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DNA IDENTIFICATION PROFILES: EXTEND GROUNDS FOR RETAINING

House Bill 5783 (Substitute H-1)
Sponsor: Rep. Michael Goschka

House Bill 5912 (Substitute H-1)
Sponsor: Rep. Gerald Law

House Bill 5913 (Substitute H-1)
Sponsor: Rep. Eric Bush

House Bill 5914 (Substitute H-1)
Sponsor: Rep. James Ryan

House Bill 6061
Sponsor: Rep. Sandra Hill

House Bill 6062
Sponsor: Rep. Beverly Bodem

Committee: Judiciary and Civil Rights

Complete to 9-16-96

A SUMMARY OF HOUSE BILLS 5783 (SUBSTITUTE H-1), 5912-5914 (SUBSTITUTES H-1), AND HOUSE BILLS 6061 AND 6062 AS INTRODUCED 9-12-96

The package of bills would expand the DNA Identification Profiling System maintained by the Department of State Police, by adding to the list of offenses and to the points in the criminal justice system that would trigger the taking and retention of an individual's DNA identification profile, and by including juveniles. Current law provides for retaining DNA identification profiles of adults who have violated or attempted to violate the laws against first, second, third, or fourth degree criminal sexual conduct (CSC) or assault with intent to commit criminal sexual conduct. The bills would add violations or attempted violations of first or second degree murder, attempted murder, kidnaping, or manslaughter to this list. Further, they would provide for DNA profiles to be maintained on juvenile offenders convicted or found responsible for the listed offenses. All the bills contain similar definitions of the terms "sample", which would refer to blood, saliva, or tissue samples and would replace references to the specific fluid to be taken and tested.

House Bill 5912 would amend the DNA Identification Profiling System Act (MCL 28.172, 28.173 and 28.176) to require the Department of State Police to permanently retain a DNA identification profile of any individual (including juvenile offenders) who had been convicted of one of the offenses described above. Further, the bill would provide that samples would be collected by law enforcement agencies from certain juveniles under the provisions of House Bill

5783, and by the Family Independence Agency from certain juveniles under House Bills 6061 or 6062. The bill would also remove language allowing the department to retain any other DNA identification profiles only as long as needed for a criminal investigation or prosecution. Finally, House Bill 5912 would repeal a section of the act that establishes a DNA advisory committee, which was established by Public Act 250 of 1990 to advise the legislature on issues related to DNA testing.

Currently, only prisoners who are released on parole are required to provide DNA samples' before their release. House Bill 5913 would amend the Department of Corrections act (MCL 791.233d) to specify that a prisoner serving a sentence for a violation of the laws against attempted murder, first or second degree murder, kidnaping, first, second, third or fourth degree criminal sexual conduct, or assault with intent to commit criminal sexual conduct could not be released on parole, placed in a community placement facility of any kind, including a community corrections center or a community residential home, or discharged upon completion of his or her maximum sentence until he or she had provided samples for DNA identification profiling or determination of genetic markers and for determination of his or her secretor status. However, if the Department of State Police already had a sample from the prisoner that met the requirements of the rules promulgated under the DNA Identification Profiling System Act, the prisoner would not be required to supply another sample. The bill would also provide that the Department of Corrections could collect the needed samples without the prisoner's consent and without a prior hearing or court order.

House Bill 5914 would amend the Michigan Penal Code (MCL 750.520m) to require that samples for DNA identification profiling or determination of genetic markers and for determination of the individual's secretor status be provided by anyone convicted of a violation of the laws against attempted murder, first degree or second degree murder, kidnaping, first, second, third or fourth degree criminal sexual conduct, or assault with intent to commit criminal sexual conduct, unless the investigating law enforcement agency or the Department of State Police already possessed adequate samples from that person. If an investigating law enforcement agency, prosecuting agency, or court retained a DNA identification profile that had been obtained from a sample from an individual convicted of one of the listed offenses, the agency or court would be required to forward the profile to the department on or before the convicted person's sentencing, unless the department already possessed a DNA identification profile of that individual.

House Bill 5783 would amend the juvenile code (MCL 712A.1 et al.) to add a section requiring certain juveniles to provide samples for DNA identification profiling or determination of genetic markers and samples for determination of the individual's secretor status. Samples for these tests would have to be provided in all cases where the individual had been convicted of or found responsible for attempted murder, first or second degree murder, actual or attempted first, second, third, or fourth degree criminal sexual conduct, or assault with intent to commit criminal sexual conduct. However, if the investigating law enforcement agency, the Department of State Police, or the Family Independence Agency already possessed samples from that individual that met the requirements of the DNA Identification Profiling System Act, the individual would not be required to provide another sample.

The Family Independence Agency would be required to have samples collected by qualified persons acting in a medically approved manner using supplies provided by the Department of State Police. The collection and forwarding of samples would have to be performed in the manner established by rules promulgated under the DNA Identification Profiling System Act. Any samples already in the agency's possession would have to be forwarded to the Department of State Police. As above, unless the Department of State Police were already in possession of the individual's DNA identification profile, the FIA or an investigating law enforcement agency, prosecuting agency, or court that was in possession of such a profile would be required to forward it to the department on or before the time the court imposed sentence or entered an order of disposition upon the individual's conviction or finding of responsibility.

House Bill 6061 would amend the Juvenile Facilities Act (MCL 803.221 et al.) to require a juvenile facility to take samples for DNA identification profiling, determination of genetic markers, and determination of the secretor status of juveniles convicted or found responsible for the listed offenses prior to their discharge from a facility, provided the Department of State Police did not already possess adequate samples from the juvenile.

Samples could be collected without the permission of the juvenile and no court order or hearing would be required before the sample could be collected. The samples would have to be collected and transmitted to the Department of State Police according to rules promulgated under the DNA Identification Profiling System Act.

House Bill 6062 would amend the Youth Rehabilitation Services Act (MCL 803.301 et al.) by adding a section requiring that samples for DNA profiling be taken from certain juveniles who have been placed in residential facilities prior to their release from those facilities. Specifically, the bill would apply to juveniles who were state wards under the jurisdiction of the FIA convicted of or found responsible for the listed offenses. However, samples would not have to be provided if the Department of the State Police already had adequate samples from the juvenile. Samples collected and transmitted to the department would have to be collected and transmitted in accordance with the rules promulgated under the DNA Identification Profiling System Act. As above, the permission of the juvenile would not be needed to collect the samples and no hearing or court order would be needed to authorize the taking of the samples.

Tie-bars. House Bills 5912-5914 are tie-barred to each other. House Bill 5783 is tie-barred to House Bills 5912, 6061, and 6062. House Bills 6061 and 6062 are tie-barred together, and are each tie-barred to House Bills 5912 and 5783.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.