

**MICHIGAN DOMESTIC AND SEXUAL VIOLENCE  
PREVENTION AND TREATMENT BOARD  
MEETING MINUTES  
September 10, 2021**

**\*\*\* Approved \*\*\***

**Members Present:**

F/Lt. Yvonne Brantley

Dr. NiCole Buchanan – conference line (per MCL 15.263 and 15.263a)

Elizabeth Pollard Hines – conference line (per MCL 15.263 and 15.263a)

Hon. Amy Ronayne Krause, Chair – conference line (per MCL 15.263 and 15.263a)

Hon. Melissa Lopez Pope

Matt Wiese

**Members Absent with Notice:**

Hon. Thomas Cameron

**Staff Present:**

Jess Averill

Michael Bobbitt, Board Secretary

Angela Povilaitis

Lore Rogers

**Guests:**

Michael Christie - Child Advocacy Centers of Michigan

Elly Jordan - Michigan Coalition to End Domestic and Sexual Violence

Kathy Hagenian - Michigan Coalition to End Domestic and Sexual Violence

Rachel Carr - Uniting Three Fires Against Violence

Mary Pollock - American Association of University Women of Michigan

Stephanie Beyersdorf - State Court Administrative Office

**WELCOME AND INTRODUCTIONS**

A. Krause convened the September 10, 2021, Michigan Domestic and Sexual Violence Prevention and Treatment Board meeting at the Michigan Historical Library - Lake Superior room in Lansing, Michigan at 1:31 p.m.

**BOARD CONSENT**

Review of September 10, 2021, agenda and approval of June 18, 2021, meeting minutes.

**MOTION: Moved by Y. Brantley to approve the September 10, 2021, agenda. Motion seconded by M. Pope. Motion carried.**

**MOTION: Moved by Y. Brantley to approve the amended June 18, 2021, meeting minutes. Motion seconded by M. Pope. Motion carried.**

## **CHAIR'S REPORT**

A. Krause said D. Cain is unable to join the Board meeting because she had to attend a very important event.

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

L. Rogers mentioned an upcoming statewide Sexual Assault Response Team (SART) Summit that the Division of Victim Services is sponsoring on September 15, 2021. The summit will take place virtually and about 130 people across the state have registered to attend. There will be two national speakers and roundtable discussions with the Genesee County SART, Iosco County SART and Northeast Michigan SART.

Board members were encouraged to view the Crime Victim Services Compensation commercial which features four Division of Victim Services staff members. Staff is currently working to update the Compensation legislation and will likely bring that to the Board in the future.

Division of Victim Services staff will continue to work remotely as much as possible through September.

The Division of Victim Services has a contract with the Michigan Coalition to End Domestic and Sexual Violence (MCEDSV) to open a statewide Domestic Violence hotline in January.

## **LEGISLATIVE REVIEW**

A. Povilaitis reported on HB 4798 and HB 4794, which deals with the redaction of crime victim and witness personal information and contact information. HB 4798 amends the Crime Victim's Rights Act to allow a prosecuting attorney to keep a crime victim's personal information confidential unless it is part of the res gestae of the charged crime. The bill also requires the prosecuting attorney to keep confidential and redact a victim's personal information from any document provided to the defendant or defense counsel or filed with the court. The bill also provides a mechanism by which a defendant can motion the court to obtain the victim's personal information, including ways in which the defense could seek personal information of victims who are participants in the soon to be created Address Confidentiality Program. HB 4794 is similar to HB 4798, but it specifically addresses redaction of crime witness' information.

There is concern with the possibility that these bills as introduced, could circumvent the protections of the address confidentiality program (ACP) by disclosing a program participant's confidential information. The Board has a significant precedent in its end statement and general principles that protecting victim privacy and confidentiality is a priority and one that the Board seeks to protect.

Staff recommend asking the sponsors to make the following changes to the bill:

1. Delete the sections allowing for disclosure of confidential address and insert text making clear that the confidential address of a victim cannot be disclosed under this statute.

