STATE COURT ADMINISTRATIVE OFFICE UPDATE

MADCPO Annual Conference
Frankenmuth

May 24, 2017

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Directives, Resources, and Information

- Quarterly Update on Trial Court Records Retention and Disposal Project
- Problem Solving Court Program Certification: In FY 2018, certification goes into effect for all adult drug court programs, DWI court programs, drug/DWI hybrid programs, RDWI programs, and family dependency drug court programs. Since it starts in FY 2018, those program types will apply for certification from April 24 to June 2, 2017. Certification will go into effect for mental health courts and veterans treatment courts in FY 2019.
    - Certification of Problem-Solving Courts Webcast
    - Exemplary Programs - Dr. Jessica Parks MATCP Conference Presentation, 2017
    - Certification FAQ
    - Training Calendar
    - Adult Drug Court Standards, Best Practices, and Promising Practices
    - Adult Mental Health Court Standards, Best Practices, and Promising Practices
    - Veterans Treatment Court Standards, Best Practices, and Promising Practices
- Statewide results of the 2016 Trial Court Public Satisfaction Survey are posted.
- A new Ability to Pay Bench Card is now available. The bench card, developed by staff from the Michigan Judicial Institute (MJI) and Trial Court Services, includes hyperlinks to all relevant authorities.
- Ability to Pay webcast has been posted.
- Memo regarding Ability to Pay court rule amendments.
- The interest rate for money judgments effective January 1, 2017, including the statutory 1 percent, is 2.426 percent. Click here for additional information and the history of interest rates.
- Memo regarding Interstate Compact for misdemeanants.
- Memo regarding Screening, Assessment, Referral, and Follow-Up (SARF) licenses and the Designated Courts Facility Survey.
- Nonpublic and Limited Access to Court Records chart has been updated.
- Updated State Civil Infraction list.
- SCAO announces the SCAO in Brief, a series of short presentations on topics of interest to judges, court administrators, and other court staff.
- PACC PAAM Training Announcement: Restitution: Everything you want to know and a few things you didn't. June 20 in Gaylord, June 23 in Lansing.
- Memo regarding ImageSoft being chosen as statewide vendor for E-Filing and EDMS.
- Memo regarding 2017 Public Satisfaction Survey – Optional.

Court Rules & Administrative Orders

Proposed:

MRE Cite: 404(b)
ADM File No: 2015-11
Comment expires: March 1, 2017
Staff Comment: This proposed amendment would require the prosecution to provide reasonable notice of other acts evidence in writing or orally in open court. ***Public hearing scheduled for 5/17/17.**

MCR Cite: 9.200, *et seq.*
ADM File No: 2015-14
Comment expires: December 1, 2016
Staff Comment: The proposed amendments rearrange and renumber the rules applicable to the JTC to provide clarity and facilitate navigation. The proposed amendments also include new rules and revisions of current rules regarding costs and sanctions, as well as other substantive proposed changes. ***Pending results of 1/17/17 public hearing.**

MCR Cite: 6.425
ADM File No: 2015-15
Comment expires: August 1, 2017
Staff Comment: The proposed amendments of MCR 6.425 would expressly provide for a procedure under which appointed counsel may withdraw in light of a frivolous appeal in a way that protects a plea-convicted criminal defendant's right to due process. This amendment would ensure that a plea-convicted defendant could obtain the type of protections expressed in *Anders v California*, 386 US 738 (1967), even if the defendant's appeal proceeds by application and not by right. In such a case, a motion to withdraw may be filed in the trial court, which does not currently have a rule establishing the procedure like that in the Court of Appeals at MCR 7.211(C)(5). The timing of the procedure is intended to ensure that if an attorney's motion to withdraw is granted, the defendant would have sufficient time to file an application for leave to appeal under MCR 7.205(G).

MCR Cite: MCR 6.008
ADM File No: 2016-35
Comment expires: May 1, 2017
Staff Comment: The proposed addition of Rule 6.008 would establish procedures for a circuit court to follow if a defendant bound over to circuit court on a felony either pleads guilty to, or is convicted of, a misdemeanor in circuit court, and would eliminate the practice of circuit courts remanding cases to district court except where otherwise provided by law. Remand to district court would remain a possibility in certain limited circumstances, including where the evidence is

insufficient to support the bindover, *People v Miklovich*, 375 Mich 536, 539; 134 NW2d 720 (1965); *People v Salazar*, 124 Mich App 249, 251-252; 333 NW2d 567 (1983), or where there was a defect in the waiver of the right to a preliminary examination, *People v Reedy*, 151 Mich App 143, 147; 390 NW2d 215 (1986); *People v Skowronek*, 57 Mich App 110, 113; 226 NW2d 74 (1975), or where the prosecutor adds a new charge on which the defendant did not have a preliminary examination, *People v Bercheny*, 387 Mich 431, 434; 196 NW2d 767 (1972), adopting the opinion in *People v Davis*, 29 Mich App 443, 463; 185 NW2d 609 (1971), aff'd *People v Bercheny*, 387 Mich 431 (1972). See also MCR 6.110(H). The proposal is intended to promote greater uniformity and address a practice that varies among courts. ***Public hearing scheduled for 5/17/17.**

Adopted:

MCR Cite: 2.004, 3.705, 3.708, 3.804, 3.904, 4.101, 4.202, 4.304, 4.401, 5.119, 5.140, 5.402, 5.404, 5.738a, 6.006, and 6.901
ADM File No: 2013-18
Effective Date: January 1, 2017
Staff Comment: The adopted amendments permit courts to expand the use of videoconferencing technology in many court proceedings.

ADM File No: 2002-37
Adm. Order Num.: 2016-3
Effective Date: November 2, 2016
Staff Comment: The new administrative order authorizes the Michigan Supreme Court to implement a Prisoner Electronic Filing Program with the Michigan Department of Corrections. Filings by prisoners in the initial phase of the program will be limited to applications for leave to appeal and related documents in criminal cases. At the present, only Carson City Correctional Facility and St. Louis Correctional Facility are participants.

ADM File No: 2014-03
Adm. Order Num.: 2016-5
Staff Comment: The new administrative order provides a clearer and simplified version of the anti-nepotism policy to be used by courts in Michigan. Effective December 2016, SCAO Form 75, *Nepotism Waiver*, requires a chief judge to sign and send to the appropriate regional administrator SCAO Form 75 indicating the circumstances of a prospective employee for a position.

