

**MICHIGAN DOMESTIC AND SEXUAL VIOLENCE
PREVENTION AND TREATMENT BOARD
MEETING MINUTES
September 9, 2022**

***** Approved *****

Members Present:

F/Lt. Yvonne Brantley

Dr. NiCole Buchanan - conference line (per AG Opinion No. 7318. Will be counted toward quorum).

Hon. Thomas Cameron

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

Hon. Amy Ronayne Krause, Chair

Matt Wiese

Members Absent with Notice:

Hon. Elizabeth Pollard Hines

Staff Present:

Jess Averill

Michael Bobbitt, Board Secretary

Debi Cain, Executive Director

Gail Krieger

Angela Povilaitis

Lore Rogers

Guests:

Stephanie Beyersdorf - State Court Administrative Office.

Jean Doss – Capitol Services

Heath Lowry - Michigan Coalition to End Domestic and Sexual Violence

Brenda Wade - Forensic Nurse

WELCOME AND INTRODUCTIONS

A. Krause convened the September 9, 2022, Michigan Domestic and Sexual Violence Prevention and Treatment Board meeting at the Grand Tower Building, Dempsey Room in Lansing, Michigan at 1:34 p.m.

BOARD CONSENT

Review of September 9, 2022, agenda and approval of June 10, 2022, meeting minutes.

MOTION: Moved by Y. Brantley to approve the September 9, 2022, agenda. Motion seconded by M. Wiese. Motion carried.

MOTION: Moved by Y. Brantley to approve the June 10, 2022, meeting minutes with changes.

Motion seconded by T Cameron. Motion carried. M. Pope abstained.

CHAIR'S REPORT

Amy Ronayne Krause awarded the Michigan Domestic & Sexual Violence Prevention and Treatment Board's 2022 Champion of Justice Award to Hermina Kramp and Rebecca Shiemke. The award recognizes individuals whose work improves victims' access to justice and policy reforms in the area of sexual assault and intimate partner violence.

Hermina Kramp served as a member of law enforcement for over 40 years, almost exclusively through her many roles at the Michigan Commission on Law Enforcement Standards (MCOLES). Hermina recently retired as the Deputy Executive Director, responsible for the day-to-day operations of the Commission.

Rebecca Shiemke is an attorney and family law specialist and recently retired from the Michigan Advocacy Program. She served as the managing attorney for the Family Law Project and a family law attorney for the Michigan Poverty Law Program (MPLP). For over 25 years, she has represented low-income survivors of domestic violence.

A. Krause announced that T. Cameron and Y. Brantley will not be reappointed to the Board. She also announced she will be resigning from the Court of Appeals as of December 13th and will be working in private practice. Her last Board meeting will be November 18th.

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

D. Cain said Y. Brantley and T. Cameron will be missed as Board members. Y. Brantley will be finishing her third term and T. Cameron his second term. They will both sit on the Board until an official reappointment from the Governor's office is received.

LEGISLATIVE REVIEW

L. Rogers discussed HB 6244 which amends the Sexual Assault Kit Evidence Submission Act to prohibit a sexual assault victim's DNA profile from being used in certain ways, including retention by law enforcement agencies or uploading to any database. It also describes how the victim's DNA profile may be used. Additionally, it requires that the written consent to release signed by the victim inform the victim that their genetic information will not be used in any manner prohibited by the Act. This ensures that victim DNA is only used for purposes of solving and addressing sexual assault crimes committed against the victim.

Staff recommend supporting HB 6244 but amend it to: (1) make January 1, 2024, the effective date of the requirement for the changes to the consent form (this will allow time for the forms to be inserted into the next shipment of kits being ordered), and (2) include in the prohibition of re-analysis all kit evidence retained by laboratories for any reason, and all kits retained by law enforcement for any reason.

MOTION: Moved by Y. Brantley to support HB 6244 as written, but recommend making January 1, 2024, the effective date of the changes to the written consent form and to include the prohibition of re-analysis of all kit evidence retained by laboratories for any reason, and all kits retained by law enforcement for any reason. Motion seconded by T. Cameron. Motion carried.

A. Povilaitis discussed SB 497 and Draft 1 062445'22 which would amend the Penal Code and the definition of "mentally incapacitated" in the Criminal Sexual Conduct definition section by deleting the current

language “administered to that person without his or her consent”. Draft 1 06445’22 would also delete additional language in the current mentally incapacitated definition.

Under the current statute, *mentally incapacitated* means “that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance, *administered to that person without his or her consent*, or due to any *other* act committed upon that person without his or her consent.” SB 497 would delete both the terms “administered to that person without his or her consent” and “other”. 06445’22 Draft 1 also deletes everything after the word “substance”. By deleting the above phrase(s), prosecutors could charge Criminal Sexual Conduct if a victim voluntarily consumed a substance, narcotic or some other anesthetic and was temporarily incapable of appraising or controlling his or her conduct.

The Prosecuting Attorneys Association of Michigan (PAAM) has developed the following alternative language for MCL750.520a be adopted and Board staff agree with this recommendation (new language is bolded and italicized below, deletions are crossed out):

(k) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, ***alcohol***, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.

