

CRIMINAL LAW SECTION  
Respectfully submits the following position on:

\*  
ADM File No. 2010-25

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The Criminal Law 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 Criminal Law Section only and is not the position of the State Bar of Michigan.

The State Bar position on this matter is to support.

The total membership of the Criminal Law Section is 2,186.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 14. The number who voted opposed to this position was 3.

## Report on Public Policy Position

**Name of section:**

Criminal Law Section

**Contact person:**

Hon. David A. Hoort

**E-Mail:**

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**Proposed Court Rule or Administrative Order Number:**

[2010-25 - Proposed Amendment of Rule 7.210 of the Michigan Court Rules](#)

This amendment was proposed by James Neuhard, former director of the State Appellate Defender Office. The proposed amendment would require trial courts to become the depository for exhibits offered in evidence (whether those exhibits are admitted or not), instead of requiring parties to submit exhibits offered in evidence when a case is submitted to the Court of Appeals on a claim of appeal.

**Date position was adopted:**

December 20, 2011

**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:**

21

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

14 Voted for position

3 Voted against position

0 Abstained from vote

4 Did not vote

**Position:**

Support

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

Proposed 7.210 would require trial courts to become the depository for documentary, photographic, video or audio exhibits offered in evidence (whether those exhibits are admitted or not) until expiration of the time for filing a claim of appeal instead of requiring parties to submit exhibits offered in evidence within 21 days after filing of the claim of appeal.

The council believed that the proposed amendment would sufficiently address existing problems experienced by appellants in reviewing and preserving the record. Because the requirement on the trial court does not include 'physical' evidence and is limited in time, the council believed the proposed amendment was appropriate.

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

[http://courts.michigan.gov/supremecourt/Resources/Administrative/2010-25\\_2011-10-20\\_formatted\\_FINAL\\_2.pdf](http://courts.michigan.gov/supremecourt/Resources/Administrative/2010-25_2011-10-20_formatted_FINAL_2.pdf)

**List any arguments against the position:**

The proposed amendment does not address equally existing concerns in appeals by leave or late appeals and unnecessarily imposes a 'good cause' requirement. The countering position would extend the requirement on the trial court to the time allowed to file a claim of appeal, leave to appeal or late appeal; and require all parties to file a motion to access all exhibits, but deleting the 'good cause' language as actually being unnecessary.