Legislation

Statute Cite: **MCL 333.7340c**
P.A. Number: 2016 PA 125
Effective Date: August 23, 2016
What it Does: Amends the Public Health Code to establish a misdemeanor penalty for attempting to solicit another person to buy or obtain ephedrine or pseudoephedrine for the purpose of manufacturing methamphetamine. The attempt is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000, or both.

Statute Cite: **MCL 28.124**
P.A. Number: 2016 PA 127
Effective Date: August 23, 2016
What it Does: Amends the Methamphetamine Abuse Reporting Act to establish a 5-year stop-sale alert for a person convicted of attempting to solicit another to purchase ephedrine or pseudoephedrine to manufacture methamphetamine.

Statute Cite: **MCL 333.7410**
P.A. Number: 2016 PA 128
Effective Date: August 23, 2016
What it Does: Amends the Public Health Code to enhance the penalty for manufacturing methamphetamine in the vicinity of a school or library. A person 18 years or older who manufactures methamphetamine on or within 1,000 feet of school property or a library would have to be punished by a term of imprisonment or a fine, or both, **of up to twice** that authorized by law for the manufacturing offense.

Statute Cite: **MCL 750.221**
P.A. Number: 2016 PA 132
Effective Date: August 24, 2016
What it Does: Amends the language of the statute to prohibit falsely representing oneself as "blind, deaf, deafblind, or hard of hearing or as a person who has a disability" for the purpose of obtaining money or anything of value. The bill would also retain the classification of this behavior as a misdemeanor, but adds the penalty that includes imprisonment for not more than 90 days, or a fine of not more than $500, or both. Also replaces references to "deaf and dumb" and "hearing impaired" with "Deaf, DeafBlind, and Hard of Hearing."

Statute Cite: **MCL 257.302a**
P.A. Number: 2016 PA 138
Effective Date: August 8, 2016
What it Does: Rewrites the section of the Michigan Vehicle Code that addresses the conditions under which drivers from other countries can operate a passenger vehicle in Michigan without obtaining a driver's license.

Statute Cite: **MCL 750.213a**
P.A. Number: 2016 PA 149
Effective Date: September 7, 2016
What it Does: Adds a new section to the Michigan Penal Code that makes it a criminal offense to intentionally coerce a pregnant woman to have an abortion against her will, creates penalties, and defines terms. The penalties vary depending upon circumstances and range from misdemeanors punishable by fines of not more than $5,000 or $10,00 if the offender were the father or putative father of the unborn child and the pregnant female was under 18, as well as punishments equal to the underlying offense committed (for example, stalking or assault and battery).

Statute Cite: **MCL 600.8501**
P.A. Number: 2016 PA 165
Effective Date: September 7, 2016
What it Does: Amends Chapter 85 of the RJA to allow a person to be appointed magistrate in a district of the third class if the person is a registered elector in the district where appointed *or* in an adjoining district **if the appointment is made under a plan of concurrent jurisdiction** adopted under Chapter 4 of the RJA.

Statute Cite: **MCL 600.1200**
P.A. Number: 2016 PA 215
Effective Date: September 20, 2016
What it Does: Amends Public Act 190 of 1965 to define the term "veteran" for purposes of all the state laws relative to veterans. The new definition would be: an individual who served in the United States Armed Forces, including the reserve components, and was discharged or released under conditions other than dishonorable." The term would also include an individual who died while on active duty in the United States Armed Forces.

Statute Cite: **MCL 257.1 to 257.923**
P.A. Number: 2016 PA 242 & 2016 PA 243
Effective Date: September 22, 2016
What it Does: Amends the Michigan Vehicle Code to allow MSP to establish a one-year, five-county pilot program under which a saliva test could be given (in a similar manner as a breathalyzer test for alcohol) to detect if a driver was under the influence of a controlled substance. It would also allow peace officers who

have completed specialized training as a drug recognition expert (DRE) to require, with reasonable cause, a driver suspected of driving drugged to take a saliva test, make a warrantless arrest based on the test's outcome, make it a civil infraction to refuse a saliva test, order a commercial driver out of service for driving drugged or for refusing to submit to the saliva test, and make it a civil infraction for a commercial driver to refuse a saliva test.

Statute Cite: **MCL 600.101-600.9947**
P.A. Number: 2016 PA 269 & 2016 PA 270
Effective Date: September 29, 2016
What it Does: Amends the statute by adding a section that would allow the court to order a wireless telephone service provider to transfer the billing responsibly and rights to the wireless telephone number to the petitioner, if the respondent has been ordered in a PPO or separate criminal case to have no contact with the petitioner and the petitioner is not the named customer on the account. It requires the wireless telephone service provider to notify the petitioner within 72 hours if it cannot effectuate the order.

Statute Cite: **Creates new act**
P.A. Number: 2016 PA 281
Effective Date: December 20, 2016
What it Does: Creates the Medical Marihuana Facilities Licensing Act to establish a licensing and regulation framework for medical marihuana growers, processers, secure transporters, provisioning centers, and safety compliance facilities.

Statute Cite: **Creates new act**
P.A. Number: 2016 PA 282
Effective Date: December 20, 2016
What it Does: Creates the Marihuana Tracking Act to require the establishment of a system to track marihuana grown, processed, transferred, stored, or disposed of under the Medical Marihuana Facilities Licensing Act (HB 4209).

Statute Cite: **MCL 333.26423, *et seq*.**
P.A. Number: 2016 PA 283
Effective Date: December 20, 2016
What it Does: Amends the Michigan Medical Marihuana Act to allow for the manufacture and use of marihuana-infused products by qualifying patients and manufacture and transfer of such products by primary caregivers to their patients.

Statute Cite: **MCL 333.7411**
P.A. Number: 2016 PA 291
Effective Date: January 16, 2017
What it Does: Allows the Michigan Commission on Law Enforcement Standards (MCOLES) to have access, for certain purposes, to a nonpublic record of a discharge and dismissal of a controlled substance violation maintained by the Michigan State Police.

Statute Cite: **MCL 333.7403 and MCL 333.7404**
P.A. Number: 2016 PA 307 and 2016 PA 308
Effective Date: January 17, 2017
What it Does: Amends the Public Health Code to exempt a person from prohibitions against possessing or using a controlled substance or controlled substance analogue, if he or she sought medical assistance or accompanied another person who sought assistance for a drug overdose or other perceived medical emergency arising from drug use. Revises the definition of "seeks medical assistance."

