

**MICHIGAN DOMESTIC AND SEXUAL VIOLENCE
PREVENTION AND TREATMENT BOARD
MEETING MINUTES
March 11, 2022**

***** Approved *****

Members Present:

F/Lt. Yvonne Brantley

Dr. NiCole Buchanan - conference line (per MCL 15.263 and 15.263a). Will be counted as quorum.

Ret. Hon. Elizabeth Pollard Hines

Hon. Melissa Lopez Pope - conference line (per MCL 15.263 and 15.263a). Will be counted as quorum.

Hon. Amy Ronayne Krause, Chair

Matt Wiese

Members Absent with Notice:

Hon. Thomas Cameron

Staff Present:

Jess Averill

Michael Bobbitt, Board Secretary

Debi Cain, Executive Director- conference line

Gail Krieger

Angela Povilaitis - conference line

Guests:

Stephanie Beyersdorf - State Court Administrative Office

Rachel Carr - Uniting Three Fires Against Violence

Michael Christie - Children's Advocacy Centers of Michigan

WELCOME AND INTRODUCTIONS

Amy Krause convened the March 11, 2022, Michigan Domestic and Sexual Violence Prevention and Treatment Board meeting at the Grand Tower Building, Dempsey Room in Lansing, Michigan at 1:30 p.m.

BOARD CONSENT

Review of March 11, 2022, agenda and approval of February 11, 2022, meeting minutes.

MOTION: Moved by E. Hines to approve the March 11, 2022, agenda. Motion seconded by Y. Brantley. Motion carried.

MOTION: Moved by Y. Brantley to approve the February 11, 2022, meeting minutes. Motion seconded by M. Wiese. Motion carried.

CHAIR'S REPORT

A. Krause thanked M. Pope for doing a great job as chairperson at the February 11, 2022, Board meeting.

EXECUTIVE DIRECTOR'S REPORT – GENERAL OVERVIEW OF WORK TO DATE

D. Cain announced that Twanisha Glass is the new Contracts and Grants manager at the Division of Victim Services.

D. Cain said an audit of Child Advocacy Centers in Michigan funding was recently completed by the Office of the Auditor General. A letter will be sent next week to the Senate and House majority and minority leaders regarding the audit.

MOTION: Moved by Y. Brantley to accept letter of the auditor on the Child Advocacy Center funds that will be forwarded to the Senate and House majority and minority leaders as required by legislation. Motion seconded by E. Hines. Motion carried.

G. Krieger provided a presentation on the STOP Violence Against Women Formula Grant Program for FFY 2022 Implementation Plan. The amount of STOP funds that are available is between \$4 and \$4.2 million. Over the next five years, that funding will be divided between law enforcement (25%), prosecution (25%), victim services (30%) courts (5%) and the remaining 15% can be divided discretionally between the funding categories. The STOP funds are distributed by a competitive bid process under the rules of the Department of Health and Human Services.

MOTION: Moved by E. Hines to approve the STOP Violence Against Women Formula Grant Program for FFY 2022 Implementation Plan. Motion seconded by Y. Brantley. Motion carried.

LEGISLATIVE REVIEW

A. Povilaitis discussed HB 5652 which amends the criminal sexual conduct statute within the criminal code to prohibit clergy from engaging in sexual contact with their victims under certain circumstances.

The bill would make it unlawful for a member of the clergy, who is not legally married to the victim, to engage in one or both of the following:

- (i) Sexual contact that occurs during the course of a meeting, or within 2 years after a meeting, in which the other person sought or received religious or spiritual direction or counseling from the clergy member.
- (ii) Sexual contact that occurs during a period of time, or within 2 years after a period of time, in which the other person was meeting on an ongoing basis with the actor to seek or receive religious or spiritual direction or counseling in a private setting.

This is a strict liability crime with no defense of consent. The statute only addresses the sexual contact and not sexual penetration. The language of HB 5652 appears to mirror language the legislature already passed prohibiting mental health professionals from engaging in sexual contact with clients.

The Board has previously supported the language in SB 607'17 S-1:

“(H) THE ACTOR IS OR PURPORTS TO BE A MEMBER OF THE CLERGY AND EITHER OF THE FOLLOWING APPLIES: (i) THE SEXUAL PENETRATION OCCURRED DURING THE COURSE OF A

MEETING IN WHICH THE OTHER PERSON SOUGHT OR RECEIVED RELIGIOUS OR SPIRITUAL ADVICE, AID, OR COMFORT FROM THE ACTOR AND THE ACTOR USED HIS OR HER POSITION OR PURPORTED POSITION AS A MEMBER OF THE CLERGY TO ACCOMPLISH THE SEXUAL PENETRATION. (ii) THE SEXUAL PENETRATION OCCURRED DURING A PERIOD OF TIME IN WHICH THE OTHER PERSON WAS MEETING ON AN ONGOING BASIS WITH THE ACTOR TO SEEK OR RECEIVE RELIGIOUS OR SPIRITUAL ADVICE, AID, OR COMFORT IN A PRIVATE SETTING AND THE ACTOR USED HIS OR HER POSITION OR PURPORTED POSITION AS A MEMBER OF THE CLERGY TO ACCOMPLISH THE SEXUAL PENETRATION. (2) THE CONSENT OF THE VICTIM IS NOT A DEFENSE TO A PROSECUTION UNDER SUBSECTION (1)(H)."

