not replace other types of protection orders, as the latter offer more protections than only an ERPO. ERPOs' sole focus is on removing firearms. Adding an ERPO as another option available to victims could be helpful to them when safety planning.

The Board was happy to see the following concerns be addressed in the substitute:

- Ammunition was added along with firearms to be removed, prohibit purchasing/possessing while an ERPO is effective.
- Sec 7 (1)(f): amended "convictions" to "previous or existing criminal charges..." and inserted the intent of offenses rather than specific charges. This will allow the court to view behaviors through a larger scope.
- Sec 7 (1) (c): added conditions of pretrial release, probation, parole, and other injunctive orders.
- Add provision that law enforcement must notify the petitioner immediately after serving the ERPO on the respondent. (Sec 13 (3) (b))
- Removed in Sec 17 that a petitioner gives written notice to respondent of extension to ERPO. This is too dangerous for a petitioner, other than law enforcement.

The Board further recommends:

Sec 3

- The Board appreciates the amendment of "plaintiff/defendant" to "petitioner/respondent"; however, the Board suggests removing "restrained individual" as unnecessary and unduly confusing and incorporate that definition into "respondent" (these are terms currently used in protection orders). "Respondent" applies whether or not service is made or an order issued.
 - o If "restrained individual" is kept in the definitions, please evaluate Sec 15 (4), as it may need to be changed to "respondent."

Sec 5

- As it has been identified that courts can issue an order against a minor, consider adding to the list of eligible petitioners Sec 5 (2): school counselor/administration/personnel. (school counselor does not seem to be qualified under the "mental health professional" definition)

Sec 7

- Section 7 (1)(a), the court should not be limited to only "use, attempted use or threatened use" of "physical force." Would recommend adding "**or stalking behavior.**" Stalking is too often a precursor to murder. Stalking may not involve "physical force," but to someone threatened and stalked by a person with a gun, it can turn deadly.

- The Board believes that this needs to be addressed in (a), even though stalking could align with (f) (ii), (f) only factors incidents that lead to “criminal charges.” This behavior is very important for a court to consider, whether or not there is charge.
- Sec 7 (1) (c) amend to include “violations of.” 7 (d) and (e) address violations of ERPOs or PPO, but violations of (c) (iii)-(vi) are also important and should be considered.
- Sec 7 (f) (ii) add “animals.” The offense has an element involving a threat to a person, property, or *animals*. Abusers may intimidate victims by threatening to harm or kill their pet.
- The Board appreciates the work that has been done with this section. Many original concerns have been addressed in the substitute.

Sec 9

- **Strongly suggest removal of Sec 9 (1) (c) (ii).**
The Board stresses the immense importance of true immediate surrender/seizure of firearms and ammunition upon the issuance and service of an extreme risk protection order.

If this provision is amended so that law enforcement would accompany respondent immediately upon service of the ERPO to the licensed firearm dealer, the Board could support, so long as the language makes clear this process is to be done immediately and with law enforcement present. At no time should the respondent have access to the firearm(s) or ammunition after service of the ERPO.

The Board is understanding of a respondent wishing to receive economic gain by selling a firearm, and believes that option should be available, but removing the firearms from respondent’s access needs to be the top priority. In time of crisis, leaving a respondent with access to firearms and time to commit harm is too dangerous.

- **Strongly suggest in Sec 9 (1) (c) change “after” to “upon.”** This will further signify the intent and purpose of immediate surrender of firearms is at time of service.
- Make clear that the law enforcement officer serving the Order can also seize the firearms (Sec 13 states all law enforcement officers can serve an order, but Sec 9 (1) (c) states surrender of firearms is to LEA in subsection 9 (1) (g)) Does this cause a scenario that a law enforcement officer can serve the order but not accept surrendered firearms (for e.g., traffic stop and gun is in the vehicle)?
- The bill should clarify and give direction to law enforcement as to when they can enter the premises and seize firearms and ammunition. Sec 9 (1) (h) may have attempted to do this; however, this provision delays the immediacy of surrender/seizure if respondent has up to 24 hours to surrender, and this also could create a more dangerous situation for all parties involved. The Board suggests that law enforcement be allowed to seize firearms immediately upon serving the order.
 - Sec 9 (1) (h): concerns around term and vagueness of “discretion as appropriate to the situation”
 - What happens if respondent is evading law enforcement, or they have possession or firearms and refuse surrender? Does law enforcement have to go to court to seek a warrant

to seize? Again, this could create a dangerous situation if law enforcement can't seize upon service.