Statute Cite: **MCL 257.312a**
P.A. Number: 2016 PA 318
Effective Date: February 7, 2017
What it Does: Amends the Michigan Vehicle Code to prescribe a misdemeanor penalty for an individual who operates a motorcycle without an endorsement on his or her license. The first violation is punishable by imprisonment for up to 90 days or a maximum fine of $500, or both. A second or subsequent violation is punishable by imprisonment for up to one year or a maximum fine of $1,000, or both.

Statute Cite: **MCL 338.1087 and 338.1089**
P.A. Number: 2016 PA 324
Effective Date: November 22, 2016
What it Does: Amends the Private Security Business and Security Alarm Act to allow a private college security officer appointed under the Act to be sworn and fully empowered by a local chief of police or deputized by a county sheriff. Allows for a private college security officer who is sworn and fully empowered to exercise the authority and power of a peace officer. Specifies that, unless sworn and fully empowered, a private college security officer would have the limited arrest authority otherwise allowed under the Act.

Statute Cite: **MCL 764.2a**
P.A. Number: 2016 PA 326
Effective Date: February 20, 2017
What it Does: Amends the Code of Criminal Procedure to include a public airport authority peace officer in provisions that allow peace officers to exercise their authority and power outside the geographical boundaries of their employing entity under certain circumstances. Permits a peace officer to exercise his or her authority and powers outside the geographical boundaries, if a public airport authority peace officer witnessed a violation that occurred within the airspace above the airport authority but while the person committing the violation was outside the public airport authority. Also defines "Public Airport Authority."

Statute Cite: **MCL 780.621**
P.A. Number: 2016 PA 336
Effective Date: March 14, 2017
What it Does: Amends the act that governs the setting aside of criminal convictions to allow someone to apply for the expunction of a conviction for violating a prostitution-

related local ordinance that was substantially similar to a state law, as currently permitted, if a person is convicted for violating the state law as a direct result of being a victim of a human trafficking violation. (Includes: soliciting, accosting, or enticing prostitution; admitting another person to a place of prostitution; and aiding, assisting, or abetting prostitution.)

Statute Cite: **MCL 750.451 and 750.462f**
P.A. Number: 2016 PA 338
Effective Date: March 14, 2017
What it Does: Amends the act so that it also applies in local ordinance cases. In any prosecution of a person under 18 for certain prostitution-related offenses, there is a rebuttable presumption that the person was coerced into child sexually abusive activity or commercial sexual activity, or was otherwise forced into committing the offense by another person engaged in human trafficking. This amendment requires that the presumption also would apply in a prosecution of a person under 18 for a substantially corresponding local ordinance.

Statute Cite: **New act**
P.A. Number: 2016 PA 350
Effective Date: March 21, 2017
What it Does: Creates the "Impaired Driving Safety Commission Act" to establish the Commission and do the following (in pertinent part):

- Specify the Commission's responsibilities; including funding a university research program, subject to appropriation, to determine the appropriate threshold of THC bodily content to provide evidence of per se impaired driving.
- Require the Commission to file a final report with the governor and legislative leaders within two years after the bill's effective date.

Statute Cite: **MCL 750.70a**
P.A. Number: 2016 PA 353
Effective Date: January 20, 2017
What it Does: Amend the Michigan Penal Code to prohibit an individual (other than the owner or the authorized agent of the owner of a dog, or a law enforcement officer, an animal control officer, or an animal protection shelter employee acting in his or her official capacity), from willfully or maliciously removing a collar from that dog with the intent to remove traceable evidence of the dog's ownership. An individual who violated the bill would be responsible for a **state civil infraction** and would have to be ordered to pay a civil fine of not less than $1,000 and not more than $2,500.

Statute Cite: **MCL 436.1703**
P.A. Number: 2016 PA 357
Effective Date: January 1, 2018
What it Does: Amends the statute to lower a first violation of minor in possession (MIP) from a misdemeanor to a state civil infraction with a maximum fine of $100. A

second violation is a misdemeanor punishable by imprisonment for not more than 30 days, a maximum fine of $200, or both. A third offense is a misdemeanor punishable by imprisonment for not more than 60 days, a fine of not more than $500, or both. An individual can still have the second offense (or first misdemeanor offense) deferred.

Statute Cite: **MCL 257.319**
P.A. Number: 2016 PA 358
Effective Date: January 1, 2018
What it Does: Defines a "prior conviction" for purposes of a license suspension and indicates that it includes either a misdemeanor or a civil infraction determination. So, if a person has one prior conviction (either a state civil infraction or a misdemeanor), SOS must suspend the license for 90 days and can issue a restricted license after 30 days. If the person has two or more convictions for MIP, SOS must suspend the license for 1 year, and can issue a restricted license after 60 days.

Statute Cite: **MCL 287.331**
P.A. Number: 2016 PA 392 and 393
Effective Date: March 29, 2017
What it Does: Creates the Animal Adoption Protection Act and allows an animal control shelter to consider an individual's criminal history (e.g., conduct an ICHAT search) when deciding whether to allow that individual to adopt an animal. The shelter may choose not to allow an individual who has been convicted of an animal abuse offense to adopt an animal unless a period of five years has elapsed since the date of the conviction.

Statute Cite: **MCL 333.7523 and 333.7524**
P.A. Number: 2016 PA 418
Effective Date: April 4, 2017
What it Does: Amends civil forfeiture provisions in Article 7 of the Public Health Code (controlled substances) that allow local units of government and the state to seize property related to criminal activity connected with controlled substances. Applies in cases where property is seized without process. Eliminates the requirement that a bond be provided by a person claiming interest in property subject to forfeiture proceedings to cover the costs and expenses of those proceedings.

Statute Cite: **MCL 780.983, et seq.**
P.A. Number: 2016 PA 439, 440, 441, 442, and 443
Effective Date: January 4, 2017
What it Does: Amend the Michigan Indigent Defense Commission Act, which creates the Michigan Indigent Defense Commission (MIDC) within the judicial branch of state government; requires the MIDC to propose minimum standards for the local delivery of indigent criminal defense services providing effective

assistance of counsel; and establishes procedures for approval of the standards by the Michigan Supreme Court.

