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BILL



ANALYSIS

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House Bill 5783 (Substitute H-2 as passed by the House)
House Bill 5912 (Substitute H-2 as passed by the House)
House Bill 5913 (Substitute H-2 as passed by the House)
House Bill 5914 (Substitute H-2 as passed by the House)
House Bill 6061 (Substitute H-1 as passed by the House)
House Bill 6062 (Substitute H-1 as passed by the House)
Sponsor: Representative Michael Goschka (House Bill 5783)
Representative Gerald Law (House Bill 5912)
Representative Eric Bush (House Bill 5913)
Representative James Ryan (House Bill 5914)
Representative Sandra Hill (House Bill 6061)
Representative Beverly Bodem (House Bill 6062)

House Committee: Judiciary and Civil Rights

Senate Committee: Judiciary

Date Completed: 12-2-96

CONTENT

The bills would amend various laws to expand the offenses to which DNA profiling requirements apply, and to include juvenile offenders in those requirements. Currently, the offenses include first-, second-, third-, or fourth-degree criminal sexual conduct (CSC), assault with intent to commit CSC, or an attempt to commit one of those offenses. Under all of the bills, the offenses also would include first- or second-degree murder, attempted murder, kidnapping, or attempted kidnapping. (An offense included in current law and under the bill is referred to below as a “profiling offense”.) All of the bills would take effect on January 1, 1997.

Under all of the bills, “sample” would refer to a portion of a person’s blood, saliva, or tissue collected from the person.

House Bill 5783 (H-2)

The bill would amend the juvenile code to provide that an individual convicted of or found responsible for a profiling offense would have to provide samples for chemical testing for DNA identification profiling or a determination of the sample’s genetic markers, and would have to provide samples for chemical testing for a determination of the person’s secretor status. An individual would not be required to provide another sample, however, if, at the time he or she was convicted or found responsible, the investigating law enforcement agency, the Department of State Police, or the Family Independence Agency (FIA) already had a sample from the individual that met the requirements of the rules promulgated under the DNA Identification Profiling System Act.

The investigating law enforcement agency would have to provide for collecting the samples in a medically approved manner by qualified persons using supplies provided by the Department of State Police. The agency also would have to forward those samples and any samples that were in its possession to the Department of State Police. The collecting and forwarding of samples would have to be done in the manner required under rules promulgated under the DNA Identification Profiling System Act.

The FIA or an investigating law enforcement agency, prosecuting agency, or court that had in its possession a DNA identification profile obtained from a sample of an individual convicted of or found responsible for a profiling offense, would have to forward the profile to the Department of State Police by the time the court imposed sentence or entered an order of disposition upon that conviction or finding of responsibility, unless the Department already had a DNA identification profile of that individual.

The terms “DNA identification profile” and “DNA identification profiling” would be defined as they are in the DNA Identification Profiling System Act. (That Act defines “DNA identification profile” as the results of the DNA identification profiling of a blood, saliva, or tissue sample taken from an individual. “DNA identification profiling” means a validated scientific method of analyzing components of deoxyribonucleic acid molecules for the purpose of identifying the pattern of the components’ chemical structure that is unique to an individual.)

The bill is tie-barred to House Bills 5912, 6061, and 6062.

House Bill 5912 (H-2)

The bill would amend the DNA Identification Profiling System Act to expand the violations (as described above) for which the Department of State Police must permanently retain a DNA identification profile.

Currently, the Department is required to promulgate rules to implement the Act, including rules governing the method of collecting samples and the types and number of samples to be collected by the Department of Corrections from certain prisoners and law enforcement agencies from certain convicted offenders. The bill also would refer to the collection of samples from certain juveniles by law enforcement agencies and the FIA.

In addition, the bill would repeal a section of the Act that requires the Governor to appoint a DNA advisory committee (MCL 28.175).

The bill is tie-barred to House Bills 5913 and 5914.

House Bill 5913 (H-2)

Under the Department of Corrections (DOC) law, a prisoner serving a sentence for a specified CSC offense may not be released on parole until he or she has provided blood samples for DNA profiling or a determination of the blood’s genetic markers, or samples of his or her saliva for a determination of secretor status. The bill would amend the law to include the profiling offenses described above. The bill also provides that the person could not be 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 as required.

