



# HOUSE BILL No. 5912

May 29, 1996, Introduced by Reps. Law, Bush, Ryan, Goschka, Profit, Bullard, Hill, Bodem, Cropsey, Kukuk, Voorhees, Walberg, McManus, Rocca, Olshove, Porreca, Weeks, London, Bankes, Galloway, Jersevic and Perricone and referred to the Committee on Judiciary and Civil Rights.

A bill to amend the title and sections 2, 3, and 6 of Act No. 250 of the Public Acts of 1990, entitled "DNA identification profiling system act," section 3 as amended by Act No. 166 of the Public Acts of 1994, being sections 28.172, 28.173, and 28.176 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 3, and 6 of Act  
2 No. 250 of the Public Acts of 1990, section 3 as amended by Act  
3 No. 166 of the Public Acts of 1994, being sections 28.172,  
4 28.173, and 28.176 of the Michigan Compiled Laws, are amended to  
5 read as follows:

## 1 TITLE

2 An act to provide for a DNA identification profiling system;  
3 to provide for the collection of ~~blood and saliva~~ samples  
4 ~~taken~~ from certain prisoners and convicted offenders and the  
5 analysis of those samples; ~~and blood, saliva, and tissue samples~~  
6 ~~from other individuals;~~ and to prescribe the powers and duties  
7 of certain state departments.

8 Sec. 2. As used in this act:

9 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

10 (B) ~~(a)~~ "DNA identification profile" means the results of  
11 the DNA identification profiling of a ~~blood, saliva, or tissue~~  
12 sample. ~~taken from an individual.~~

13 (C) ~~(b)~~ "DNA identification profiling" means a validated  
14 scientific method of analyzing components of deoxyribonucleic  
15 acid molecules ~~for the purpose of identifying~~ IN A SAMPLE TO  
16 IDENTIFY the pattern of the components' chemical structure that  
17 is unique to ~~an~~ THE individual.

18 (D) "SAMPLE" MEANS A PORTION OF AN INDIVIDUAL'S BLOOD,  
19 SALIVA, OR TISSUE COLLECTED FROM THE INDIVIDUAL.

20 (E) "SEXUAL OFFENSE" MEANS A VIOLATION OR ATTEMPTED VIOLA-  
21 TION OF 1 OR MORE OF THE FOLLOWING:

22 (i) SECTION 520B, 520C, 520D, 520E, OR 520G OF THE MICHIGAN  
23 PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING  
24 SECTIONS 750.520B, 750.520C, 750.520D, 750.520E, AND 750.520G OF  
25 THE MICHIGAN COMPILED LAWS.

26 (ii) SECTION 91, 316, 317, 321, OR 349 OF ACT NO. 328 OF THE  
27 PUBLIC ACTS OF 1931, BEING SECTIONS 750.91, 750.316, 750.317,

1 750.321, AND 750.349 OF THE MICHIGAN COMPILED LAWS, IF IN THE  
 2 SAME TRANSACTION AS THE VIOLATION OR ATTEMPTED VIOLATION THE  
 3 INDIVIDUAL COMMITTED 1 OR MORE ACTS THAT WOULD CONSTITUTE A VIO-  
 4 LATION OR ATTEMPTED VIOLATION DESCRIBED IN SUBDIVISION (A) BUT  
 5 FOR WHICH THE INDIVIDUAL WAS NOT CONVICTED OR COMMITTED 1 OR MORE  
 6 ACTS THAT COULD REASONABLY BE CONSTRUED AS BEING SEXUALLY MOTI-  
 7 VATED OR FOR SEXUAL AROUSAL OR GRATIFICATION.