- What is the timeframe in which the order must be served by law enforcement? (The Florida statute may provide guidance: law enforcement shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night.)

Sec 10

- Sec 10 (1) (a): Ensure the law enforcement agency/law enforcement officer is granted the power to seize/remove firearms as is specified in this section (Sec 9 (1) (h) does not imply immediate surrender)
- Sec 10 (3): suggest removing the new language "a good-faith effort under this subsection may include asking the restrained individual for a receipt showing that the restrained individual has surrendered the individual's firearms and ammunition to a licensed firearm dealer."
- Sec 10 (1) (a) (b) add license to purchase 28.422
- Receive actual notice: this process doesn't seem to work in ERPO situations. Although modeled from PPOs, ERPOs have an immediate nature not the same as the current PPO process. This may need to be re-evaluated.

Sec 11

- Sec 11 (e): Doesn't believe the petitioner needs to take the order to law enforcement. Law enforcement is already involved since they are the only entity that can serve, they should be automatically entering into this system.

Sec 19

- Sec 19 (4): The Board wants to ensure that if someone petitions in good faith for an Extreme Risk Protection Order but the court denies the order, the petitioner should not fear criminal penalties if there was simply not enough information to issue the order. Could tighten up by adding such language as "... makes a false statement, under oath, which he or she does not believe to be true, regarding a material matter."

Additional considerations

- Mental health evaluation: During the Risk Protection Order hearing in Florida, the court must consider ordering a mental health evaluation, if appropriate. The court has the authority to order the evaluation and can get people in crisis into treatment. Need to add language that lack of mental health evaluation due to a respondent not being able to pay is not a reason to be held in contempt of court.
- Florida appears to have developed instructional and informational materials that may be helpful in Michigan. It is a requirement of their statute. 790.401(14). Materials may include local community resources, including crisis intervention, mental health, substance abuse and other counseling. Instructions for petitioners are required to include pictures of types of firearms and ammunition that a petitioner may choose from to identify relevant firearms and ammunition without requiring specific or technical knowledge of firearms or ammunition.
- The Board asks for consideration of including Personal Protection Orders in the conversation of free service.

SB 84 would disqualify someone from having a pistol license if they are subject to an ERPO. It also prohibits expungement in LIEN of an individual who is subject to an ERPO. SB 85 addresses criminal sentencing guidelines for violations related to the ERPO statute. Staff are not recommending any changes to SB 85. SB 86 amends the revised judicature act of 1961 and provides no-cost filing fees and free service of process for ERPOs.

MOTION: Moved by M. Wiese to support SB 83-86 if the legislation requires immediate surrender of a firearm upon service with law enforcement present and provide recommendations in the staff analysis and derived from Board discussion of the bills. Motion seconded by M. Pope. Motion carried.

A. Povilaitis gave a legislative analysis of SB 76-78 that mandate criminal background checks for all firearms in Michigan. These bills correspond to HB 4138 and 4142-43 (*position was determined from SB 76 S-1 draft 3, SB 77, SB 78*). SB 76 would amend the statute that regulates and licenses firearms, including concealed weapon permits and pistol licenses. The term "pistol" has now been replaced with the term "firearm" in the bill and it requires an individual to obtain a license for every firearm. Under Section 2 (12), it does not apply to a minor who possesses a firearm for the purpose of hunting not otherwise prohibited from possessing a firearm. Under Section 2a(d), an individual purchasing a firearm other than a pistol who has a federal National Instant Criminal Background check performed on them by a federally licensed firearms dealer not more than 5 days before the purchase, is not required to obtain a license under Section 2 to purchase, carry, possess, use, or transport a firearm.

Board concerns identified in SB 76:

Intimate partner violence and gun violence are often connected, and the results can be especially dangerous. The fatality risk when a gun is present in a domestic abuse assault increases exponentially. Expanding criminal background checks to include purchases for all firearms will protect domestic violence and stalking victims.

The Board was happy to see several changes in the substitute, including amending the definition of "seller" and "purchaser" to include all firearms, and not only pistols, and the removal of Sec 2a (1) (a).