OR

2. If the bills are not amended to preclude disclosure of a confidential address of an Address Confidentiality

Program (ACP) participant, then staff recommends the following changes be made:

- a. The ACP participant should be notified of the request and be given the opportunity to object to the disclosure.
- b. The confidential address shall under no circumstances be disclosed to the person(s) posing risk of harm to the program participant.
- c. In order to compel disclosure of a confidential address, the court must find that the defendant is not a person who poses a threat of harm to the participant that required them to become a participant, AND the defendant would be unduly prejudiced in their defense if they were not provided with the confidential address.
- d. The penalty for unauthorized disclosure of a confidential address be more severe than for disclosure of an address that is not confidential.

AND

3. Add language similar to that contained elsewhere in the Crime Victims' Rights Act (e.g. MCL 780.758(4)): "Subsection (1) and (2) do not preclude the release of information to a victim advocacy organization or agency for the purpose of providing victim services.

Board members stated the bill as written does not provide an exception that allows for victim consent to release a phone number or email address, pointing out there might be cases where a victim would prefer that an email address or a phone number be given out rather than having to be available for an actual interview. Board members also recommended replacing the word "not" with "unless" in (6)(f) so that it reads "Prohibit the reproduction, copying, or dissemination of the personal information *unless* authorized in the order."

**MOTION: Moved by L. Hines to oppose HB 4794 and HB 4798 as written but move to support if staff recommendations are added. Also recommend that (6)(f) be changed to read "Prohibit the reproduction, copying, or dissemination of the personal information unless authorized in the order." Motion seconded by Y. Brantley. Motion carried.**

A. Povilaitis reported on HB 4920, which amends the Revised Statutes of 1846 of the Legislature to allow for the public disclosure of the name of any legislator named in a claim of sexual assault or sexual harassment where a settlement agreement provides payment of money and would also disclose the amount of that settlement. HB 4920 also allows for the public disclosure of the amount of the settlement.

HB 5281 creates a new act to require public disclosure of the name of an elected executive official named in a claim of sexual assault or sexual harassment where a settlement agreement provides payment of money. It also allows for the public disclosure of the amount of the settlement. This bill adds the following language "the name of the individual claiming sexual assault or sexual harassment by an elected executive official must not be made available to the public under this section."

**MOTION: Moved by M. Wiese HB 4920: Neutral but would move to support if language was added that prohibits disclosure of the identity of the victim of sexual harassment or sexual assault. HB 5281: Support. Also recommends for both bills the consideration of expanding the list of types of**

**claims covered by these bills to include: domestic violence and gender identity, sexual orientation, and racial harassment. Motion seconded by L. Hines, Motion carried.**

L. Rogers reported on HB 4071 Proposed H-2 substitute and HB 4072. The HB 4071 H-2 substitute would increase the penalties for crimes of second-, third- and fourth-degree child abuse when the offenses were committed on a “vulnerable child,” by someone performing their duties in a facility or home licensed under the childcare licensing act or by someone acting within their health profession at the time of the offense. HB 4072 amends the sentencing guidelines to reflect the changes in HB 4071.

HB 4071 is a reintroduction of HB 4783 that had been previously introduced but not passed in the 2019-2020 session. In 2019, the bill sponsor requested Board and staff review the proposed draft. At that time staff had communicated a concern to the bill sponsor’s that it appears to create two classes of victims, one of vulnerable children and one of just children. The HB 4071 H-2 substitute does not address that concern but does limit those enhanced penalties to professions that have contact with vulnerable children and by the nature of their profession, are held to a higher standard of care. MDHHS worked with the bill sponsors to amend the scope of this bill.

**MOTION: Moved by L. Hines to support the HB 4071 H-2 Substitute and HB 4072. Motion seconded by Y. Brantley. Motion carried.**

L. Rogers said Senator Chang provided a draft to staff and requested feedback from the Board. The bill will be referenced here as the firearm restriction bill. It would make it a felony for someone convicted of a misdemeanor involving domestic violence to possess, use, transport, sell, purchase, carry, ship, receive or distribute a firearm or ammunition in Michigan until eight years after the person has paid all fines, served all terms of imprisonment, and successfully completed all conditions of probation or parole for the misdemeanor conviction.

