

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 389 (Substitute S-1 as reported)  
Senate Bill 390 (as reported by the Committee of the Whole)  
Senate Bills 391 through 394 (Substitutes S-1 as reported)  
Sponsor: Senator William Van Regenmorter (Senate Bills 389 through 392)  
Senator Thaddeus G. McCotter (Senate Bill 393)  
Senator Bill Bullard, Jr. (Senate Bill 394)  
Committee: Judiciary

## **CONTENT**

The bills would amend various acts to require that a person convicted of any felony or certain specified misdemeanors, or a juvenile found responsible for certain violations, provide samples for DNA identification profiling, and require that the Department of State Police permanently retain those DNA profiles. Currently, only persons convicted of or found responsible for attempted murder; first-degree murder; second-degree murder; kidnapping; first-, second-, third-, or fourth-degree criminal sexual conduct (CSC); or assault with intent to commit CSC, are required to provide samples for DNA profiling.

Senate Bill 389 (S-1) would amend the DNA Identification Profiling System Act, which requires that the Department of State Police permanently retain a DNA identification profile of an individual who is convicted of or found responsible for attempted murder; first-degree murder; second-degree murder; kidnapping; first-, second-, third-, or fourth-degree CSC; or assault with intent to commit CSC (referred to below as a "currently listed offense"). Under the bill, the Department would have to retain a DNA profile of a juvenile found responsible for any of those offenses, assault with intent to commit murder, or manslaughter, and of an individual convicted of any felony or attempted felony or any of the following misdemeanors: assault and battery, including domestic violence; aggravated assault, including aggravated domestic violence; breaking and entering or illegal entry; fourth-degree child abuse; enticing a child for immoral purposes; indecent exposure; or stalking.

The bill would require a sample to be taken before a convicted person was sentenced by a court. It would be a misdemeanor for an individual who was required to have a biological sample collected for DNA profiling to refuse or resist the collection of the sample.

Under the bill, DNA profiles of DNA samples could be disclosed only to a criminal justice agency for law enforcement identification purposes; in a judicial proceeding as authorized or required by a court; to a defendant in a criminal case, if the DNA profile were used in conjunction with a charge against the defendant; or, if personal identifications were removed, for an academic, research, statistical analysis, or protocol developmental purpose.

Senate Bill 390 would amend the Department of Corrections (DOC) law, which prohibits the release of a prisoner on parole, for community placement, or for discharge until the prisoner provides samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and for determination of his or her secretor status, if the prisoner is serving a sentence for a currently listed offense. Under the bill, that prohibition would apply to any prisoner.

Senate Bill 391 (S-1) would amend the Michigan Penal Code, which requires a person convicted of a currently listed offense to provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and for determination of the person's secretor status. Under the bill, the requirement would apply to a juvenile found responsible for a currently listed offense, assault with intent to murder, or manslaughter, and to a person convicted of a felony or attempted felony or any of the misdemeanors specified above. Samples would have to be collected and forwarded after conviction or a finding of responsibility but before sentencing or disposition by the court.

Senate Bill 392 (S-1) would amend the juvenile code, which requires an individual convicted of or found responsible for a currently listed offense to provide samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and for determination of the person's secretor status. Under the bill, the requirement would apply to a person convicted of or found responsible for a currently listed offense, assault with intent to murder, or manslaughter.

Senate Bill 393 (S-1) would amend the Juvenile Facilities Act, which provides that a juvenile convicted of or found responsible for a currently listed offense who is under the supervision of the Family Independence Agency (FIA) or a county juvenile agency, may not be placed in community placement or discharged from wardship until he or she has provided samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and for determination of the juvenile's secretor status. Under the bill, that provision would apply to a juvenile convicted of or found responsible for a currently listed offense, assault with intent to murder, or manslaughter.

Senate Bill 394 (S-1) would amend the Youth Rehabilitation Services Act, which provides that a public ward under a youth agency's jurisdiction for a currently listed offense may not be placed in community placement or discharged from wardship until he or she has provided samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and for determination of the ward's secretor status. Under the bill, that provision would apply if the public ward were under a youth agency's jurisdiction for a currently listed offense, assault with intent to murder, or manslaughter.

The bills are tie-barred and would take effect on October 1, 2001.

MCL 28.172 et al. (S.B. 389)  
791.233d (S.B. 390)  
750.520m (S.B. 391)  
712A.18k (S.B. 392)  
803.225a (S.B. 393)  
803.307a (S.B. 394)

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

Senate Bills 389 (S-1) through 394 (S-1) would have an indeterminate fiscal impact on State and local government. The bills would require perhaps a 10-fold increase in the purchase and distribution of DNA collection kits, handling of kits, profiling of DNA samples taken, and entry of data into a DNA database by the Department of State Police and the collection of DNA samples by the DOC, FIA, and local units of government.

State Police. Under current law, the Department of State Police is responsible for the distribution of DNA collection kits to those State departments and local agencies that perform the actual drawing of these DNA samples: the Department of Corrections, the Family Independence Agency, and county sheriff departments. The Department of State Police is

responsible for the profiling of these samples and their entry into a State database of DNA files.

The approximate cost to the Department of State Police to fulfill its requirement to collect and maintain a DNA database of persons convicted of certain crimes is \$64 each. This includes approximately \$3 for the DNA collection kit, \$32 for each profile completed, and the remainder for handling, processing, and data entry. Under current statutory requirements for collecting DNA from convicted persons, the Department of State Police processes 3,000 samples annually. This cost is borne by the State Police and funded, in part, by Federal funds awarded to the State to pay for profiling costs.

Based on the estimated DOC caseloads, the increased costs to the State Police of DNA collection activity under the bills would be at least \$1.5 million. The State Police would likely be required to hire an additional 3.0 FTEs (technicians and analysts) to handle the DNA profiling. To handle additional data entry duties, another 4.0 FTEs and a minimum of \$100,000 for new automation and programming would be needed. In addition, as the DNA database expanded, there would be much more activity in comparing DNA crime scene evidence with the new database, requiring as many as 13.0 to 15.0 FTE technician positions to perform casework.

Family Independence Agency. Currently, each FIA day treatment and detention facility maintains a supply of DNA profile sample collection kits. Prior to youths' commitment to the FIA, their files are checked to determine if a DNA profile was submitted to the State Police. If a profile has been sent to the State Police, no further action is necessary. If not, as part of the intake process a sample must be taken subsequent to the youths' commitment to the FIA. An increase in the cost for health care personnel (physician, nurse, or trained technician) would be required to obtain samples from an increased number of offenders.

Also, counties would be required to provide DNA samples for an increased number of adjudicated youths, which could increase their costs for health care personnel.

Date Completed: 5-2-01

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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.