

**State Bar of Michigan
Criminal Jurisprudence and Practice Committee
Thursday, June 7, 2012 – 2 to 4 PM
State Bar of Michigan Building, 306 Townsend Street, Lansing, MI**

MINUTES

Committee Members: Fred E. Bell, Ryan Lee Berman, Thomas P. Clement, Nichole Jongsma Derks, Haytham Faraj, Hon. David A. Hoort, J. Kevin McKay, Julie A. Powell, Richmond M. Riggs, Samuel R. Smith

Advisors: Angela M. Povilaitis

SBM Staff: Carrie Sharlow

1. Call to Order & Welcome – The meeting was called to order at 2:10 PM
2. Old Business

- a. [2010-34 - Proposed Amendment of Rule 6.419 of the Michigan Court Rules](#)
Alternative A would revise MCR 6.419 to be similar to the federal corollary of this rule (FR Crim P 29[b]). Under this language, the trial court would be entitled to reserve judgment on a motion for directed verdict. Alternative B would allow a trial court to reconsider its decision to grant a directed verdict. This language was proposed based on the United States Supreme Court decision of *Smith v Massachusetts*, 543 US 462 (2005).
Issued: May 2, 2012
Comment period expiration: September 1, 2012
Public hearing: To be scheduled
Liaison: Ryan Lee Berman

The motion was made and seconded to support the adoption of Alternative B. An e-vote will be sent out.

- b. [HB 5413](#) (Jackson) Criminal procedure; evidence; certain requirements for retention of evidence; establish. Amends 1927 PA 175 (MCL 760.1 - 777.69) by adding sec. 23 to ch. XVI.
Status: 02/16/12 Referred to House Judiciary
Liaison: Nichole Jongsma Derks

The motion was made and seconded to oppose the legislation in current form but support the concept of the preservation of biological evidence. An e-vote will be sent out.

Carrie Sharlow will send out an email to committee members requesting specific concerns on the bill and/or recommendations.

Current concerns: (1) The broad definition of biological evidence; (2) The administration of storage: (a) where is the evidence kept, (b) who keeps track of it

and carries the cost of storage, (c) what happens to larger items, such as vehicles, that come in contact with biological evidence.

3. New Business

- a. [HB 5124](#) (Cotter) Courts; circuit court; concurrent jurisdiction in certain courts; establish. Amends secs. 401, 406, 407, 408, 410, 601, 841 & 8304 of 1961 PA 236 (MCL 600.401 et seq.) & repeals sec. 411 of 1961 PA 236 (MCL 600.411).
Status: 05/30/12 Placed on Third Reading (House)
Liaison: Daniel Corrigan Grano

The motion was made and seconded to oppose the legislation as there is already a mechanism in effect for establishing concurrent jurisdiction. An e-vote will be sent out.

- b. [HB 5600](#) (Haveman) Juveniles; criminal procedure; set-aside convictions for juvenile adjudications; clarify eligibility. Amends sec. 18e, ch. XIII A of 1939 PA 288 (MCL 712A.18e).
Status: 05/08/12 Referred to House Judiciary
Liaison: Richmond M. Riggs

The motion was made and seconded to oppose the legislation for the reason that a juvenile should not be able to expunge a CSC 1 or a murder. An e-vote will be sent out.

- c. [HB 5641](#) (O'Brien) Children; protection; central registry records; require certain notifications to recipients regarding expungement and limit maintenance of records to 10 years. Amends secs. 7 & 8d of 1975 PA 238 (MCL 722.627 & 722.628d).
Status: 05/16/12 Referred to House Committee on Families, Children, and Seniors
Liaison: Donna McKneelen (Nichole Derks for liaison next time)

The bill is tabled until the next meeting.

4. Reports

- a. Criminal Law Section – The Spring Conference will be held at the Bavarian Inn Lodge in Frankenmuth, starting tomorrow. The cost is \$25.
- b. Eyewitness Task Force – The Task Force meets again on June 20.
- c. Indigent Defense Advisory Commission -- The recommendations and findings have been adopted. The goal is to introduce a bill with the recommendations and have it enacted by the end of this session (December 2012). The Governor's office has been very supportive.
- d. Custodial Interrogation Recording Legislation -- Any concerns on the bill from MSP and the Governor's office appear to all be resolved. We have asked for a hearing as soon as possible.

5. Adjournment.