

Michigan  
Law Revision Commission

TWELFTH ANNUAL REPORT  
1977

MICHIGAN  
LAW REVISION COMMISSION

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MICHIGAN LAW REVISION COMMISSION  
Twelfth Annual Report to the Legislature

To the Members of the Michigan Legislature:

The Law Revision Commission hereby presents its twelfth annual report pursuant to Section 14(e) of Act No. 412 of the Public Acts of 1965.

The Commission, created by Section 12 of that Act, consists of the chairman and ranking minority members of the Committees on Judiciary of the Senate and the House of Representatives, the Director of the Legislative Service Bureau, being the five ex-officio members, and four members appointed by the Legislative Council. Terms of appointed Commissioners are staggered. The Legislative Council designates the Chairman of the Commission.

The members of the Commission during 1977 were Senator Basil W. Brown of Highland Park, Senator Donald E. Bishop of Rochester, Representative Paul A. Rosenbaum of Battle Creek, Representative Richard D. Fessler of Pontiac, A.E. Reyhons, Director of the Legislative Service Bureau, as ex-officio members; Tom Downs, Jason L. Honigman, David Lebenbom, and Richard C. Van Dusen (Sept.-Dec.), as appointed members. The Legislative Council appointed Jason L. Honigman Chairman and Tom Downs Vice Chairman of the Commission. Professor Jerold Israel of the University of Michigan Law School served as Executive Secretary.

The Commission is charged by statute with the following duties:

1. To examine the common law and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reform.
2. To receive and consider proposed changes in law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association or other learned bodies.

3. To receive and consider suggestions from justices, judges, legislators and other public officials, lawyers and the public generally as to defects and anachronisms in the law.

4. To recommend, from time to time, such changes in the law as it deems necessary in order to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state, civil and criminal into harmony with modern conditions.

The problems to which the Commission directs its studies are largely identified by a study of statute and case law of Michigan and legal literature by the Commission members and Executive Secretary. Other subjects are brought to the attention of the Commission by various organizations and individuals, including members of the Legislature.

The Commission's efforts during the past year have been devoted primarily to three areas. First, the Commission met with legislative committees to secure disposition of some 25 bills under Committee consideration upon recommendation of the Commission. Meetings with legislature members also have focused upon possible subjects for future study. Second, the Commission examined suggested legislation proposed by various groups involved in law revision activity. These proposals included legislation advanced by the Council of State Governments, the National Conference of Commissioners on Uniform State Laws, and the Law Revision Commissions of various jurisdictions within and without the United States (e.g., California, New York, and British Columbia). Finally, the Commission considered various problems relating to special aspects of current Michigan law suggested by its own review of Michigan decisions and the recommendations of others.

Although the Commission has several studies underway that will result in legislative proposals, it decided against advancing any new proposals this year. In face of the many Commission recommendations that are still before the legislature, it was felt inappropriate to add to that lengthy list any new recommendations. The Commission hopes that this decision will assist the legislature in addressing itself to the implementing our past proposals in the coming year. It is particularly important that the number of pending proposals be reduced because several of the projects likely to be advanced in our 1978 Report will be quite lengthy and will require considerable legislative study.

Listed below are recommendations of past years, upon which no final action was taken in 1977. The Commission recommends favorable consideration of these recommendations during the forthcoming year.

(1) Multiple Party Deposits ("Statutory Joint Account Act") -- H.B. 5043, before House Committee on Corporations and Finance; S.B. 635, before Senate Committee on Corporations and Economic Development. See Recommendations of 1966 Annual Report, page 18.

(2) Elimination of Appointment of Appraisers In Probate Court -- S.B. 636, before Senate Committee on Judiciary. See Recommendations of 1972 Annual Report, page 65.

(3) Condemnation Procedures Act -- S.B. 618, before Senate Committee on Judiciary. See Recommendations of 1968 Annual Report, page 11.

(4) Amendments to Telephone and Messenger Service Company Act -- H.B. 5157, before House Committee on Public Utilities; S.B. 637, passed the Senate October 27, 1977 and now before the House Committee on Economic Development. See Recommendations of 1973 Annual Report, page 48.

(5) Trial of Divorce Actions -- S.B. 639, before Senate Committee on Judiciary. See Recommendations of 1974 Annual Report, page 8.

(6) Amendments to the Uniform Commercial Code -- H.B. 5206, before House Committee on Corporations and Finance; S.B. 1168, before Senate Committee on Corporations and Economic Development. See Recommendations of 1975 Annual Report, Special Supplement.

(7) Administrative Procedures: Hearings Officers in Contested Cases -- H.B. 5143, before House Committee on Judiciary; S.B. 640, before Senate Committee on Senate Business. See Recommendations of 1975 Annual Report, page 9.

