

**SUBSTITUTE FOR
SENATE BILL NO. 107**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 520m (MCL 750.520m), as amended by 2008 PA 380.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 520m. (1) A person shall provide samples for chemical
2 testing for DNA identification profiling or a determination of the
3 sample's genetic markers and shall provide samples for chemical
4 testing if any of the following apply:

5 (a) The individual is arrested for ~~a violent felony as that~~
6 ~~term is defined in section 36 of the corrections code of 1953, 1953~~
7 ~~PA 232, MCL 791.236.~~**COMMITTING OR ATTEMPTING TO COMMIT A FELONY**
8 **OFFENSE OR AN OFFENSE THAT WOULD BE A FELONY IF COMMITTED BY AN**
9 **ADULT.**

~~_____ (b) The person is found responsible for a violation of section 83, 91, 316, 317, or 321, a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g, or a violation of section 167(1)(c) or (f) or 335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a.~~

(B) ~~(e)~~ The person 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, enticing a child for immoral purposes.~~

(i) ~~(ii)~~ A violation of section 167(1)(c), (f), or (i), 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)**, indecent exposure.

(iii) ~~(iv)~~ A violation of ~~section 451~~, **PUNISHABLE UNDER 451(1) OR (2)**, first and second prostitution violations.

(iv) ~~(v)~~ A violation of section 454, leasing a house for purposes of prostitution.

~~_____ (vi) A violation of section 462, female under the age of 17 in a house of prostitution.~~

(2) Notwithstanding subsection (1), if at the time the person is arrested for, convicted of, or found responsible for the violation the investigating law enforcement agency or the department of state police already has a sample from the person

1 that meets the requirements of the DNA identification profiling
2 system act, 1990 PA 250, MCL 28.171 to 28.176, the person is not
3 required to provide another sample or pay the fee ~~ASSESSMENT~~
4 required under subsection ~~(6)~~ **(5)**.

5 (3) The county sheriff or the investigating law enforcement
6 agency shall collect and transmit the samples in the manner
7 required under the DNA identification profiling system act, 1990 PA
8 250, MCL 28.171 to 28.176. ~~However, a sample taken under subsection~~
9 ~~(1)(a) may be transmitted to the department of state police upon~~
10 ~~collection.~~

11 (4) An investigating law enforcement agency, prosecuting
12 agency, or court that has in its possession a DNA identification
13 ~~profile~~ **SAMPLE** obtained from a ~~sample of a person~~ under subsection
14 (1) shall forward the DNA identification ~~profile~~ **SAMPLE** to the
15 department of state police ~~at or before the time of the person's~~
16 ~~sentencing or disposition upon that conviction or finding of~~
17 ~~responsibility~~ **AFTER THE PERSON FROM WHOM THE SAMPLE WAS TAKEN HAS**
18 **BEEN CHARGED WITH COMMITTING OR ATTEMPTING TO COMMIT A FELONY**
19 **OFFENSE OR AN OFFENSE THAT WOULD BE A FELONY IF COMMITTED BY AN**
20 **ADULT** unless the department of state police already has a DNA
21 identification profile of the person.

22 ~~— (5) The DNA profiles of DNA samples received under this~~
23 ~~section shall only be disclosed as follows.~~

24 ~~— (a) To a criminal justice agency for law enforcement~~
25 ~~identification purposes.~~

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

~~1 (c) To a defendant in a criminal case if the DNA profile is
2 used in conjunction with a charge against the defendant.~~

~~3 (d) For an academic, research, statistical analysis, or
4 protocol developmental purpose only if personal identifications are
5 removed.~~

6 (5) ~~(6) Until October 1, 2003, the~~ **THE** court shall order each
7 person found responsible for or convicted of 1 or more crimes
8 listed in subsection (1) to pay an assessment of \$60.00. The
9 assessment required under this subsection is in addition to any
10 fine, costs, or other assessments imposed by the court.

11 (6) ~~(7)~~ An assessment required under subsection ~~(6)~~ **(5)** shall
12 be ordered upon the record, and shall be listed separately in the
13 adjudication order, judgment of sentence, or order of probation.

14 (7) ~~(8)~~ After reviewing a verified petition by a person
15 against whom an assessment is imposed under subsection ~~(6)~~ **(5)**,
16 the court may suspend payment of all or part of the assessment if
17 it determines the person is unable to pay the assessment.

18 (8) ~~(9)~~ The court that imposes the assessment prescribed under
19 subsection ~~(6)~~ **(5)** may retain 10% of all assessments or portions of
20 assessments collected for costs incurred under this section and
21 shall transmit that money to its funding unit. On the last day of
22 each month, the clerk of the court shall transmit the assessments
23 or portions of assessments collected under this section as follows:

24 (a) Twenty-five percent to the county sheriff or other
25 investigating law enforcement agency that collected the DNA sample
26 as designated by the court to defray the costs of collecting DNA
27 samples.

~~1 (b) Until October 1, 2003, 65% to the department of treasury~~
~~2 for the department of state police forensic science division to~~
~~3 defray the costs associated with the requirements of DNA profiling~~
~~4 and DNA retention prescribed under the DNA identification profiling~~
~~5 system act, 1990 PA 250, MCL 28.171 to 28.176.~~

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

~~10 (10) Beginning December 31, 2002, the director of the~~
~~11 department of state police shall report by December 31 of each year~~
~~12 concerning the rate of DNA sample collection, DNA identification~~
~~13 profiling, retention and compilation of DNA identification~~
~~14 profiles, and the collection of assessments required under~~
~~15 subsection (6) to all of the following:~~

~~16 (a) The standing committees of the senate and house of~~
~~17 representatives concerned with DNA sample collection and retention.~~

~~18 (b) The house of representatives appropriations subcommittee~~
~~19 on state police and military affairs.~~

~~20 (c) The senate appropriations subcommittee on state police.~~

21 (9) ~~(11)~~ As used in this section:

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

25 (b) "Investigating law enforcement agency" means the law
26 enforcement agency responsible for the investigation of the offense
27 for which the person is **ARRESTED OR** convicted. Investigating law

1 enforcement agency includes the county sheriff but does not include
2 a probation officer employed by the department of corrections.

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

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

9 Enacting section 1. This amendatory act takes effect July 1,
10 2015.

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

14 (a) Senate Bill No. 105.

15 (b) Senate Bill No. 106.