



Criminal Defense Attorneys of Michigan

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May 23, 2011

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The Honorable Rick Jones
Chair, Senate Judiciary Committee
Post Office Box 30036
915 Farnum Building
Lansing, Michigan 48909

re: *SB 361*

Dear Chair Jones:

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I am writing, on behalf of the Rules and Laws Committee of the Criminal Defense Attorneys of Michigan, to urge passage of SB 361. This bill, if enacted, will extend until 2016 the "sunset" provision contained in Section 16 of Chapter X of the Code of Criminal Procedure, MCL 770.16. Section 16 permits certain persons convicted of a felony to petition for DNA testing of biological material that may demonstrate the person's innocence of the crime for which s/he was convicted.

At present, Section 16 sunsets on January 1, 2012. The problem is that not all eligible persons will have concluded their investigations and filed petitions by that date. Locally, Cooley Law School's Innocence Project is still investigating cases and new cases are coming in every day. Additionally, DNA testing technology is rapidly improving. For example, just in the last two years Y-STR testing has been introduced and affords the possibility of concrete results where such results were inconclusive in the past.

The idea behind Section 16's sunset provision was to create finality with respect to the cases that could be brought under the statute, once what had been deemed an adequate time to investigate those cases had passed. However, it is clear from the cases still coming and from the still-evolving technology that this time has not yet passed. Finality has its place, but it should not trump innocence, and in any event there is no true finality when the actual perpetrator remains free, creating new victims.

EXECUTIVE DIRECTOR

Yvonne K. Fleener

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Again, CDAM urges passage of SB 361. It is in the clear interest of justice, and the citizens of this State. Thank you for your kind consideration of our views.

Sincerely,



John A. Shea, Co-Chair
Rules and Laws Committee
Criminal Defense Attorneys of Michigan