(8) Deferred Damage Payments for Injuries to the Person -- H.B. 4882, before House Committee on Judiciary; S.B. 638, before Senate Committee on Judiciary. See Recommendations of 1975 Annual Report, page 129.

(9) Construction Debt -- S.B. 630, before Senate Committee on State Affairs. See Recommendations of 1976 Annual Report, page 10.

(10) Unlawful Assessments -- H.B. 5184, before House Committee on Taxation; S.B. 633, before Senate Committee on Finance. See Recommendations of 1976 Annual Report, page 44.

(11) Plat Act -- H.B. 4799, before House Committee on Towns and Counties; S.B. 634, passed Senate November 7, 1977 and now before House Committee on Towns and Counties. See Recommendations of 1976 Annual Report, page 58.

(12) Marital Agreements/Probate Amendment -- H.B. 5006, before House Committee on Judiciary; S.B. 631, before Senate Committee on Judiciary. See Recommendations of 1976 Annual Report, page 38.

(13) Marital Agreements/Divorce Amendment -- H.B. 5007, before House Committee on Judiciary; S.B. 632, before Senate Committee on Judiciary. See Recommendations of 1976 Annual Report, page 38.

#### Bills to Eliminate Reference to Abolished Court

(14) Preservation of Property Act: State Institution Security Personnel -- H.B. 5144, before House Committee on Judiciary; S.B. 619, before Senate Committee on State Affairs. See Recommendations of 1976 Annual Report, page 74.

(15) Criminal Identification -- H.B. 5145, before House Committee on Judiciary; S.B. 620, before Senate Committee on Judiciary. See Recommendations of 1976 Annual Report, page 74.

(16) Fines For Charter Township Violations -- H.B. 5148, before House Committee on Judiciary; S.B. 621, before Senate Committee on Municipalities and Elections. See Recommendations of 1976 Annual Report, page 74.

(17) Fourth Class Cities -- H.B. 5151, before House Committee on Judiciary; S.B. 622, before Senate Committee on Municipalities and Elections. See Recommendations of 1976 Annual Report, page 74.

(18) Election Law -- H.B. 5153, before House Committee on Judiciary; S.B. 623, before Senate Committee on Municipalities and Elections. See Recommendations of 1976 Annual Report, page 74.

(19) Home Rule Cities -- H.B. 5152, before House Committee on Judiciary; S.B. 624, before Senate Committee on Municipalities and Elections. See Recommendations of 1976 Annual Report, page 74.

(20) Home Rule Villages -- H.B. 5150, before House Committee on Judiciary; S.B. 625, before Senate Committee on Municipalities and Elections. See Recommendations of 1976 Annual Report, page 74.

(21) Village Ordinances -- H.B. 5149, before House Committee on Judiciary; S.B. 626, before Senate Committee on Municipalities and Elections. See Recommendations of 1976 Annual Report, page 74.

(22) Sheriff's Service of Process -- H.B. 4790, before House Committee on Towns and Counties; S.B. 627, before Senate Committee on Judiciary. See Recommendations of 1976 Annual Report, page 74.

(23) Recreation Halls (Township Licenses) -- H.B. 5147, before House Committee on Judiciary; S.B. 628, before Senate Committee on Municipalities and Elections. See Recommendations of 1976 Annual Report, page 74.

(24) Township Bylaws -- H.B. 5146, before House Committee on Judiciary; S.B. 629, before Senate Committee on Municipalities and Elections. See Recommendations of 1976 Annual Report, page 74.

(25) Code of Criminal Procedure -- H.B. 5185, before House Committee on Judiciary; S.B. 541, before Senate Committee on Judiciary. See Recommendations of 1975 Annual Report, page 24.

Topics on the current study agenda of the Commission are:

- (1) Amendments to Article 8 -- Uniform Commercial Code
- (2) Class Action Suits
- (3) Commercial Real Estate Leasing
- (4) Court Costs
- (5) Eliminating Statutory References to Justice of the Peace and Other Abolished Courts
- (6) Enforcement of Administrative Agency Subpoenas
- (7) Non-Profit Corporation Act
- (8) Punitive Damages
- (9) Special Assessments on Property
- (10) Uniform Condominium Act
- (11) Uniform (Debtor) Exemptions Act

The Commission continues to operate with its sole staff member, the part-time Executive Secretary, whose offices are in the University of Michigan Law School, Ann Arbor, Michigan 48109. The use of consultants has made it possible to expedite a large volume of work and at the same time give the Commission the advantage of expert assistance at relatively low cost. Faculty members of the several law schools in Michigan continue to cooperate with the Commission in accepting specific research assignments.