Board members said that a person cannot be placed on or released from parole for a misdemeanor, so they recommend striking the word “parole” on line twenty-one. Board members also said the current statute does not require payment of restitution in the felony arena to get a gun back it only says “completes all conditions of probation or parole...” Board members also asked that restitution be paid in full also be added to the felony section.

**MOTION: Moved by Y. Brantley to support the draft of the firearm restriction bill and request a change that restitution be paid in full in the domestic violence misdemeanor section as a circumstance that must be completed for someone to have their gun rights restored. Also, request deleting the word “parole” from the misdemeanor charges and request adding restitution be paid in full for the felony section. Motion seconded by L. Hines. M. Pope abstained. Motion carried.**

A. Povilaitis discussed draft bail reform bills which have not yet been introduced. Representative LaGrand’s staff said they are waiting for updated drafts that will include minor changes. This package of nine bills substantially modifies the bail system in Michigan bills and were the bills previously introduced in 2019 as HB 4351-4360 and similar to the bills introduced in 2018 as HB 6455-6463. The draft bills would substantially alter the current bond system in Michigan, creating a presumption of personal recognizance bonds unless certain findings were made by the reviewing court and cash bail would only be limited to certain crimes. Staff asked the Board for feedback on these bills to bring back to the sponsor.

Board members raised concerns that there are problems with actuarial risk assessment tools. They noted these tools have been found to be racially biased and there are prominent national objections. The Board also expressed concern with what the risk factors are, and strongly emphasized the importance of including prior history of violence, threats, and use of firearms or weapons as factors to examine and suggests reviewing the work of Dr. Becki Campbell. Board members also note the difference in absconding and non-appearance.

Board members also stated that the federal system has fewer criminal cases than the state system, but they do an excellent job at conducting a detention hearing and assessing the case and resources needed to be invested so there are appropriate pre-trial services and reviews. Board members have worked locally with a blueprint project to assess each case for risk and dangerousness for domestic violence. Board members noted that prosecutors do not have the resources to attend a detention review hearing within 48 to 72 hours.

Board members pointed out that not all violent offenders fit the type of crimes listed where bail can be denied, and the list in the bills should be expanded. If all defendants get released without building a system to properly monitor them it will make public safety much more difficult, especially for victims of domestic violence, sexual assault, and stalking.

Board members said risk assessment check lists are not accurate for sexual assault and domestic violence. Instead of a checklist they would like things listed out much like the court rules. Or a blueprint type model.

Board members noted that they hear in their community that defendants are being released and not being monitored due to a presumption of not being held pending trial. Victim advocates are shocked by this. There is almost no way to assure victims that they are protected. This practice will reduce participation of victims in the criminal justice system, resulting in less people willing to testify and much less calls for help when needed. Board members fear this would move us backward to a time when victims feared they couldn't come forward because they would be placed in danger doing so. Board members also noted several recent cases where an offender had been released and placed on a tether, only to remove the tether and proceed to kill members of our community.

Board members noted that a good point to convey is that GPS tethers are not a solution for keeping people safe. GPS tethers provide a false sense of security, they are expensive, and they do not always work. It is important that protective measures can be set by a judge even if a cash bail or bond cannot be required.

Board members pointed out that there is already a good court rule in place that states when and how a bond should be reviewed, evaluated, and set. Board members agree that defendants should not be held on cash bail if the only reason is they cannot afford it. Board members noted that the court rules consider the ties to a community, if a defendant is employed, if they have a history of non-appearance, if they pose a risk to the public, and the seriousness of the offense. Board members also noted there already is a method to inform a judge on how to set an appropriate bail.

**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 June 18, 2021, meeting. Motion seconded by M. Pope. Motion carried.**

## **BOARD ANNOUNCEMENTS**

M. Pope thanked the public for attending the meeting.

**PUBLIC COMMENT**

K. Hagenian from the Michigan Coalition to End Domestic and Sexual Violence thanked the Board and staff for their dedication to survivors and programs.

**ADJOURNMENT**

**MOTION: Moved by Y. Brantley to adjourn the meeting. Motion seconded by M. Pope. Motion carried. The meeting ended at 3:47 p.m.**

Respectfully submitted by  
Michael Bobbitt  
Board Secretary