- Reestablishes the MIDC in the Department of Licensing and Regulatory Affairs.
- Prohibits the minimum standards from infringing on the Supreme Court's authority over practice and procedure in the courts of the State.
- Revises the definition of "indigent criminal defense system" to refer to local units of government that fund trial courts, rather than such local units combined with trial courts.
- Requires the MIDC to submit proposed standards to the Department, rather than the Supreme Court, for approval or rejection.
- Specifies that an approved minimum standard would not be a rule under the Administrative Procedures Act.
- Specifies that an approved minimum standard would be considered a final department action subject to judicial review to determine whether it was authorized by law, and vest jurisdiction for review in the Court of Claims.
- Revises MIDC principles regarding continuing legal education of defense counsel, and the review of defense counsel.
- Requires a defendant's indigence to be determined by the indigent criminal defense system, rather than by the court, and state that a trial court could play a role in determining indigence.
- Deletes requirements concerning the collection of data by the MIDC from individual attorneys who provide indigent criminal defense services.
- Approval of a standard would be by the department, rather than the Supreme Court.
- Deletes a requirement that every trial court that is part of an indigent criminal defense system comply with an approved plan under the Act.

Statute Cite: **MCL 257.629 and 257.629c**
P.A. Number: 2016 PA 445
Effective Date: January 5, 2017
What it Does: Amends the Michigan Vehicle Code to revise, establish or modify current speed limits across Michigan.

Statute Cite: **MCL 257.627a and 257.633**
P.A. Number: 2016 PA 446
Effective Date: January 5, 2017
What it Does: Amends the Michigan Vehicle Code to modify and or delete provisions relating to school zone speed limits. Allows louvered signs, digital message signs, and flashing lights to supplement or replace permanent signs. Revises the definition of “school” and “school zone” and states that an individual who violates a school zone speed limit is responsible for a civil infraction.

Statute Cite: **MCL 257.628**
P.A. Number: 2016 PA 447
Effective Date: January 5, 2017
What it Does: Amends the Michigan Vehicle Code to set requirements for the modification of speed limits on roads across Michigan.

Statute Cite: **MCL 257.320, et seq.**
P.A. Number: 2016 PA 448
Effective Date: December 31, 2016
What it Does: Amends the Michigan Vehicle Code to modify the number of points assigned to a person's driving record for speeding. Allows the SOS, after being notified, to conduct an investigation or reexamination of a person if they have a total of six or more points charged within two years, and permits the restriction, suspension, revocation, or the imposition of other terms and conditions based upon that investigation or reexamination.

Statute Cite: **MCL 257.724**
P.A. Number: 2016 PA 450
Effective Date: April 5, 2017
What it Does: Amends the Michigan Vehicle Code to do the following:

- Require, rather than permit, the court to impose a misload fine of $200 per axle, if an overweight vehicle or vehicle combination would be lawful by proper distribution of the load, but one or more axles exceeded the maximum weight by more than 1,000, but less than 4,000 pounds.
- Require the court to impose a per-pound fine for pounds exceeding the permitted axle weight under a special permit, if the court determined that a vehicle or vehicle combination would meet specified loading restrictions by a proper distribution of the load, but one of the axles exceeded the permitted weight by more than 1,000 pounds.
- Revise a provision requiring a per-pound fine to be imposed if the court determines that a vehicle or vehicle combination would be lawful by a proper distribution of the load, but at least one axle exceeded the permitted axle weight by more than 4,000 pounds, to refer to between 4,000 and 8,000 pounds and require a misload fine of $400 per axle, up to three axles.
- Require the court to impose a fine according to the per-pound schedule, if a vehicle or vehicle combination would be lawful by a proper distribution of the load, but at least one axle exceeded the permitted weight by more than 8,000 pounds.

Statute Cite: **MCL 257.710e**
P.A. Number: 2016 PA 460
Effective Date: April 5, 2017
What it Does: Adds an additional exemption to the Motor Vehicle Code allowing the operator of a motor vehicle performing road construction or maintenance in a work zone to wear a lap belt but not a shoulder harness.

Statute Cite: **MCL 324.43516, 324.43523a, 324.43545, 324.43516, et seq.**
P.A. Number: 2016 PA 461, 2016 PA 462, 2016 PA 463
Effective Date: March 29, 2017
What it Does: Amends the Natural Resources and Environmental Protection Act to require the DNR to develop electronic licenses and kill tags that individuals could display using electronic devices, no later than March 1, 2018.

Statute Cite: **MCL 750.145n**
P.A. Number: 2016 PA 480
Effective Date: April 6, 2017
What it Does: The Penal Code provides that a caregiver or other person with authority over a vulnerable adult is guilty of fourth-degree vulnerable adult abuse if his or her reckless act or reckless failure to act causes physical harm to the vulnerable adult. A violation is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of $1,000. Under the bill, a caregiver or other person with authority over a vulnerable adult also would be guilty of that offense if he or she knowingly committed an act that, under the circumstances, posed an unreasonable risk of harm or injury to the vulnerable adult, regardless of whether physical harm resulted.

Statute Cite: **600.1987**
P.A. Number: 2016 PA 519
Effective Date: January 9, 2017
What it Does: Extends, for one year, a sunset date in the Revised Judicature Act so that courts can continue to collect certain existing electronic filing fees.

Statute Cite: **333.26427**
P.A. Number: 2016 PA 546
Effective Date: April 10, 2017
What it Does: Amends the Michigan Medical Marihuana Act (MMMA) to specify that the Act could not be construed to require a private property owner to lease residential property to a person who smoked or cultivated marihuana on the premises, if a written lease prohibited smoking or cultivating marihuana.

Statute Cite: **330.1748**
P.A. Number: 2016 PA 559
Effective Date: April 10, 2017
What it Does: Amends the Mental Health Code to authorize the disclosure of information in the record of a recipient as necessary for the delivery of mental health services

in accordance with Federal privacy law. It would also allow disclosure as necessary for treatment, coordination of care, or payment in accordance with the Health Insurance Portability and Accountability Act.

Statute Cite: **MCL 761.1 and 776.21a**
P.A. Number: 2017 PA 2
Effective Date: June 29, 2017
What it Does: Amends the Code of Criminal Procedure to define "recidivism," "technical parole violation," and "technical probation violation," and requires data regarding recidivism rates collected under those laws to be separate from data concerning technical violations from data concerning new convictions.

Statute Cite: **771.4b**
P.A. Number: 2017 PA 9
Effective Date: June 29, 2017
What it Does: Adds Section 4b to the Code of Criminal Procedure, which will limit the days a probationer may be sentenced to temporary incarceration for a technical probation violation to a maximum of 30 days for each technical violation, which may be extended if the probationer meets one of the exceptions which include:

- Does not apply to a probationer who has committed three or more technical probation violations during the course of his or her probation.
- Does not apply to a probationer who is on probation for a domestic violence violation of section 81 or 81a, or a violation of section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.411h, and 750.411i.

