

PRISONS & CORRECTIONS SECTION
Respectfully submits the following position on:

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SB 0098 & HB 4451

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The Prisons & Corrections Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Prisons & Corrections Section only and is not the position of the State Bar of Michigan.

To date, the State Bar's position in this matter is support with recommended amendments.

The total membership of the Prisons & Corrections Section is 140.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 15. The number who voted in favor to this position was 12. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of section:

Prisons & Corrections Section

Contact person:

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Bill Number:

[SB 0098](#) (Bieda) Civil procedure; remedies; wrongful imprisonment for crime; provide compensation for. Creates new act.

[HB 4451](#) (Switalski) Civil procedure; remedies; wrongful imprisonment for crime; provide compensation for. Creates new act.

Date position was adopted:

May 4, 2013

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:

15

Number who voted in favor and opposed to the position:

12 Voted for position

0 Voted against position

0 Abstained from vote

3 Did not vote

Position:

Support and Amend

Explanation of the position, including any recommended amendments:

The Prisons and Corrections Council concurs with and adopts the position of the State Bar's Criminal Issues Initiative, which the CII adopted on April 1, 2013.

Senate Bill 98 is designed to compensate individuals who have been wrongfully convicted and spent time in prison due to that conviction.

The Criminal Issues Initiative supports the bill, with three amendments to the present language. As currently written, the bill has several key flaws. It would compensate only one out of the forty persons who have been exonerated in Michigan over the past twenty-three years. Further, the bill would make it virtually impossible for any future exonerees to apply for compensation due to the following:

- (1) The bill highlights the use of “DNA or equally reliable scientific or physical evidence” as being used for exoneration. However, there is no “scientific or physical evidence” as reliable as DNA.
- (2) The bill relies on evidence that was introduced during the trial, and would not include newly discovered evidence (DNA or otherwise), witnesses, or other material used in exoneration. The majority of exonerated individuals are freed based on newly introduced evidence.

Therefore, the Criminal Issues Initiative bases its support on the following amendments:

- (1) Change the language found in Section 4(C) and Section 5(C) from “DNA or equally reliable scientific or physical evidence” to “DNA or other reliable evidence.”
- (2) Remove the following language from the bill: “from which the plaintiff’s judgment of conviction was entered.”
- (3) Addition of a section authorizing that persons who are released from prisons based on exoneration are eligible for all the services available to those persons who are paroled, included, but not limited to:
 - a. Access to housing
 - b. Assistance in obtaining the necessary identification
 - c. Assistance in obtaining medical insurance
 - d. Assistance in job search

With these amendments, the Criminal Issues Initiative whole-heartedly supports this important bill and commends Senator Bieda for its introduction.

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?2013-sB-0098>

<http://legislature.mi.gov/doc.aspx?2013-HB-4451>

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:

This bill affects the functioning of the courts in the exoneration of those sentenced by the court system.