The bill specifies that the DOC could collect a sample regardless of whether the prisoner consented to the collection. The Department would not be required to give the prisoner an opportunity for a hearing or obtain a court order before collecting the sample.

The bill is tie-barred to House Bills 5912 and 5914.

House Bill 5914 (H-2)

The Michigan Penal Code requires people convicted of specific CSC offenses to provide blood and saliva samples for DNA identification profiling, a genetic marker determination, and a determination of secretor status. The bill would amend the Code to expand the offenses as described above.

The bill is tie-barred to House Bills 5912 and 5913.

House Bill 6061 (H-1)

The bill would amend the Juvenile Facilities Act to provide that a juvenile who was convicted of or found responsible for a profiling offense, and who was under the supervision of the FIA, could not be placed in a community placement of any kind or discharged from wardship until he or she had provided samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and had provided samples for a determination of his or her secretor status. The juvenile would not be required to provide another sample, however, if, at the time he or she was to be discharged from wardship, the Department of State Police already had a sample from the juvenile that met the requirements of the rules promulgated under the DNA Identification Profiling System Act.

The FIA would have to collect the samples and transmit them to the Department of State Police in the manner prescribed by rules promulgated under the DNA Identification Profiling System Act.

The FIA could collect a sample regardless of whether the juvenile consented to the collection. The FIA would not be required to give the juvenile an opportunity for a hearing or obtain a court order before collecting the sample.

The bill is tie-barred to House Bills 5783, 5912, and 6062.

House Bill 6062 (H-1)

The bill would amend the Youth Rehabilitation Services Act to provide that a State ward under the jurisdiction of the FIA for a profiling offense could not be placed in a community placement of any kind or discharged from wardship until he or she had provided samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and had provided samples for a determination of his or her secretor status. The State ward would not have to provide another sample if, at the time he or she was to be discharged from State wardship, the Department of State Police already had a sample that met the requirements of the rules promulgated under the DNA Identification Profiling System Act.

The FIA would have to collect the samples and transmit them to the Department of State Police in the manner prescribed by rules promulgated under the DNA Identification Profiling System Act.

The FIA could collect a sample regardless of whether the State ward consented to the collection. The FIA would not be required to give the ward an opportunity for a hearing or obtain a court order before collecting the sample.

The bill is tie-barred to House Bills 5783, 5912, and 6061.

Proposed MCL 712A.18j (H.B. 5783)
MCL 28.172 et al. (H.B. 5912)
MCL 791.233d (H.B. 5913)
MCL 750.520m (H.B. 5914)
Proposed MCL 803.225a (H.B. 6061)
Proposed MCL 803.307a (H.B. 6062)

Legislative Analyst: S. Margules

FISCAL IMPACT

Department of State Police: The bills would have a minimal fiscal impact on the Department of State Police. Under current law, the Department performs database DNA profiling of adult persons convicted of CSC offenses. Expanding the profiling program to include juveniles convicted of CSC offenses and all persons convicted of murder or kidnapping would increase the number of DNA profiles administered by the Department from 4,000 to approximately 5,100 per year. The Department has determined that these additional profiling requirements could be met with existing resources within its DNA unit. Since the Department is also responsible for the purchase and distribution of DNA collection kits, the bill would result in added supply costs of \$4,000.

Local law enforcement agencies, which could be required to collect blood samples for DNA profiling under House Bill 5913 (H-2), could be faced with additional costs, though it is not known how many samples they would be required to draw from convicted persons. The vast majority of blood sample collections is taken by the Department of Corrections.

Department of Corrections: House Bill 5913 (H-2) would have minimal fiscal impact on the Department of Corrections.

The Department currently has a process in place for collecting DNA samples for prisoners convicted of sex offenses. Adding offenders convicted of murder and kidnapping to this category would increase the number of annual samples by approximately 350, yet given the relatively small cost of collection, the bill is not expected to result in significantly increased expenditures.

Family Independence Agency: The bills would have no fiscal impact on the Family Independence Agency.

Fiscal Analyst: B. Baker
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.