

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

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SB 0105 – SB 0107

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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. The State Bar of Michigan has authorized the Criminal Jurisprudence & Practice Committee to advocate its position.

The State Bar of Michigan's position on this matter is to oppose.

The total membership of the Criminal Jurisprudence & Practice Committee is 14.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 14. The number who voted in favor to this position was 9. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of Committee:

Criminal Jurisprudence and Practice

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Bill Number:

[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. XIIA 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](#)).

Date position was adopted:

February 20, 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:

14

Number who voted in favor and opposed to the position:

9 Voted for position

0 Voted against position

0 Abstained from vote

5 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

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.

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-0105>

<http://legislature.mi.gov/doc.aspx?2013-sB-0106>

<http://legislature.mi.gov/doc.aspx?2013-sB-0107>

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. 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. This could impact the court's busyness.