Statute Cite: **780.904**
P.A. Number: 2017 PA 15
Effective Date: June 29, 2017
What it Does: Amends Public Act 196 of 1989, which created the Crime Victim's Rights Fund. Specific amendments include adding minor crime victims as among those who could receive compensation. Further, it would require reporting on the funds going to minor crime victims, beginning December 31, 2017, and annually after that date.

Case Law

People v Mysliwiec, ___ Mich App ___ (2016). Defendant was convicted of criminal contempt for violating a condition of his bond to refrain from the use of alcohol (related to his OWI charge) and was subsequently sentenced to 68 days in jail, with credit for 68 days served. Defendant appealed, arguing that a violation of his bond condition was not punishable by criminal contempt because bond conditions are not court orders. The Court of Appeals rejected the defendant's argument, holding that under Michigan law a court's decision in setting bond is a court order. Additionally, the court held that the defendant's due process rights were not violated because he had notice of and a hearing on his contempt charge wherein he was allowed to provide a defense. **Therefore, defendant's bond condition prohibiting the use of alcohol was a court order punishable by contempt and because defendant failed to comply with the conditions of his release, the trial court was proper in entering an order revoking his bond.**

People v Feeley, ___ Mich ___ (2016). Defendant was arrested and charged with resisting and obstructing a police officer under MCL 750.81d after police responded to a ruckus at a Brighton area bar. The two officers (one a sworn police officer and the other a reserve police officer) both arrived in a marked police unit, both wearing police uniforms and possessing a gun. Defendant fled the scene after being approached by the reserve officer, who pursued defendant and subsequently took him into custody. Defendant objected to the prosecution's request for a bindover, arguing that the reserve police officer was not a "police officer" within the meaning of MCL 750.81d. Accepting defendant's argument, the district court denied the request for a bindover and therefore concluded sua sponte that the stop of the defendant was unlawful and invalid because the reserve officer "lacked authority to make a stop of a person." The prosecutor appealed to the circuit court, which denied the application for leave to appeal for lack of merit in grounds presented. The Court of Appeals affirmed the district and circuit court ruling and the prosecutor appealed to the Supreme Court. **The Supreme Court held that the lower courts incorrectly concluded that a reserve police officer was not a police officer as contemplated in MCL 750.81d and reversed the decision.** Because the COA did not address whether the district court correctly concluded that the reserve officer lacked authority to conduct a stop of the defendant, MSC remanded the case to the COA to address that issue, including whether the defendant knew or had reason to know that the reserve officer was performing his duties at the time of the charged conduct, and, if so, whether the reserve officers command to stop was lawful.

Birchfield v North Dakota, 579 US___, ___2016). Defendant was arrested on drunk-driving charges and the state trooper who arrested him advised him of his obligation under North Dakota law to undergo BAC testing and told him that refusing to submit to a blood test could lead to criminal punishment. Defendant refused to let his blood be drawn and was charged with a misdemeanor violation under the refusal statute. He argued that the Fourth Amendment prohibited criminalizing his refusal to submit to the test. North Dakota State District Court rejected his argument, and the State Supreme Court affirmed. Defendant appealed to the US Supreme Court. The USSC held that the Fourth Amendments permits warrantless breath tests incident to arrests for drunk driving, but not **warrantless blood tests**. The court reasoned that breath test does not implicate significant privacy concerns, is a minimal physical intrusion, and only yields a BAC reading, but the same cannot be said about blood tests. **The Supreme Court**

concluded that motorists may not be criminally punished for refusing to submit to a blood test based on legally implied consent to submit to them.

Utah v Strieff, 579 US ___, ___ (2016). Someone called the South Salt Lake City police's drug-tip line to report "narcotics activity" at a particular residence. A narcotics detective investigated the tip and over the course of about a week, observed visitors who left a few minutes after arriving at the house and believed the occupants were dealing drugs. During the investigation, the detective observed defendant exit the house and walk toward a nearby convenience store. In the store's parking lot, the detective detained defendant and requested his identification. Dispatch reported that defendant had an outstanding arrest warrant for a traffic violation. Defendant was arrested, searched as incident to the arrest, and the detective discovered a baggie of methamphetamine and drug paraphernalia. The state charged defendant with unlawful possession of methamphetamine and drug paraphernalia and defendant moved to suppress the evidence, arguing that the evidence was inadmissible because it was derived from an unlawful investigatory stop. At the suppression hearing, the prosecutor conceded that the detective lacked reasonable suspicion for the stop, but argued that the evidence should not be suppressed because the existence of a valid arrest warrant attenuated the connection between the unlawful stop and the discovery of the contraband. The trial court agreed with the state and admitted the evidence. The Utah Court of Appeals affirmed. The Utah Supreme Court reversed and ordered the evidence suppressed. The state appealed to the US Supreme Court. The USSC held that the "attenuation doctrine applies when an officer makes an unconstitutional investigatory stop; learns during that stop that the suspect is subject to a valid arrest warrant; and proceeds to arrest the suspect and seize incriminating evidence during a search incident to that arrest[;] **. . . the evidence the officer seized as part of the search incident to arrest is admissible because the officer's discovery of the arrest warrant attenuated the connection between the unlawful stop and the evidence seized incident to arrest."**

People v Taylor, ___ Mich App ___, ___ (2016). In this case a preliminary exam was held and the district court articulated its findings on the record and bound the defendants over for trial. In the circuit court, the defendants moved to quash the information but the motion was denied. Both defendants moved to remand the case to the district court for a further preliminary exam on the ground that an MSP ballistics report prepared after the preliminary exam showed that at least three guns were used during the incident for which the defendants were charged. Defendants argued that the ballistics report could have been used to cross-examine prosecution witnesses, including one witness who testified that only one gun fired during the incident. The circuit court granted the motion to remand. The prosecutor appealed to the Court of Appeals. The Court of Appeals held that the circuit court erred when it remanded the case for continued preliminary exam because the defendants did not establish any of the appropriate grounds for remanding the case. **Once a criminal case has been bound over and jurisdiction has been vested in the circuit court, there are only limited circumstances in which the circuit court may properly remand the case for a new or continued preliminary examination** (e.g., the evidence is insufficient to support the bindover, the defendant waived the right to a preliminary exam and there is a defect in the waiver, and the prosecutor adds a new charge on which the defendant did not have a preliminary exam.) The Court of Appeals indicated that "the emergence here of potentially favorable evidence after the preliminary examination does not by itself entitle a defendant to a second or continued preliminary examination. Instead, the trial is generally the

appropriate forum in which to present such evidence. The purpose of a preliminary examination is to determine whether a crime was committed and whether there is probable cause to believe that the defendant committed it." Reversed and remanded.

