

SUBSTITUTE FOR
SENATE BILL NO. 106

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 18k of chapter XIIA (MCL 712A.18k), as amended
by 2003 PA 77.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

Sec. 18k. (1) An individual shall provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and shall provide samples for chemical testing for a determination of his or her secretor status if any of the following apply:

~~(a) The individual is found responsible for a violation of section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a~~

~~violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a violation of section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.~~

(A) THE INDIVIDUAL IS ARRESTED FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT.

(b) The individual is convicted of, **OR FOUND RESPONSIBLE FOR**, a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

~~—— (i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.~~

(i) ~~(ii)~~ A violation of section 167(1)(c), (f), or (i) of the Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

(ii) ~~(iii)~~ A violation of section ~~335a~~ **335A(1)** of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(iii) ~~(iv)~~ A violation of ~~section 451~~ **PUNISHABLE UNDER section 451(1) OR (2)** of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

~~—— (v) A violation of section 454 of the Michigan penal code, 1931 PA 328, MCL 750.454, leasing a house for purposes of prostitution.~~

~~(vi) A violation of section 462 of the Michigan penal code, 1931 PA 328, MCL 750.462, female under the age of 17 in a house of prostitution.~~

(2) Notwithstanding subsection (1), if at the time the individual is ~~convicted of or found responsible for the violation~~ **ARRESTED FOR THE OFFENSE** the investigating law enforcement agency or the department of state police already has a sample from the individual that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the individual is not required to provide another sample or pay the ~~fee~~ **ASSESSMENT** required under subsection (4).

(3) The samples required to be collected under this section shall be collected by the investigating law enforcement agency and transmitted by the investigating law enforcement agency to the department of state police in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, **WHEN A PETITION IS FILED OR THE COURT ISSUES A SUMMONS.**

(4) ~~Until October 1, 2003, the~~ **THE** court shall order each individual found responsible for or convicted of 1 or more crimes listed in subsection (1) to pay an assessment of \$60.00. The assessment required under this subsection is in addition to any fine, costs, or other assessments imposed by the court.

(5) An assessment required under subsection (4) shall be ordered upon the record, and shall be listed separately in the adjudication order, judgment of sentence, or order of probation.

(6) After reviewing a verified petition by an individual against whom an assessment is imposed under subsection (4), the

1 court may suspend payment of all or part of the assessment if it
2 determines the individual is unable to pay the assessment.

3 (7) The court that imposes the assessment prescribed under
4 subsection (4) may retain 10% of all assessments or portions of
5 assessments collected for costs incurred under this section and
6 shall transmit that money to its funding unit. On the last day of
7 each month, the clerk of the court shall transmit the assessments
8 or portions of assessments collected under this section as follows:

9 (a) Twenty-five percent to the county sheriff or other
10 investigating law enforcement agency that collected the DNA sample
11 as designated by the court to defray the costs of collecting DNA
12 samples.

13 ~~— (b) Until October 1, 2003, 65% to the department of treasury~~
14 ~~for the department of state police forensic science division to~~
15 ~~defray the costs associated with the requirements of DNA profiling~~
16 ~~and DNA retention prescribed under the DNA identification profiling~~
17 ~~system act, 1990 PA 250, MCL 28.171 to 28.176.~~

18 (B) ~~(c) Beginning October 1, 2003, 65%~~ **SIXTY-FIVE PERCENT** to
19 the state treasurer for deposit in the justice system fund created
20 in section 181 of the revised judicature act of 1961, 1961 PA 236,
21 MCL 600.181.

22 ~~— (8) Beginning December 31, 2002, the director of the~~
23 ~~department of state police shall report by December 31 of each year~~
24 ~~concerning the rate of DNA sample collection, DNA identification~~
25 ~~profiling, retention and compilation of DNA identification~~
26 ~~profiles, and the collection of assessments required under~~
27 ~~subsection (4) to all of the following:~~

1 ~~—— (a) The standing committees of the senate and house of~~
2 ~~representatives concerned with DNA sample collection and retention.~~

3 ~~—— (b) The house of representatives appropriations subcommittee~~
4 ~~on state police and military affairs.~~

5 ~~—— (c) The senate appropriations subcommittee on state police.~~

6 (8) ~~(9) The family independence agency~~ **DEPARTMENT OF HUMAN**
7 **SERVICES** or a county juvenile agency, investigating law enforcement
8 agency, prosecuting agency, or court that has in its possession a
9 DNA identification profile obtained from a sample of an individual
10 ~~convicted of or found responsible~~ **ARRESTED** for an offense described
11 in subsection (1) shall forward the DNA identification profile to
12 the department of state police ~~at or before the time the court~~
13 ~~imposes sentence or enters an order of disposition upon that~~
14 ~~conviction or finding of responsibility~~ **WHEN A PETITION IS FILED OR**
15 **THE COURT ISSUES A SUMMONS** unless the department of state police
16 already has a DNA identification profile of the individual.

17 ~~—— (10) The DNA profiles of DNA samples received under this~~
18 ~~section shall only be disclosed as follows:~~

19 ~~—— (a) To a criminal justice agency for law enforcement~~
20 ~~identification purposes.~~

21 ~~—— (b) In a judicial proceeding as authorized or required by a~~
22 ~~court.~~

23 ~~—— (c) To a defendant in a criminal case if the DNA profile is~~
24 ~~used in conjunction with a charge against the defendant.~~

25 ~~—— (d) For an academic, research, statistical analysis, or~~
26 ~~protocol developmental purpose only if personal identifications are~~
27 ~~removed.~~

(9) ~~(11)~~ As used in this section:

(a) "DNA identification profile" and "DNA identification profiling" mean those terms as defined in section 2 of the DNA identification profiling system act, 1990 PA 250, MCL 28.172.

(b) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(c) "Investigating law enforcement agency" means the law enforcement agency responsible for the investigation of the offense for which the individual is **ARRESTED**, convicted, or found responsible. Investigating law enforcement agency does not include a probation officer employed by the department of corrections.

(d) "Sample" means a portion of an individual's blood, saliva, or tissue collected from the individual.

Enacting section 1. This amendatory act takes effect July 1, 2015.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 97th Legislature are enacted into law:

(a) Senate Bill No. 105.

(b) Senate Bill No. 107.