

SUBSTITUTE FOR
HOUSE BILL NO. 4611

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 18k of chapter XIIA (MCL 712A.18k), as
amended by 1998 PA 478.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

1
2 Sec. 18k. (1) An individual ~~convicted of or found respon-~~
3 ~~sible for a violation of section 91, 316, or 317 of the Michigan~~
4 ~~penal code, 1931 PA 328, MCL 750.91, 750.316, 750.317, or a vio-~~
5 ~~lation or attempted violation of section 349, 520b, 520c, 520d,~~
6 ~~520e, or 520g of that act, MCL 750.349, 750.520b, 750.520c,~~
7 ~~750.520d, 750.520e, and 750.520g,~~ shall provide samples for
8 chemical testing for DNA identification profiling or a
9 determination of the sample's genetic markers and shall provide
10 samples for chemical testing for a determination of his or her

HB4611, As Passed House, May 30, 2001

Sub. HB 4611 (H-1) as amended May 30, 2001 2

1 secretor status ~~— However, if at the time the individual is~~
2 ~~convicted of or found responsible for the violation the investi-~~
3 ~~gating law enforcement agency, the department of state police,~~
4 ~~the family independence agency, or the county juvenile agency~~
5 ~~already has a sample from the individual that meets the require-~~
6 ~~ments of the rules promulgated under the DNA identification pro-~~
7 ~~filing system act, 1990 PA 250, MCL 28.171 to 28.176, the indi-~~
8 ~~vidual is not required to provide another sample.~~ IF ANY OF THE
9 FOLLOWING APPLY:

10 (A) THE INDIVIDUAL IS FOUND RESPONSIBLE FOR A VIOLATION OF
11 SECTION 83, 91, 316, 317, OR 321 OF THE MICHIGAN PENAL CODE, 1931
12 PA 328, MCL 750.83, 750.91, 750.316, 750.317, AND 750.321, OR A
13 VIOLATION OR ATTEMPTED VIOLATION OF SECTION 349, 520B, 520C,
14 520D, 520E, OR 520G OF THE MICHIGAN PENAL CODE, 1931 PA 328,
15 MCL 750.349, 750.520B, 750.520C, 750.520D, 750.520E, AND
16 750.520G, OR A VIOLATION OF SECTION 167(C), (F), OR (I), []
17 335A, 451, OR 520E OF THE MICHIGAN PENAL CODE, 1931 PA 328,
18 MCL 750.167, [] 750.335A, 750.451 (FIRST OR SECOND
19 OFFENSE), AND 750.520E, OR A LOCAL ORDINANCE SUBSTANTIALLY SIMI-
20 LAR TO SECTION 167(C), (F), OR (I), [] 335A, 451, OR 520E OF
21 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.167, []
22 750.335A, 750.451 (FIRST OR SECOND OFFENSE), AND 750.520E.

23 (B) THE INDIVIDUAL IS CONVICTED OF A FELONY OR ATTEMPTED
24 FELONY, OR ANY OF THE FOLLOWING MISDEMEANORS, OR LOCAL ORDINANCES
25 THAT ARE SUBSTANTIALLY SIMILAR TO THE FOLLOWING MISDEMEANORS:

HB4611, As Passed House, May 30, 2001

Sub. HB 4611 (H-1) as amended May 30, 2001

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1 (i) A VIOLATION OF SECTION 145A OF THE MICHIGAN PENAL CODE,
2 1931 PA 328, MCL 750.145A, ENTICING A CHILD FOR IMMORAL
3 PURPOSES.

4 (ii) A VIOLATION OF SECTION 167(C), (F), OR (I) OF THE
5 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.167, DISORDERLY PERSON
6 BY WINDOW PEEPING, ENGAGING IN INDECENT OR OBSCENE CONDUCT IN
7 PUBLIC, OR LOITERING IN A HOUSE OF ILL FAME OR PROSTITUTION.

8 [

9

10]

11 [(iii)] A VIOLATION OF SECTION 335A OF THE MICHIGAN PENAL CODE,
12 1931 PA 328, MCL 750.335A, INDECENT EXPOSURE.

13 [(iv)] A VIOLATION OF SECTION 451 OF THE MICHIGAN PENAL CODE,
14 1931 PA 328, MCL 750.451, FIRST AND SECOND PROSTITUTION
15 VIOLATIONS.