(l) "Nonpublic school" means a private, denominational, or parochial elementary or secondary school

(m) Physically Helpless” means that a person is unconscious, asleep, or for any other reason is ~~physically~~ unable to communicate unwillingness to an act; ***this includes that the person is temporarily incapable of appraising or controlling his or her conduct due to a narcotic, anesthetic, alcohol, or any other substance that is voluntarily taken or consumed.***

MOTION: Moved by M. Wiese to be neutral on SB 497 and Draft 1 062445’22 and move to support if one or both sponsors amend legislation to include the alternate language proposed by PAAM. Motion seconded by Y. Brantley. Motion carried.

HB 6283 would amend the Open Meetings Act to allow for video conferencing and remote attendance for some public bodies, including the Michigan Domestic and Sexual Violence Prevention and Treatment Board (MDSVPTB). The bill differentiates between three different types of public bodies, the legislature, public bodies who are elected and/or receive compensation, and everybody else. MDSVPTB would be able to hold Board meetings virtually using a virtual technology that the public be allowed to participate and view. It would also require the Board meet in person one time per year.

MOTION: Moved by Y. Brantley to support H.B. 6283 because virtual meetings offer greater accessibility to individuals who are further away and benefits individuals with disabilities. Motion seconded by T. Cameron. Motion carried.

A. Povilaitis discussed draft 1 06427’22 which would amend the Michigan Penal Code to add a new section criminalizing sexual penetration or sexual touching with a dead human body. Michigan does not have a

necrophilia statute so this bill would fill a needed gap in the law.

Draft 1 06427'22 would create a new section within the Michigan Penal Code prohibiting the following conduct:

- (1) An individual who engages in sexual contact or sexual penetration with a dead human body is guilty of a felony punishable by imprisonment.
- (2) This section defines sexual conduct and sexual penetration, using the same definitions for each found in the Criminal Sexual Conduct statutes.

MOTION: Moved by Y. Brantley to support 06427'22 Draft 1 and recommend the highest possible penalty with a preference for a Class B 20-year felony and Sex Offender Registration Act (SORA) inclusion. The Board also allows staff to pursue legislative changes elsewhere in the Penal Code to address cases where the death is caused for the purpose of having sexual penetration or sexual contact with a dead human body. Motion seconded by T. Cameron. Motion carried.

A. Povilaitis discussed a draft General Principle on Firearms and intimate partner violence. The draft is consistent with one of the Board's legislative priorities for 2022, adopted at the June 2022 meeting of the Board. Board members suggested several edits to the General Principle on Firearms and Intimate Violence to read as follows (new language is bolded and italicized below):

General Principle on Firearms and intimate partner violence

Possession and use of firearms is of particular concern in intimate-partner violence cases, including domestic violence, stalking and sexual assault. An abuser's access to a firearm can greatly increase the fatality risk to the abused partner and others. The National Coalition Against Domestic violence notes that "the presence of a gun in a domestic violence situation increases the risk of homicide by 500%.¹

There is significant connection between firearms and domestic violence fatalities. Legislation is necessary to enhance the safety of domestic violence survivors by making it harder for charged or convicted DV offenders, or those offenders for whom a personal protection order has been issued against, to have access to firearms or ammunition that could be used to kill, harm, and threaten victims, their families and the greater community at large.

For these reasons, the Board adopts the following general principle related to firearms and intimate-partner violence, including but not limited to domestic violence, sexual assault, and stalking crimes, that include:

- Prohibit ***domestic violence, sexual assault, and stalking offenders*** subject to restraining/protective orders, ***conditions of bond, probation or parole which limit the possession of firearms and ammunition***, from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm or ammunition.

¹ <https://ncadv.org/statistics>, citing to "Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study", found at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1447915>

- Prohibit people convicted of “a misdemeanor involving domestic violence” from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm or ammunition.
- Address a possible gap in protection for domestic violence survivors in Michigan, whose intimate partners have been convicted of domestic violence assault and battery under MCL 750.81(2).
- Allow courts to order removal of firearms in possession of a person who appears to pose a significant risk of personal injury to themselves or others by possessing a firearm, and particularly DV offenders, whether through PPOs, through “red flag” laws, **or people adjudicated to be mentally ill.**
- Establish a process for which the relinquishment of firearms from offenders and abusers can be effectually accomplished.
- Expand background checks to all types of firearms before purchase, currently background checks are only required for pistols.
- Require safe firearm storage, especially when minors are present.
- Create penalties for firearm owners who **knowingly or recklessly allow their firearm to be used** by another to harm another.
- Require a waiting period once a firearm is purchased to when it is received.

MOTION: Moved by Y Brantley to adopt the edited draft General Principle on Firearms. Motion seconded by T. Cameron. Motion carried.

MOTION: Moved 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 June 10, 2022 meeting. Motion seconded by T. Cameron. Motion carried.

BOARD ANNOUNCEMENTS

Y. Brantley will be attending the FBI Academy in Quantico, VA from September 26th to December 9th.

PUBLIC COMMENT

No public comment.

ADJOURNMENT

MOTION: Moved by Y. Brantley to adjourn the meeting. Motion seconded by T. Cameron. Motion carried. The meeting ended at 3:17 p.m.

Respectfully submitted by
Michael Bobbitt
Board Secretary