The Board further recommends:

1. Currently, only pistol purchase licenses are retained and properly recorded. Consider a mechanism for retention of submitted and completed purchase licenses for all firearms, as a safeguard to ensure background checks are happening for all purchases of all firearms.
2. Ensure that crimes involving domestic violence, especially misdemeanor offenses, are being reviewed prior to authorizing a license to purchase or during a background check. Research in this field indicates that the Federal NICS check is the best method to ensure that all relevant history is being reviewed prior to issuing a license to purchase. The Board appreciates the removal of original Sec 2a (1) (a).
 - a. Further, identify that the criteria in Sec 2 (3) (a)-(h), license to purchase, meets everything that is captured and reviewed during a NICS check.

SB 77 amends the Michigan penal code by replacing the term "pistol" with the term "firearm" to encompass all guns, including shotguns and rifles. This bill would criminalize any sale of a firearm where the seller does

not comply with MCL 28.422. SB 78 amends the criminal sentencing guidelines to add violations under the firearm background check statute for failure to comply. Board members recommended defining the term “individual” to differentiate it from how “person” is defined in the bill.

MOTION: Moved by R. Shiemke to support SB 76-78 and provide recommendations which include the concerns and suggestions within the prepared analysis and the recommendations derived from the Board discussion of the bills. Motion seconded by K. Howard. Motion carried.

A. Povilaitis provided a legislative analysis on SB 79-82 which corresponds to HB 4139-4141 and 4144 regarding safe storage of firearms in Michigan from children (*position was determined from SB 79 S-1 draft 4, SB 80, SB 81, SB 82*). SB 79 would amend the current statute that regulates and licenses firearms by adding a new section addressing safe storage and minors. Mandated safe storage could help prevent minors from easily accessing firearms, thus preventing them from harming themselves, family members and others.

Board concerns identified in SB 79:

Many, but not all, households where domestic abuse occurs do include minor children. By requiring safe storage of firearms in a premise where minor children may have access to the firearm, minors and others on the premises, including domestic abuse victims, have greater protection from quick, often fatal decisions to use a firearm in a domestic abuse assault. Without expansion to include all unattended firearms or at least expansion to those situations where individuals are legally restricted from accessing a firearm, adult domestic violence, sexual violence and stalking victims do not receive greater and necessary protection from gun violence.

The Board was happy to see the removal of the “glove box” language and additional storage measures added.

The Board further recommends:

1. Currently, the bill only requires safe storage to prevent accessibility by minors. Consider expanding the bill to require that a firearm be safely stored when not in use. This could help prevent other dangerous circumstances (especially for victims in DV situations).
2. Extend the safe storage requirement to cover premises where there are individuals who are legally prohibited from accessing firearms in addition to minors.

SB 80 amends the criminal sentencing guidelines to add violations under the safe storage statute. SB 81 would exempt firearm safety devices from the sales tax act and require the posting of written notice to purchasers. SB 82 would exempt firearm safety devices from the use tax act and require the posting of written notice to purchasers.

MOTION: Moved by K. Howard to support SB 79-82 and provide recommendations which include the concerns and suggestions within the prepared analysis, the recommendations derived from the

Board discussion of the bills and from the Board's general principles. Motion seconded by M. Wiese. Motion carried.

J. Averill mentioned the House and Senate bill logs introduced since the last Board meeting.

MOTION: Moved by K. Howard that Board members acknowledged they had an opportunity to review the House and Senate bills of interest to the Board's constituency that had been introduced since the February 10, 2023 meeting. Motion seconded by R. Shiemke. Motion carried.

J. Averill announced a Division of Victim Services legislative dessert reception will be held at Heritage Hall in the Michigan State Capitol on Wednesday, April 19th from 4:30 - 6:00 p.m. The Annual Crime Victim Rights' Vigil will take place immediately afterward at 6:00 p.m. and is open to the public.

BOARD ANNOUNCEMENTS

M. Pope said she will be asking for support on a resolution recognizing May 5th as a day of awareness for missing and murdered indigenous people. A rally will be held in Grand Rapids on May 5th.

PUBLIC COMMENT

Rachel Carr-Shunk from Uniting Three Fires Against Violence encouraged making MDSVPT Board meetings more accessible to the public through virtual options. She brought tribal resource calendars for the Board.

Stephanie Beyersdorf from SCAO said there is a public administrative hearing on March 22nd for the Supreme Court. They are considering a lot of changes to court rules. She did not see anything of special interest to the Board but advised reviewing the agenda.

ADJOURNMENT

MOTION: Moved by R. Shiemke to adjourn the meeting. Motion seconded by K. Howard. Motion carried. The meeting ended at 4:38 p.m.

Respectfully submitted by
Michael Bobbitt
Board Secretary