People v Lopez, __ Mich App __ (2016). The defendant was charged with murder. At the preliminary examination a witness testified that both Lopez and his co-defendant had admitted to participating in the murder. On the morning of jury selection, the prosecutor learned that the witness made a comment to the defendants to the effect that, "I've got you covered, bro." The prosecutor confronted the witness and threatened the witness that deviation from his preliminary examination testimony would result in prosecution for perjury and life imprisonment on conviction. (The prosecutor failed to mention that telling an untruth during a preliminary examination is not life in prison). Subsequently, the witness invoked his Fifth Amendment privilege and refused to testify. The prosecutor then filed a motion to declare the witness unavailable and admit his preliminary examination testimony pursuant to MRE 8054(b)(1). The preliminary examination testimony was presented to the jury. Defendant appealed and argued that the prosecutor should have been precluded from using the preliminary examination testimony because the prosecutor's conduct procured the witnesses unavailability. **The Court of Appeals held that, because the prosecutor improperly silenced the witness, the court was required to exclude the witness's preliminary examination testimony.** By admitting prior testimony in clear violation of the evidentiary rules designed in part to protect a defendant's right to confront the witnesses against him, the trial court violated the defendant's fundamental right to a fair trial, abusing its evidentiary discretion. The conviction and sentence was vacated. "No principled basis exits for distinguishing between the intimidation of defense witness and the silencing of prosecution witness."

Does v Snyder, __ F3d __ (CA 6, 2016). Plaintiffs sued Michigan Governor Richard Snyder challenging the Sex Offender Registration Act's (SORA) validity on a number of different grounds.

The following is a brief history of changes to the (SORA) over the years:

- 1994 – The non-public registry was maintained solely for use by law enforcement.
- 1999 – Sex offenders must register in person and the sex offenders' names, addresses, and biomentric data are available to the public.
- 2004 – Sex offenders' photographs are also made available to the public.
- 2006 – Sex offenders are prohibited from living, working, or loitering within 1,000 feet of a school.
- 2011 – Sex offenders are divided into three tiers based on the crime of conviction and must appear in person immediately to update information such as new vehicle information and new e-mail accounts.
- The 2006 and 2011 amendments apply retroactively to all who were required to register under SORA.

After considering five factors regarding whether SORA's actual effects are punitive, the court held that "SORA imposes punishment[,]" and "[t]he retroactive application of SORA's 2006 and 2011 amendments is unconstitutional[]" under the Ex Post Facto Clause. The court acknowledged that "while many (certainly not all) sex offenses involve abominable, almost unspeakable, conduct that deserves severe legal penalties, punishment may never be retroactively imposed or increased."

NOTE: This case is included because of the questions it raises regarding the applicability of these provisions; however, **decisions of lower federal courts, although they may be persuasive, are not binding on Michigan courts**. See People v Gillam, 479 Mich 253, 261 (2007); Abela v Gen Motors Corp, 469 Mich 603, 606-607 (2004); People v Bosca, 310 Mich App 1, 76 n 25 (2015).

People v Guthrie, __ Mich App __(2016). The defendant was charged with two counts of second-degree criminal sexual conduct. He was arraigned in district court and, after the preliminary examination, the prosecution requested entry of an order of *nolle prosequi*, which the district court granted. The defendant filed a motion in district court requesting the destruction of his fingerprints and the return of his arrest card, arguing that MCL 28.243(8) required destruction of his fingerprints and arrest records because an order of *nolle prosequi* had been entered. He argued that, although the law contained an exception to the destruction requirement for crimes involving criminal sexual conduct, a former version of the statute (that had been amended in 2012) stated that the exception only applied to those "arraigned in circuit court or the family division of the circuit court;" therefore, he was entitled to the destruction of his fingerprints and arrest card. The prosecution argued that the current version now reads that the destruction requirement does not "apply to a person who was arraigned on an enumerated offense(s)," that he was not entitled to the destruction because he was arraigned in district court on one of those offenses listed in the statute. The district court denied the defendant's motion for destruction reasoning that it did not have discretion to grant such a motion. The defendant appealed to circuit court arguing that the statute does not state that a court is without discretion to order destruction of those documents in the interest of justice. The circuit court granted the defendant's motion, indicating that the 2012 amendment to the statute was "most likely the result of some stocker trying to clear up language." The circuit court further speculated that the Legislature only intended to change the word "fingerprinting" to "biometric data" and to require the collection of biometric data at the time of arrest rather than the point of conviction, such that the defendant was entitled to the destruction that he requested. The prosecutor appealed on the basis that the circuit court erroneously granted the defendants request contrary to MCL 28.243(12) because it lacked authority to order destruction since the defendant was, in fact, arraigned in district court. **The Court of Appeals found that MCL 28.243(12) does not entitle the defendant to the destruction of his biometric data and arrested card and reversed and remanded.**

Noll v Ritzer, __ Mich App __ (2016). Plaintiff sold a motorcycle to a third party for cash, but failed to maintain documentation to prove that the sale had taken place. The person who purchased the motorcycle was subsequently involved in an accident with the motorcycle that involved a fatality. MSP towed the motorcycle from the scene and then stored it for nearly a year while the police investigated the incident. The towing fee and storage fees of $35 per day charged by defendant during that time totaled over $11,000. Plaintiff was eventually sent a Notice of Abandoned Vehicle and he submitted a petition requesting a hearing to challenge the reasonableness of the towing and storage fees pursuant to MCL 257.252a(6), but did not post the $40 bond. The district court held the hearing and eventually limited the storage company to only $1,000 in damages. Defendant appealed. The circuit court determined that, because plaintiff was not seeking release of the vehicle, he did not have to post the bond and affirmed. The Court of Appeals reversed and held that "the district and circuit courts erred in determining that MCL 257.252a allowed a hearing challenging the reasonableness of towing and storage fees where [the] plaintiff did not post a bond in the amount of those towing and storage fees[;]" "the amendment of the statutory language by 2008 PA 539 reveals the Legislature's intent that **posting of a bond in the amount of $40 plus accrued towing and storage fees must**

accompany a request for a hearing under MCL 527.252a, unless the fees have already been paid (or bond posted)."

