

CRIMINAL JURISPRUDENCE & PRACTICE COMMITTEE  
Respectfully submits the following position on:

\*

SB 1083

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The Criminal Jurisprudence & Practice Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Criminal Jurisprudence & Practice Committee only and is not an official position of the State Bar of Michigan, nor does it necessarily reflect the views of all members of the State Bar of Michigan.

The State Bar position on this matter is to oppose the bill.

The total membership of the Criminal Jurisprudence & Practice Committee is 17.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 17. The number who voted in favor to this position was 10. The number who voted opposed to this position was 0.

## Report on Public Policy Position

**Name of committee:**

Criminal Jurisprudence & Practice Committee

**Contact person:**

Nimish R. Ganatra

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**Bill Number:**

[SB 1083](#) Law enforcement; records; procedure for destruction or expunction of a DNA sample or DNA identification profile; modify under certain circumstances. Amends sec. 6 of 1990 PA 250 (MCL 28.176).

**Date position was adopted:**

November 4, 2016

**Process used to take the ideological position:**

Position adopted after discussion and vote at a scheduled meeting.

**Number of members in the decision-making body:**

17

**Number who voted in favor and opposed to the position:**

10 Voted for position

0 Voted against position

0 Abstained from vote

7 Did not vote (absent)

**Position:**

Oppose

**Explanation of the position, including any recommended amendments:**

The committee voted unanimously (10) to oppose the bill. If an individual is not charged with a crime or is acquitted, that person has to request the expunction of or destruction of the DNA sample via court motion and write a letter to the law enforcement agency. This places the burden on an individual—who may not be familiar with the court system—to pay to retain an attorney, take time off work to attend a hearing when the person may not live in the same court circuit, and follow-up with the appropriate law enforcement agency to ensure destruction.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2016-SB-1083>

**FOR LEGISLATIVE ISSUES ONLY:**

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- ✓ The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

**Keller-permissible explanation:**

The bill is Keller permissible for two reasons:

- Affecting the functioning of the courts. If an individual's DNA is taken and entered into a database, and that person is later acquitted or the case is dismissed, the individual has to petition to court to have the DNA destroyed.
- Availability of legal services to society. If an individual's DNA is taken, he or she needs to know his or her rights in this area in order to petition the court.