This language is also repeated in Section 520e for sexual contact.

MOTION: Moved by Y. Brantley to oppose HB 5652 as introduced but move to support if the following are met:

A) Include language reflected in SB 607'17 (This language is included in both MCL 750.520d (CSC 3: sexual penetration) and MCL 750.520e (CSC 4: sexual contact) and includes authority language.)

OR

B) Alternatively, if the following concerns are addressed:

- 1. Prohibit both sexual contact and sexual penetration committed by clergy against a victim.**
- 2. Include language that reflects the clergy's unique position of *authority* and the dynamics of the relationship of a clergy with members of their congregation or community.**
- 3. Define the term "meeting" that is in Sec 1 (i) (j) and (ii). The Board has concerns that attending weekly service or bible study may not be considered a "meeting," and believes this type of interaction should also be considered.**
- 4. Amend (i) to replace "is not lawfully married to the victim," to "is not lawfully married to the victim at the time the sexual contact/penetration occurred." There are concerns that if the victim and member of the clergy were not married at the time of the contact/penetration, then a marriage would be performed to avoid the consequences this bill outlines.**

Motion seconded by M. Wiese. Motion carried.

A. Povilaitis discussed HB 5680, which amends the Crime Victim's Rights Act. HB 5680 allows for a crime victim's image to be blurred in court proceedings made available to the public through streaming on the internet or other means.

It was decided that although HB 5680 is well-intended, the blurring of a victim's face on a live stream or archived recording available online for later viewing, does not provide the best option for victim privacy and safety, which would be to not live-stream, record and/or make available for public viewing of that testimony at all.

Additionally, the Board pointed out several concerns in 5680, including that the allowance of a victim's face to be blurred is at the discretion of the Judge – even if the victim wishes for it to be blurred, it may not be. Also, it is unclear as to whether the victim's face must not be blurred for those parties engaged in the court proceeding, including the defendant, the judge, and the jury, sitting as a factfinder. The question was presented whether enactment of this bill would require two separate live streams, one blurred for the public and one not blurred for the court, jury and defendant. The defendant has a right to confront their accuser in open court, whether it is in a courtroom or virtually. It is also important for a judge and/or jury to see a victim's face while testifying.

The Board also notes the challenges this bill would bring to the courts, including acquiring software and court staffing requirements. Also, the lack of uniform guidance of using live-streaming and retaining its recording, leaves it to each court to decide what to do. These inconsistencies not only harm individual victims but could have long-lasting and damaging effects if recordings are easily accessible for public viewing and dissemination. The Board has concerns that the ease of viewing and obtaining court hearing videos from the comfort of one's home could potentially increase the likelihood of improper dissemination of the online court hearing, compared to the current process of requiring an interested observer to physically go to a courthouse to watch the proceeding, request a copy of the videotaped proceeding (where available) or to view or order the transcript.

MOTION: Moved by M. Wiese oppose HB 5680 because it creates a presumption of a live-stream of the court proceedings, which the Board has submitted previous statements indicating how live-streaming court hearings could be harmful for victims, and move that staff be allowed to draft a memo for the bill sponsors stating that the Board believes in the intent of bill to protect victims, but list reasons from the Boards previous statements on why we are in opposition. Motion seconded by Y. Brantley. Motion carried. A. Krause abstained.

A. Povilaitis discussed HB 5681, which amends the Crime Victim's Rights Act and would allow a victim impact statement to be made remotely. This is currently left to the discretion of individual judges.

MOTION: Moved by E. Hines to support HB 5681. Motion seconded by Y. Brantley. Motion carried.

MOTION: Moved by Y. Brantley 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 11, 2022, meeting. Motion seconded by E. Hines. Motion carried.

BOARD ANNOUNCEMENTS

It was decided to hold the next Board meeting on Thursday, April 14th from 10:00 - 1:00.

A. Krause said a Crime Victim's Rights candlelight vigil will be held at 6:00 p.m. on April 27th at the Capitol rotunda. Kathy Hagenian will be one of the award recipients.

Y. Brantley asked about the status of Board appointments. A request to renew the three Board appointments that expired last December has been submitted.

PUBLIC COMMENT

Stephanie Beyersdorf from the State Court Administrative Office said a public hearing regarding changes in court rules for video conferencing and remote proceedings will be held Wednesday March 16th at 9:30 a.m. The hearing will be available via livestream.

Rachel Carr from Uniting Three Fires Against Violence thanked Board staff members Gail Krieger, Sarah Heuser, Sandra Pilgrim-Lewis, and Debi Cain for hosting a Talking Circle for tribal nations to provide input and feedback on the STOP Plan.

ADJOURNMENT

MOTION: Moved by Y. Brantley to adjourn the meeting. Motion seconded by E. Hines. Motion carried. The meeting ended at 3:22 p.m.

Respectfully submitted by
Michael Bobbitt
Board Secretary