16 [(v)] A VIOLATION OF SECTION 454 OF THE MICHIGAN PENAL CODE,
17 1931 PA 328, MCL 750.454, LEASING A HOUSE FOR PURPOSES OF
18 PROSTITUTION.

19 [(vi)] A VIOLATION OF SECTION 462 OF THE MICHIGAN PENAL CODE,
20 1931 PA 328, MCL 750.462, FEMALE UNDER THE AGE OF 17 IN A HOUSE
21 OF PROSTITUTION.

22 [(vii)] A VIOLATION OF SECTION 520E OF THE MICHIGAN PENAL
23 CODE, 1931 PA 328, MCL 750.520E, CRIMINAL SEXUAL CONDUCT IN THE
24 FOURTH DEGREE.

25 (2) The investigating law enforcement agency shall provide
26 for collecting the samples required to be provided under
27 subsection (1) in a medically approved manner by qualified

HB4611, As Passed House, May 30, 2001

Sub. HB 4611 (H-1) as amended May 23 & 30, 2001 4 (1 of 2)

1 persons using supplies provided by the department of state police
2 and shall forward those samples and any samples described in
3 subsection (1) that were already in the agency's possession to
4 the department of state police. The collecting and forwarding of
5 samples shall be done in the manner required under the rules
6 promulgated under the DNA identification profiling system act,
7 1990 PA 250, MCL 28.171 to 28.176. A SAMPLE SHALL BE COLLECTED
8 BY A LAW ENFORCEMENT AGENCY AS ORDERED BY THE COURT BEFORE THE
9 CONVICTED PERSON IS SENTENCED BY THE COURT. THIS SUBSECTION DOES
10 NOT PRECLUDE A LAW ENFORCEMENT AGENCY OR THE AGENCY FROM OBTAIN-
11 ING A SAMPLE AT OR AFTER SENTENCING.

[(3) THE COURT SHALL ORDER EACH INDIVIDUAL FOUND RESPONSIBLE
FOR OR CONVICTED OF 1 OR MORE CRIMES LISTED IN SUBSECTION (1) TO PAY
AN ASSESSMENT OF \$60.00. THE ASSESSMENT REQUIRED UNDER THIS
SUBSECTION IS IN ADDITION TO ANY FINE, COSTS, OR OTHER ASSESSMENTS
IMPOSED BY THE COURT.

(4) AN ASSESSMENT REQUIRED UNDER SUBSECTION (3) SHALL BE
ORDERED UPON THE RECORD, AND SHALL BE LISTED SEPARATELY IN THE
ADJUDICATION ORDER, JUDGMENT OF SENTENCE, OR ORDER OF PROBATION.

(5) AFTER REVIEWING A VERIFIED PETITION BY AN INDIVIDUAL
AGAINST WHOM AN ASSESSMENT IS IMPOSED, THE COURT MAY SUSPEND PAYMENT
OF ALL OR PART OF THE ASSESSMENT IF IT DETERMINES THE INDIVIDUAL IS
UNABLE TO PAY THE ASSESSMENT.

(6) THE COURT THAT IMPOSES THE ASSESSMENT PRESCRIBED UNDER
SUBSECTION (3) MAY RETAIN 10% OF ALL ASSESSMENTS OR PORTIONS OF
ASSESSMENTS COLLECTED FOR COSTS INCURRED UNDER THIS SECTION AND
SHALL TRANSMIT THAT MONEY TO ITS FUNDING UNIT. ON THE LAST DAY OF
EACH MONTH, THE CLERK OF THE COURT SHALL TRANSMIT THE ASSESSMENTS OR
PORTIONS OF ASSESSMENTS COLLECTED AS FOLLOWS:

(A) TWENTY-FIVE PERCENT OF THE ASSESSMENTS OR PORTIONS OF
ASSESSMENTS COLLECTED UNDER THIS SECTION TO THE COUNTY SHERIFF OR
OTHER LAW ENFORCEMENT AGENCY THAT COLLECTED THE DNA SAMPLE AS
DESIGNATED BY THE COURT TO DEFRAY THE COSTS OF COLLECTING DNA
SAMPLES.

