

State Bar of Michigan
Criminal Jurisprudence and Practice Committee
Thursday, February 21, 2013 – 1 to 3 PM
Please use teleconference 1-877-352-9775, Passcode 9152168764#

Draft Minutes

Committee Members: Mary Alexis Bowen, Thomas P. Clement, Nichole Jongsma Derks, James W. Heath, J. Kevin McKay, Donna McKneelen, Jonathan Sacks, Scott R. Sanford, Samuel R. Smith
SBM Staff: Peter Cunningham, Carrie Sharlow

1. Call to Order & Welcome
2. Approval of January Meeting Minutes – The minutes were unanimously adopted.
3. New Business
 - a. [HB 4139](#) (McMillin) Criminal procedure; other; provision relating to proceedings to prevent crime; repeal. Repeals ch. XII of [1927 PA 175](#) (MCL [772.1](#) - [772.15](#)).

The committee six in favor, two abstentions and one person not voting to oppose the bill.

- b. [HB 4186](#)(Oakes) Criminal procedure, expunction; Records, other. Criminal procedure; expunction; record expunction for certain offenders; expand, and provide for under certain circumstances. Amends secs. 1, 3 & 4 of 1965 PA 213 (MCL 780.621 et seq.).
Liaison: Jonathan Sacks

The committee voted unanimously to support the bill, given past committee support of record expunction.

- c. [HB 4189](#)(Lipton) Corrections, parole; Corrections, prisoners; Courts, judges. Corrections; parole; procedures for objection by judge of parole for prisoner; revise. Amends sec. 34 of 1953 PA 232 (MCL 791.234).
Liaison: Samuel R. Smith

The committee voted unanimously to support this bill.

- d. [SB 0098](#) (Bieda) Civil procedure; remedies; wrongful imprisonment for crime; provide compensation for. Creates new act.
Liaison: Donna McKneelen

The committee unanimously to support the bill in its current form, agreeing that individuals wrongfully imprisoned for crimes should be compensated.

- e. [SB 0105](#) (Schuitmaker) Criminal procedure; DNA; collection of DNA samples at time of arrest for committing or attempting to commit a felony offense; provide for

in DNA identification profiling system. Amends title & sec. 2, 3, 3a & 6 of [1990 PA 250](#) (MCL [28.172](#) et seq.).

[SB 0106](#) (Schuitmaker) Criminal procedure; DNA; collection of DNA samples at time of arrest for committing or attempting to commit a felony offense; provide for in probate code of 1939. Amends sec. 18k, ch. XIA of [1939 PA 288](#) (MCL 712A.18k).

[SB 0107](#) (Jones) Criminal procedure; DNA; collection of DNA samples at time of arrest for committing a felony or attempting to commit a felony offense; provide for in Michigan penal code. Amends sec. 520m of [1931 PA 328](#) (MCL [750.520m](#)).
Liaisons: Thomas P. Clement and Daniel Corrigan Grano

The committee voted unanimously to oppose the bill.

Currently pending in the US Supreme Court is Maryland v. King. It involves the constitutional validity of the law enforcement practice of collecting DNA samples from individuals who are arrested for, but not yet convicted of, violent crimes and some other felonies.

Further, there was expressed concern that the individual, if acquitted or the case was dismissed, would be required to petition the court to have the DNA destroyed.

- f. [SB 0162](#)(Nofs) Courts, jurisdiction; Criminal procedure, jurisdiction. Courts; jurisdiction; jurisdiction for prosecution of felony offenses; expand to include county where consequence intended to have effect. Amends sec. 8, ch. II of 1927 PA 175 (MCL 762.8).
Liaison: Mary Alexis Bowen

The committee voted unanimously to oppose this bill due to concern of potential abuse in forum shopping.

4. Reports

- a. Criminal Law Section – There was recently a ski-conference.
- b. Eyewitness Task Force – Peter Cunningham will email Committee Members the policy copies. The Law Enforcement is being implemented by MCOLES. The Task Force is working on criminal jury instructions regarding eyewitness identification. At this time, there are no plans for legislation.
- c. Indigent Defense – Peter Cunningham is continuing to attend the workgroup. New legislation is being drafted. It is hoped that something will be introduced by March.

5. Adjournment.