

Looser Prelim Rules Would Be Injustice

December 7, 2006

State senators are considering a draconian measure that would eliminate an important safeguard in the criminal justice system by giving police officers undue influence in preliminary examinations. A lame duck session, without public hearings, is no way to handle such a drastic proposal. The Senate should let it die.

The bill is opposed not only by defense attorneys but also by most district judges. For most assaultive crimes, it would allow police officers, after victims' testimony, to provide hearsay evidence of what happened, instead of getting information from actual witnesses. For crimes not involving physical attacks, police officers could establish probable cause without any witness testimony.

Those changes would essentially remove the ability of judges to analyze the quality of evidence and the credibility of witnesses.

"Citizens should not be forced to go to trial without an independent, judicial assessment of whether there's probable cause," East Lansing Attorney F. Martin Tieber, past president of the Criminal Defense Attorneys of Michigan, rightly said.

Preliminary exams are hearings to establish whether a crime has been committed and if there is enough evidence to take the suspect to trial. A judge can drop or reduce charges at preliminary examinations. Such hearings lessen the chance of a wrongful conviction. Now, prelims give both defense attorneys and prosecutors a chance to evaluate the accuracy of witness statements.

Undoing those safeguards is a bad idea that, worse yet, prosecutors are attempting to ram through without public debate or hearings. At the very least, the Senate should wait until next year to act and give the proposal a proper hearing.