8 Sec. 3. Not later than October 1, 1994, the department ~~of~~  
 9 ~~state police~~ shall promulgate rules pursuant to the administra-  
 10 tive procedures act of 1969, Act No. 306 of the Public Acts of  
 11 1969, being sections 24.201 to 24.328 of the Michigan Compiled  
 12 Laws, to implement this act, including, but not limited to, rules  
 13 governing all of the following:

14 (a) The method of ~~collection of blood and saliva~~  
 15 COLLECTING samples ~~—~~ and the types and number of samples to be  
 16 collected ~~—~~ by the department of corrections from certain pris-  
 17 oners ~~pursuant to~~ UNDER section 33d of Act No. 232 of the  
 18 Public Acts of 1953, being section 791.233d of the Michigan  
 19 Compiled Laws, and by law enforcement agencies from certain con-  
 20 victed offenders ~~pursuant to~~ UNDER section 520m of the Michigan  
 21 penal code, Act No. 328 of the Public Acts of 1931, being section  
 22 750.520m of the Michigan Compiled Laws. The rules shall provide  
 23 for ~~the taking of blood and saliva~~ COLLECTING samples in a med-  
 24 ically approved manner by qualified persons.

25 (b) ~~The distribution of~~ DISTRIBUTING blood specimen vials,  
 26 mailing tubes, and labels and ~~of~~ instructions for ~~the~~  
 27 ~~collection of blood and saliva~~ COLLECTING samples.

1       (c) ~~The storage and transmission~~ STORING AND TRANSMITTING  
2 to the department ~~of state police of the blood and saliva~~  
3 samples described in subdivision (a).

4       (d) The DNA identification or genetic marker profiling of  
5 ~~the blood and saliva~~ samples described in subdivision (a). ~~and~~  
6 ~~of other blood, saliva, or tissue samples submitted to the~~  
7 ~~department of state police.~~

8       (e) The development, in cooperation with the federal bureau  
9 of investigation and other appropriate persons, of a system of  
10 filing, cataloging, ~~retrieval, and comparison of~~ RETRIEVING,  
11 AND COMPARING DNA identification profiles ~~, and the computeri-~~  
12 ~~zation of~~ COMPUTERIZING this system.

13       (f) ~~The protection of~~ PROTECTING the privacy interests of  
14 individuals whose ~~blood, saliva, or tissue~~ samples are analyzed  
15 ~~pursuant to~~ UNDER this act.

16       Sec. 6. (1) The department ~~of state police~~ shall per-  
17 manently retain a DNA identification profile OF AN INDIVIDUAL  
18 obtained FROM A SAMPLE in the manner prescribed by the department  
19 ~~pursuant to~~ UNDER this act, ~~from a sample described in section~~  
20 ~~5. A DNA identification profile obtained from the analysis of an~~  
21 ~~individual's blood, saliva, or tissue in the course of a criminal~~  
22 ~~investigation or criminal prosecution, that is in the possession~~  
23 ~~of or forwarded to the department of state police, shall be per-~~  
24 ~~manently retained by the department~~ if that individual is con-  
25 victed of a ~~violation or an attempted violation of section 520b,~~  
26 ~~520c, 520d, 520e, 520f, or 520g of the Michigan penal code, Act~~  
27 ~~No. 328 of the Public Acts of 1931, being sections 750.520b,~~

1 ~~750.520c, 750.520d, 750.520e, 750.520f, and 750.520g of the~~  
2 ~~Michigan Compiled Laws~~ SEXUAL OFFENSE. ~~Any other~~

3 (2) THE DEPARTMENT SHALL RETAIN A DNA EXEMPLAR SAMPLE OTHER  
4 THAN A DNA identification profile ~~obtained by the department~~  
5 ~~shall not be permanently retained by the department but shall be~~  
6 ~~retained only as long as it is needed for a criminal investiga-~~  
7 ~~tion or criminal prosecution~~ PART OF A CRIMINAL INVESTIGATIVE  
8 FILE.

9 Section 2. Section 5 of Act No. 250 of the Public Acts of  
10 1990, being section 28.175 of the Michigan Compiled Laws, is  
11 repealed.

12 Section 3. This amendatory act shall not take effect unless  
13 all of the following bills of the 88th Legislature are enacted  
14 into law:

15 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5913  
16 (request no. 07171'96 a).

17 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5914  
18 (request no. 07171'96 b).