

HOUSE BILL No. 4438

March 23, 1999, Introduced by Reps. Julian, Stamas, Gosselin, Sheltroun, Howell, Pappageorge, Ehardt, Faunce, Van Woerkom, Gilbert, Tabor, Toy, Law and Vear and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 520m (MCL 750.520m), as amended by 1996 PA 510.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 520m. (1) A person convicted of a violation of section
2 91, 316, or 317 or a violation or attempted violation of section
3 349, 520b, 520c, 520d, 520e, or 520g shall provide samples for
4 chemical testing for DNA identification profiling or a determina-
5 tion of the sample's genetic markers and shall provide samples
6 for chemical testing for a determination of his or her secretor
7 status. ~~However, if~~

8 (2) WHEN A PERSON IS CONVICTED OF A FELONY OTHER THAN A
9 FELONY LISTED IN SUBSECTION (1), THE COURT MAY REQUIRE THE PERSON

1 TO PROVIDE SAMPLES FOR CHEMICAL TESTING AS DESCRIBED IN
2 SUBSECTION (1).

3 (3) IF, at the time the person is convicted, the investigat-
4 ing law enforcement agency or the department of state police
5 already has a sample FOR CHEMICAL TESTING from the person that
6 meets the requirements of the rules promulgated under the DNA
7 identification profiling system act, ~~Act No. 250 of the Public~~
8 ~~Acts of 1990, being sections 28.171 to 28.176 of the Michigan~~
9 ~~Compiled Laws~~ 1990 PA 250, MCL 28.171 TO 28.176, the person is
10 not required to provide another sample OF THE TYPE ALREADY
11 OBTAINED BY THE LAW ENFORCEMENT AGENCY OR THE DEPARTMENT OF STATE
12 POLICE.

13 (4) ~~(2)~~ The investigating law enforcement agency shall
14 provide for collecting the samples FOR CHEMICAL TESTING required
15 to be provided under subsection (1) OR (2) in a medically
16 approved manner by qualified persons using supplies provided by
17 the department of state police. ~~and~~ THE INVESTIGATING LAW
18 ENFORCEMENT AGENCY shall forward those samples and any samples
19 described in subsection (1) OR (2) that were already in the
20 agency's possession to the department of state police. The col-
21 lecting and forwarding of samples FOR CHEMICAL TESTING shall be
22 done in the manner required under the rules promulgated under the
23 DNA identification profiling system act, ~~Act No. 250 of the~~
24 ~~Public Acts of 1990~~ 1990 PA 250, MCL 28.171 TO 28.176.

25 (5) ~~(3)~~ An investigating law enforcement agency, prosecut-
26 ing agency, or court that has in its possession a DNA
27 identification profile obtained from a sample of a person

1 convicted of an offense described in subsection (1) OR AN OFFENSE
2 DESCRIBED IN SUBSECTION (2) FOR WHICH THE COURT REQUIRES A SAMPLE
3 FOR CHEMICAL TESTING shall forward the DNA identification profile
4 to the department of state police at or before the time of the
5 person's sentencing upon that conviction unless the department of
6 state police already has a DNA identification profile of the
7 person.

8 (6) ~~(4)~~ As used in this section:

9 (a) "DNA identification profile" and "DNA identification
10 profiling" mean those terms as defined in section 2 of the DNA
11 identification profiling system act, ~~Act No. 250 of the Public~~
12 ~~Acts of 1990, being section 28.172 of the Michigan Compiled Laws~~
13 1990 PA 250, MCL 28.172.

14 (b) "Investigating law enforcement agency" means the law
15 enforcement agency responsible for the investigation of the
16 offense for which the person is convicted.

17 (c) "Sample" means a portion of a person's blood, saliva, or
18 tissue collected from the person.

19 Enacting section 1. This amendatory act does not take
20 effect unless all of the following bills of the 90th Legislature
21 are enacted into law:

22 (a) Senate Bill No. _____ or House Bill No. _____ (request
23 no. 01276'99 a).

24 (b) Senate Bill No. _____ or House Bill No. _____ (request
25 no. 01276'99 b).