

MICHIGAN DOMESTIC & SEXUAL VIOLENCE PREVENTION & TREATMENT BOARD

Board Members

- ◆ Hon. Elizabeth Pollard Hines (Ret.) -Chair
 - ◆ Hon. Melissa Pope ◆ Matt Wiese ◆ Dr. NiCole Buchanan
 - ◆ Rebecca Shiemke ◆ Kristen Howard ◆ Sgt. Kyla Williams
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Chairperson Breen, House Judiciary Committee
Anderson House Office Building
S-785
Lansing, MI 48933

May 16, 2023

Dear Chairperson Breen and Judiciary Committee Members,

As HBs 4523-4525 are before the House Judiciary Committee, I am writing to inform you that the Michigan Domestic and Sexual Violence Prevention and Treatment Board reviewed and voted to oppose HB 4523 and 4525 and take no position on HB 4524. These positions are based on a discussion of similar House Bills 5482-5484'21, 5868'22 at the Board's April 2022 meeting. On behalf of the Board, please allow me to explain the rationale of our positions on these bills.

As you know, the Michigan Domestic and Sexual Violence Prevention and Treatment Board (the Board) is a seven-member Governor-appointed Board with legislative responsibilities including funding sexual assault and domestic violence services for victims and providing policy recommendations on the issues of domestic violence, sexual assault, stalking, and intimate partner violence. *Please note that the Board's position and rationale are solely that of the Board and do not necessarily represent the view of any individual member of the Board, nor the views of the Michigan Department of Health and Human Services or any other body.* Although the Board is administratively housed within MDHHS in the Division of Victim Services, it is an independent, legislatively-created body.

While the Board recognizes the great value of treatment courts for many offenders, the Board expressed serious safety concerns if some violent offenders become eligible to participate. the Board voted to oppose HB 4523 and 4525 unless amended to continue to exclude offenders of all degrees of Criminal Sexual Conduct as well as any "individual charged with or who has pled guilty to a violent offense in which the victim is a spouse or former spouse, an individual with whom the offender has or has had a dating relationship, an individual with whom the offender has a child in common, or is a resident or former resident of the same household."

HB 4524 Board voted No Position.

The Board also proposes the following recommends: 1) the removal of the newly inserted "instant case" in HB 4523 and 4525. This language is not defined within the context of these statutes and the Board believes it could simply be deleted; 2) Provide consistency within the bill package in HB 4523 and 4525 by changing "consent" to "agree" as is in HB 4524.

Under the current statutes, perpetrators with domestic violence offenses that don't cause significant bodily injury are eligible to participate in these treatment courts. Perpetrators of more serious domestic violence crimes, such as assault to do great bodily harm and strangulation, that result in a serious bodily injury are not eligible to participate under current statute. The proposed changes outlined in HB 4523 and 4525 make those offenders of more serious bodily injury crimes eligible for admission.

It is of great concern to the Board that admission into these programs by intimate partner offenders may result in the treatment court program becoming the only intervention the offender receives. There is a risk that courts in these cases may perceive drug or mental health treatment options as the sole appropriate solution; however, these treatment courts do not address the decision by the offenders to use violence as a form of coercive control and do not require appropriate battering intervention programs as part of the "treatment." This leaves these offenders with no accountability for their abuse against a partner and no meaningful intervention to possibly prevent repeat violence.

The same is true for sexual assault and stalking crimes. Offenders frequently try to blame substance abuse or mental health issues for their behavior when their actions are in fact deliberate, strategic and predatory. In order to provide the best chance for a safe and positive outcome, those offenders should also be required to successfully complete an appropriate battering intervention program or sex offender treatment.

The Board believes that offenders of criminal sexual assault should remain exempt from admission into specialty court programs. While many violent offenders will be exempt from admission under the proposed bills because their crimes either mandate incarceration (examples include CSC 1st and CSC 3rd), other violent offenders may be eligible for probationary sentences that do not require incarceration and judges may depart from prison sentence guidelines in order to place a violent offender into a treatment court program. CSC 2nd offenders, domestic violence offenders including those convicted of aggravated domestic violence, felonious assault, strangulation, and assault with the intent to do great bodily harm, depending upon their sentencing guidelines scoring, may be eligible for local sentencing and, therefore, admission into the drug or mental health treatment programs.

The Board also notes that while victims are required to be "consulted", their offender could still be admitted into the treatment court programs over the objection of the victims if the prosecutor consents to the admission. Also, victims of intimate partner crimes may feel pressured by their abuser to consent to the admission of the abuser into a treatment court program.

Thank you for your time and interest in protections for crime victims. Please contact Angie Povilaitis, Staff Attorney for the Board at povilaitisa1@michigan.gov, Jess Averill, Board Policy Analyst at Averillj@michigan.gov, or me if you have any questions or would like to further discuss these Board positions.

Sincerely,



Hon. Elizabeth Pollard Hines (Ret.)
Chair, Michigan Domestic and Sexual Violence Prevention and Treatment Board