The Legislative Service Bureau has generously assisted the Commission in the development of its legislative program. The Director of the Legislative Service Bureau, who acts as Secretary to the Commission, continues to handle the fiscal operations of the Commission under procedures established by the Legislative Council.

The following Acts have been adopted to date pursuant to recommendations of the Commission and in some case amendments thereto by the Legislature:

1967 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Powers of Appointment Interstate and International Judicial Procedures	1966, p. 11	224
Dead Man's Statute	1966, p. 25	178
Corporation Use of Assumed Names	1966, p. 29	263
Stockholder Action Without Meeting	1966, p. 36	138
Original Jurisdiction of Court of Appeals	1966, p. 41	201
	1966, p. 43	65

1968 Legislative Session

Jury Selection	1967, p. 23	326
Emancipation of Minors	1967, p. 50	293
Guardian ad Litem	1967, p. 53	292
Possibilities of Reverter and Right of Entry	1966, p. 22	13
Corporations as Partners	1966, p. 34	288
Stockholder Approval of Mortgaging Assets	1966, p. 39	287

1969 Legislative Session

Administrative Procedures Act	1967, p. 11	306
Access to Adjoining Property	1968, p. 21	55
Antenuptial Agreements	1968, p. 27	139
Notice of Tax Assessments	1968, p. 30	115
Anatomical Gifts	1968, p. 39	189
Recognition of Acknowledgments	1968, p. 61	57
Dead Man's Statute Amendment	1968, p. 29	63
Venue Act	1968, p. 19	333

1970 Legislative Session

Appeals from Probate Court Act	1968, p. 32	143
Land Contract Foreclosures	1967, p. 55	86
Artist-Art Dealer Relationships Act	1969, p. 44	90
Warranties in Sales of Art Act	1969, p. 47	121
Minor Students Capacity to Borrow Act	1969, p. 51	107
Circuit Court Commission Power of Magistrates Act	1969, p. 62	238

1971 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Revision of Grounds for Divorce	1970, p. 7	75
Civil Verdicts by 5 of 6 Jurors in Retained Municipal Courts	1970, p. 40	158
Amendment of Uniform Anatomical Gift Act	1970, p. 45	186

1972 Legislative Session

Business Corporation Act	1970, Supp.	284
Summary Proceedings for Possession of Premises	1970, p. 16	120
Interest on Judgments Act	1969, p. 64	135
Constitutional Amendment re Juries of 12	1969, p. 65	HJR "M"

1973 Legislative Session

Technical Amendments to Business Corporation Act	1973, p. 8	98
Execution and Levy in Proceedings Supplementary to Judgment	1970, p. 51	96

1974 Legislative Session

Venue in Civil Actions Against Non- Resident Corporations	1971, p. 63	52
Model Choice of Forum Act	1972, p. 60	88
Extension of Personal Jurisdiction in Domestic Relations Cases	1972, p. 53	90
Technical Amendments to the General Corporations Act	1973, p. 38	140
Technical Amendments to the Revised Judicature Act	1971, p. 7	297
1974 Technical Amendments to the Business Corporation Act	1974, p. 30	303
Attachment Fees Act	1968, p. 23	306
Amendment of "Dead Man's" Statute	1972, p. 70	305
Contribution Among Joint Tort- feasors Act	1968, p. 57	318
District Court Venue in Civil Actions	1970, p. 42	319
Elimination of Pre-judgment Garnishment	1972, p. 7	371

1975 Legislative Session

<u>Subject</u>	<u>Commission Report</u>	<u>Act No.</u>
Amendment of Hit-Run Provisions to Provide Specific Penalty	1973, p. 54	170
Uniform Child Custody Jurisdiction Act	1969, p. 22	297
Insurance Policy in Lieu of Bond Act	1972, p. 59	290
Uniform Disposition of Community Property Rights At Death Act	1973, p. 50	289
Equalization of Income Rights of Husband and Wife in Entirety Property	1974, p. 30	288

1976 Legislative Session

Due Process in Replevin Actions	1972, p. 7	79
Qualifications of Fiduciaries	1966, p. 32	262
Revision of Revised Judicature Act Venue Provisions	1975, p. 20	375
Durable Family Power of Attorney	1975, p. 18	376

The Commission continues to welcome suggestions for improvement of its program and proposals.

Respectfully submitted,

Jason L. Honigman, Chairman  
Tom Downs, Vice Chairman  
David Lebenbom  
Richard C. Van Dusen

Ex-Officio Members  
Sen. Basil W. Brown  
Sen. Donald E. Bishop  
Rep. Paul A. Rosenbaum  
Rep. Richard D. Fessler  
A.E. Reyhons, Secretary

Date: