



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
LANSING

NICK LYON  
DIRECTOR

June 19, 2015

Ms. Anne Boomer  
Michigan Supreme Court  
Office of Administrative Counsel  
P.O. Box 30052  
Lansing, MI 48909

RE: ADM File No. 2014-15

Dear Ms. Boomer:

At its May 15, 2015 meeting, the Michigan Domestic and Sexual Violence Prevention and Treatment Board considered the amendments to MCR 6.101 proposed in ADM File NO. 2014-15. Members noted that perpetrators of domestic and sexual assault frequently make jailhouse communications with their victims and others prior to trial in an effort to persuade or force them to recant or change their testimony, or to dissuade them from appearing in court to testify. Such communications can be terrifying for victims, and can result in dismissal or reduction of the criminal charges against the perpetrator. Witness intimidation and witness tampering are already prohibited by statute, but Board members are aware that judges disagree about their authority to issue restrictions on jailed defendants' contacts with other individuals, making the proposed amendment necessary. Members further believe that adoption of the proposed amendments would promote victim safety in situations where there is a threat of witness tampering or intimidation.

That said, the proposed amendments only clarify judges' authority to issue protective conditions to "maintain the integrity of the judicial process." They would not necessarily protect victims in situations where jailed defendants present a threat of physical, financial, or other harm to a victim or other person without evidencing the intent to influence participation in the judicial process. In situations like this, the specificity of the amendments could dissuade some judges from issuing protective restrictions for purposes other than maintaining the integrity of the judicial process. Accordingly, the Board suggests that the proposal be amended to specify that a court may issue a condition restricting a defendant's contact with another person if it determines the condition is necessary for the other person's protection, as follows:

6.106(B)(5): The court may, in its custody order, limit or prohibit defendant's contact with any other named person or persons if the court determines the limitation or prohibition is necessary to maintain the integrity of the judicial

**MICHIGAN DOMESTIC AND SEXUAL VIOLENCE PREVENTION AND TREATMENT BOARD**

Debi Cain, Executive Director

BOARD MEMBERS: Cris Sullivan, Ph.D., Chair • Sgt. Yvonne D. Brantley • Jeffrie Cape, LMSW  
James A. Fink, J.D. • Honorable Elizabeth Pollard Hines • Honorable Jeffrey L. Sauter • Jacqueline A. Schafer

235 SOUTH GRAND AVENUE, SUITE 615 • PO BOX 30037 • LANSING, MICHIGAN 48909

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proceedings OR IS REASONABLY NECESSARY FOR THE PROTECTION OF ONE OR MORE NAMED PERSONS. If an order under this paragraph is in conflict with another court order, the most restrictive provisions of the orders shall take precedence until the conflict is resolved.

(D)(2)(m): comply with any condition limiting or prohibiting contact with any other named person or persons. If an order under this paragraph limiting or prohibiting contact with any other named person or persons is in conflict with another court order, the most restrictive provision of the orders shall take precedence until the conflict is resolved. The court may make this condition effective immediately on entry of a pretrial release order of defendant and while defendant remains in custody if the court determines it is necessary to maintain the integrity of the judicial proceedings OR IS REASONABLY NECESSARY FOR THE PROTECTION OF ONE OR MORE NAMED PERSONS.

As a final comment, the Board suggests that proposed new sub-rule 6.106(B)(6) should be stricken because the court rules do not apply to jails, and the term “penological goals” is vague.

Thank you for the opportunity to comment on the proposed amendments. If you have questions or concerns, please contact me or Mary Lovik, an attorney on the Board’s staff.

Sincerely,

A handwritten signature in blue ink that reads "Debi Cain". The signature is written in a cursive style and is positioned above a horizontal line.

Debi Cain, Executive Director  
Michigan Domestic & Sexual Violence Prevention & Treatment Board

CC: MDSVPTB members  
Angela Madden