People v Mahdi, __Mich App __ (2016). Detectives conducted a warrantless search of defendant's mother's apartment with her consent. They had arrested her son for possession of marijuana and they told her that they wanted to make sure that her son didn't have any drugs hidden in her house that she didn't know about. During the search, the officers confiscated a wallet, a set of keys, and a cell phone, in addition to marijuana, cocaine, a digital scale, and heroin. While the cell phone was in the detective's possession, the phone received a number of calls and some text messages. The detective began to respond to the text messages in order to learn more information about the defendant's drug trafficking activities. Before trial, the defendant filed a motion to suppress the wallet, keys, and cell phone. The prosecutor argued that those items were legally taken through a consent search and the items were in plain view. The trial court concluded that the consent exception to the warrant requirement applied in this circumstance. Evidence stemming from the search of the wallet, keys, and cell phone was admitted into evidence at trial. Defendant appealed. The Court of Appeals held [in pertinent part] that:

1. **Consent Exception**. "The seizure of [a] wallet, keys, and [a] cell phone[from the defendant's mother's apartment] . . . fell outside the scope of [the mother's] consent" where "[t]he testimony establishe[d] that a reasonable person would have believed that the scope of the search pertained [only] to illegal drugs hidden in the apartment[;]" the "consent to search her apartment for the limited purpose of uncovering illegal drugs did not constitute consent to seize any item."
2. **Plain View Exception.** Police officers conducting a warrantless search of the defendant's mother's apartment "were not entitled to seize [a] wallet, keys, and [a] cell phone under the plain view exception to the warrant requirement because the incriminating character of the items seized was not immediately apparent" and "further investigation was necessary in order to establish a connection between the items and the suspected criminal activity[;]"
3. **Cell Phone Text Messages and Fruit of the Poisonous Tree.** Where a cell phone was improperly seized during a warrantless search and a detective thereafter "searched the phone and even engaged in several conversations via text message in order to obtain additional incriminating evidence against [the] defendant[,]" "the text messages obtained from the cell phone fell under the exclusionary rule as products of the illegal seizure of the cell phone[;]" "[t]he process through which the text messages were obtained . . . was not sufficiently distinguishable to be purged of the primary taint of the illegal seizure of the cell phone, and the text message evidence constituted a fruit of the original illegal actions of the police."

People v Turn, __ Mich App __ (2016). Defendant admitted during his guilty plea that he stabbed the victim several times in the back and side. During his recovery, the victim used approximately 112 hours of sick, personal, and vacation time to recuperate from his injuries. At sentencing, the trial court ordered defendant to pay $17,744.44 in restitution. Defendant challenged the restitution order and the court held a restitution hearing. Following the hearing, the court ordered the defendant to pay restitution to the victim's insurer for actual medical expenses, for the loss of the victim's jacket, and for the loss of his accumulated leave time. The economic benefit of the lost time was $2,153.77. Defendant appealed. **The Court of Appeals held that the time the victim used to recuperate from his injuries falls within the definition of "income loss" even though he was paid by his employer for the time he used.** By using 112 hours of accumulated leave time, the victim lost the ability to use

and be paid for taking that time in the future, and he lost the ability to be paid for that time upon termination of his employment. Thus, when the victim used his time he suffered a monetary loss.

People v Latz, ___ Mich App ___ (2016). The defendant was a medical marijuana patient who was cited for Illegal Transportation of Marijuana written under MCL 750.474. The defendant appealed to the Court of Appeals by leave from an order affirming the denial of his motion to dismiss his charges, which he asserts was an unconstitutional amendment of the Michigan Medical Marijuana Act, MCL 333.26521, *et seq*., and was superseded by the MMMA. The "defendant, as a compliant medical marijuana patient, [could not] be prosecuted for violating" MCL 750.474, concerning the illegal transportation of marijuana, because "MCL 750.474 is not part of the [MMMA]" and "unambiguously seeks to *place additional requirements* on the transportation of medical marijuana beyond those imposed by the MMMA[;]" **"if another statute is inconsistent with the MMMA such that it punishes the proper use of medical marijuana, the MMMA controls and the person properly using medical marijuana is immune from punishment."**

People v Jose, ___ Mich App ___ (2016). The defendant was convicted of first-degree CSC and later appealed his conviction and moved to remand his case for a *Ginther*[1] hearing, which was granted. The circuit court granted the defendant's request for a new trial, concluding that the trial counsel's failure to properly authenticate evidence denied the defendant the effective assistance of trial counsel.[2] The COA denied the prosecutor's application for leave to appeal and so did the Michigan Supreme Court. In February 2014, the circuit court appointed an attorney to represent the defendant on retrial and ordered that he "repay the county for this court-appointed attorney and any other costs incurred by the county in this case." The prosecutor decided not to proceed with a retrial and entered a nolle prosequi. Although the defendant was free from criminal charges, the county sent him notice that he owed $900 for the cost of his appointed counsel. He filed a motion to vacate that order requiring that he reimburse for his court appointed counsel relying on MCL 768.34 and the circuit court denied his motion. "MCL 768.34 precludes a trial court from ordering reimbursement of any costs—including the cost of appointed counsel—for a defendant whose prosecution is suspended or abandoned." Additionally, MCR 6.005(C) did not provide authority for the trial court to order reimbursement for the work appointed counsel performed before trial; "[t]he court never determined that [the] defendant was 'able to pay part of the cost of a lawyer' and never 'require[d] contribution[]" under MCR 6.005(C). The Court noted that **there is a difference "between an order for 'contribution' (which suggests an ongoing obligation during the term of the appointment) and 'reimbursement' (which suggests an obligation arising after the term of appointment has ended)").**

People v Williams, ___ Mich App ___ (2016). The defendant was questioned by police after he discovered his pregnant girlfriend murdered in their shared apartment. Investigators probed the defendant's whereabouts and extracted a timeline from him. He denied straying from the timeline he provided. Police subsequently learned that the defendant had made an additional stop at his apartment during the time that the homicide likely occurred and that there was an additional passenger in his vehicle. Prosecution charged Williams under MCL 750.479c, which makes it a felony to make "statements that omit material information that may qualify as false or mislead an investigating

[1] *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).
[2] Defendant withdrew his appeal in Docket No. 311478 after the circuit court granted his motion for a new trial. *People v Terrence Lamontt Jose*, unpublished order of the Court of Appeals, entered September 20, 2013 (Docket No. 311478).