(B) SIXTY-FIVE PERCENT OF THE ASSESSMENTS OR PORTIONS OF
ASSESSMENTS COLLECTED TO THE DEPARTMENT OF TREASURY FOR THE
DEPARTMENT OF STATE POLICE FORENSIC SCIENCE DIVISION TO DEFRAY THE
COSTS ASSOCIATED WITH THE REQUIREMENTS OF DNA PROFILING AND DNA
RETENTION PRESCRIBED UNDER THE DNA IDENTIFICATION PROFILING SYSTEM
ACT, 1990 PA 250, MCL 28.171 TO 28.176.

(7) BEGINNING DECEMBER 31, 2002, THE DIRECTOR OF THE DEPARTMENT
OF STATE POLICE SHALL REPORT BY DECEMBER 31 OF EACH YEAR CONCERNING
THE RATE OF DNA SAMPLE COLLECTION, DNA IDENTIFICATION PROFILING,
RETENTION AND COMPILATION OF DNA IDENTIFICATION PROFILES, AND THE
COLLECTION OF ASSESSMENTS REQUIRED UNDER SUBSECTION (3) TO ALL OF
THE FOLLOWING:

(A) THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF
REPRESENTATIVES CONCERNED WITH DNA SAMPLE COLLECTION AND RETENTION.

(B) THE HOUSE OF REPRESENTATIVES APPROPRIATIONS SUBCOMMITTEE ON
STATE AND MILITARY AFFAIRS.

(C) THE SENATE APPROPRIATIONS SUBCOMMITTEE ON STATE POLICE.]

12 [(8) ~~(3)~~] The family independence agency or a county juvenile
13 agency, investigating law enforcement agency, prosecuting agency,

HB4611, As Passed House, May 30, 2001

14 or court that has in its possession a DNA identification profile

HB4611, As Passed House, May 30, 2001

Sub. HB 4611 (H-1) as amended May 23, 2001 4 (2 of 2)

15 obtained from a sample of an individual convicted of or found
16 responsible for an offense described in subsection (1) shall for-
17 ward the DNA identification profile to the department of state
18 police at or before the time the court imposes sentence or enters
19 an order of disposition upon that conviction or finding of
20 responsibility unless the department of state police already has
21 a DNA identification profile of the individual.

22 [(9)] THE DNA PROFILES OF DNA SAMPLES RECEIVED UNDER THIS SEC-
23 TION SHALL ONLY BE DISCLOSED AS FOLLOWS:

24 (A) TO A CRIMINAL JUSTICE AGENCY FOR LAW ENFORCEMENT IDENTI-
25 FICATION PURPOSES.

26 (B) IN A JUDICIAL PROCEEDING AS AUTHORIZED OR REQUIRED BY A
27 COURT.

HB4611, As Passed House, May 30, 2001

Sub. HB 4611 (H-1) as amended May 23, 2001 5

1 (C) TO A DEFENDANT IN A CRIMINAL CASE IF THE DNA PROFILE IS
2 USED IN CONJUNCTION WITH A CHARGE AGAINST THE DEFENDANT.

3 (D) FOR AN ACADEMIC, RESEARCH, STATISTICAL ANALYSIS, OR PRO-
4 TOCOL DEVELOPMENTAL PURPOSE ONLY IF PERSONAL IDENTIFICATIONS ARE
5 REMOVED.

6 [(10)] ~~-(4)-~~ As used in this section:

7 (a) "DNA identification profile" and "DNA identification
8 profiling" mean those terms as defined in section 2 of the DNA
9 identification profiling system act, 1990 PA 250, MCL 28.172.

10 (b) "Investigating law enforcement agency" means the law
11 enforcement agency responsible for the investigation of the
12 offense for which the individual is convicted or found
13 responsible. INVESTIGATING LAW ENFORCEMENT AGENCY DOES NOT
14 INCLUDE A PROBATION OFFICER EMPLOYED BY THE DEPARTMENT OF
15 CORRECTIONS.

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

18 Enacting section 1. This amendatory act takes effect
19 October 1, 2001.

20 Enacting section 2. This amendatory act does not take
21 effect unless all of the following bills of the 91st Legislature
22 are enacted into law:

23 (a) House Bill No. 4610.

24 (b) House Bill No. 4612.

25 (c) House Bill No. 4613.

26 (d) House Bill No. 4614.

27 (e) House Bill No. 4633.