officer[,]" and also "permits the prosecution of people who deliberately mislead the police by withholding material information[;]" there was "probable cause to believe that [the defendant] violated MCL 750.479c(1)(b)" where the defendant provided "statements omitting information that [led] the interrogator in the wrong direction." "While nonassertive omissions may not qualify as 'statements' under MRE 801(a), in general parlance 'statements' include verbal and written expressions of something[; a]n answer to a question necessarily represents an expression[, and i]t may mislead the listener by omitting relevant information." Defense counsel opposed a bind over and the circuit court denied the defense motion to quash the bind over and dismiss the case. The COA granted leave to appeal. **The COA held that because the plain language of MCL 750.479c(1)(b) permits William's prosecution for withholding information, the COA affirms the decision to bind him over for trial.**

Manuel v City of Joliet, Illinois, 580 US ___, ___ (2017). During a traffic stop, police searched Manuel's vehicle and found a vitamin bottle containing pills. Suspecting the pills to be illegal drugs, the officers conducted a field test, which came back negative for any controlled substance. Still, they arrested Manuel. An evidence technician further tested the pills and got the same negative result, but claimed in the report that one of the pills tested "positive for the probable presence of ecstasy." App. 92. An arresting officer also reported that, based on his "training and experience," he "knew the pills to be ecstasy." *Id*., at 91. On the basis of those false statements, another officer filed a sworn complaint charging Manuel with unlawful possession of a controlled substance. Relying exclusively on that complaint, a county court judge found probable cause to detain Manuel pending trial. While Manuel was in custody, the Illinois police laboratory tested the seized pills and reported that they contained no controlled substances. But Manuel remained in custody, spending a total of 48 days in pre-trial detention. More than two years after his arrest, but less than two years after his criminal case was dismissed, Manuel filed a 42 U. S. C §1983 lawsuit against the city of Joliet and several of its police officers (collectively, the City), alleging that his arrest and detention violated the Fourth Amendment. The US District Court dismissed Manuel's suit, Manuel appealed the dismissal of his unlawful detention claim to the Seventh Circuit Court of Appeals, who affirmed. The United States Supreme Court reversed the decision and remanded for further proceedings. The USSC reasoned that **"[t]he Fourth Amendment prohibits government officials from detaining a person absent probable cause. And where legal process has gone forward, but has done nothing to satisfy the probable cause requirement, it cannot extinguish a detainee's Fourth Amendment claim."** Since the judge relied exclusively on the criminal complaint—which in turn relied exclusively on the police department's fabrications—to support a finding of probable cause, the defendant could proceed with his claims.

Nelson v Colorado, 581 US __, __(2017). The petitioner was convicted by a Colorado jury of two felonies and three misdemeanors arising from the alleged sexual and physical abuse of her four children. The trial court imposed a prison term of 20 years to life and ordered her to pay $8,192.50 in court costs, fees, and restitution. On appeal, Nelson's conviction was reversed for trial error, and on retrial, she was acquitted of all charges. Another petitioner, Madden, was convicted by a Colorado jury of attempting to patronize a prostituted child and attempted sexual assault. The trial court imposed an indeterminate prison sentence and ordered him to pay $4,413.00 in costs, fees, and restitution. After one of his convictions was reversed on direct review and the other vacated on post-conviction review, the state elected not to appeal or retry the case. The Colorado Department of Corrections withheld $702.10 from Nelson's inmate account between her conviction and acquittal, and

Madden paid the State $1,977.75 after his conviction. In both cases, the funds were allocated to costs, fees, and restitution. Once their convictions were invalidated, both petitioners moved for return of the funds. Nelson's trial court denied her motion outright, and Madden's post-conviction court allowed a refund of costs and fees, but not restitution. The Colorado Court of Appeals concluded that both petitioners were entitled to seek refunds of all they had paid, but the Colorado Supreme Court reversed. It held that Colorado's Certain Exonerated Persons statute provided the exclusive authority for refunds and that there was no due process problem under that Act. The United State Supreme Court held that the Exoneration Act's scheme does not comport with the Fourteenth Amendment's guarantee for due process. Pp. 5-11. **When a criminal conviction is invalidated by a reviewing court and no retrial will occur, . . . the state [is] obliged to refund fees, court costs, and restitution exacted from the defendant upon, and as a consequence of, the conviction[;] the retention of such conviction-related assessments following the reversal of a conviction, where the defendant will not be retried, "offends the Fourteenth Amendment's guarantee of due process."** (holding that a Colorado statute requiring a petitioner to "prove [his or] her innocence by clear and convincing evidence to obtain [a] refund of costs, fees, and restitution paid pursuant to an invalid conviction . . . does not comport with due process"). The judgements of the Colorado Supreme Court are reversed, and the cases are remanded for further proceedings not inconsistent with this opinion.

People v Bryant, ___ Mich App ___, ___ (2017). The defendant pleaded guilty to possession of a firearm during the commission of a felony, second offense (felony-firearm 2d), MCL 750.227b(1), pursuant to a plea and sentencing agreement. The trial court sentenced the defendant to serve five years in prison, concurrently with the sentence imposed in another case and consecutively to existing parole. Defendant was also ordered to pay costs and fees and $1,000 in restitution. Defendant applied for leave to appeal, challenging the restitution order and arguing that his trial counsel was ineffective for failing to object to the restitution order at sentencing. The COA denied his application.[i] Defendant then applied for leave to appeal in the Michigan Supreme Court. The Supreme Court remanded the case back to the COA "for consideration as on leave granted of the defendant's issue regarding the propriety of the Wayne Circuit Court's restitution award in light of *People v McKinley*, 496 Mich 410; 852 NW2d 770 (2014)." People v Bryant, 499 Mich 896; 876 NW2d 821 (2016). **The COA found that where the defendant, who broke into a home and stole items including firearms, pleaded guilty of possession of a firearm during the commission of a felony, second offense, in exchange for the dismissal of a charge of second-degree home invasion, the defendant was properly ordered to pay restitution under MCL 780.766(2) and MCL 769.1a(2) for all of the homeowner's losses associated with the entire course of criminal conduct.** *People v McKinley*, 496 Mich 410 (2014), and *People v Corbin*, 312 Mich App 352 (2015). "The law simply does not require that when a conviction results from a plea, a defendant must specifically reference each stolen item in order for the prosecution to obtain a restitution order for stolen goods[;]" rather, "[o]nce [the] defendant was properly convicted[,] . . . the prosecution was then allowed to prove the amount of restitution related to [the] defendant's course of conduct by a preponderance of the evidence and by reference to the PSIR[,]" and "[t]he course of conduct necessarily included the circumstances relating to the required predicate offense of second-degree home invasion." *Id*. at ___.

[i] *People v Bryant*, unpublished order of the Court of Appeals, entered August 31, 2015 (Docket No. 328512)