

HB 4611, As Passed Senate, June 26, 2001

**SENATE 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

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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(1)(C) OR (F) OR 335A OF
17 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.167 AND 750.335A,
18 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION
19 167(1)(C) OR (F) OR 335A OF THE MICHIGAN PENAL CODE, 1931 PA 328,
20 MCL 750.167 AND 750.335A.

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

25 (i) A VIOLATION OF SECTION 145A OF THE MICHIGAN PENAL CODE,
26 1931 PA 328, MCL 750.145A, ENTICING A CHILD FOR IMMORAL
27 PURPOSES.

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1 (ii) A VIOLATION OF SECTION 167(1)(C), (F), OR (I) OF THE
2 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.167, DISORDERLY PERSON
3 BY WINDOW PEEPING, ENGAGING IN INDECENT OR OBSCENE CONDUCT IN
4 PUBLIC, OR LOITERING IN A HOUSE OF ILL FAME OR PROSTITUTION.

5 (iii) A VIOLATION OF SECTION 335A OF THE MICHIGAN PENAL
6 CODE, 1931 PA 328, MCL 750.335A, INDECENT EXPOSURE.

7 (iv) A VIOLATION OF SECTION 451 OF THE MICHIGAN PENAL CODE,
8 1931 PA 328, MCL 750.451, FIRST AND SECOND PROSTITUTION
9 VIOLATIONS.

10 (v) A VIOLATION OF SECTION 454 OF THE MICHIGAN PENAL CODE,
11 1931 PA 328, MCL 750.454, LEASING A HOUSE FOR PURPOSES OF
12 PROSTITUTION.

13 (vi) A VIOLATION OF SECTION 462 OF THE MICHIGAN PENAL CODE,
14 1931 PA 328, MCL 750.462, FEMALE UNDER THE AGE OF 17 IN A HOUSE
15 OF PROSTITUTION.

16 (2) NOTWITHSTANDING SUBSECTION (1), IF AT THE TIME THE INDI-
17 VIDUAL IS CONVICTED OF OR FOUND RESPONSIBLE FOR THE VIOLATION THE
18 INVESTIGATING LAW ENFORCEMENT AGENCY OR THE DEPARTMENT OF STATE
19 POLICE ALREADY HAS A SAMPLE FROM THE INDIVIDUAL THAT MEETS THE
20 REQUIREMENTS OF THE DNA IDENTIFICATION PROFILING SYSTEM ACT, 1990
21 PA 250, MCL 28.171 TO 28.176, THE INDIVIDUAL IS NOT REQUIRED TO
22 PROVIDE ANOTHER SAMPLE OR PAY THE FEE REQUIRED UNDER SUBSECTION
23 4.

24 (3) THE SAMPLES REQUIRED TO BE COLLECTED UNDER THIS SECTION
25 SHALL BE COLLECTED BY THE INVESTIGATING LAW ENFORCEMENT AGENCY
26 AND TRANSMITTED BY THE INVESTIGATING LAW ENFORCEMENT AGENCY TO
27 THE DEPARTMENT OF STATE POLICE IN THE MANNER PRESCRIBED UNDER THE

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1 DNA IDENTIFICATION PROFILING SYSTEM ACT, 1990 PA 250, MCL 28.171
2 TO 28.176.

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

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

11 (6) AFTER REVIEWING A VERIFIED PETITION BY AN INDIVIDUAL
12 AGAINST WHOM AN ASSESSMENT IS IMPOSED, THE COURT MAY SUSPEND PAY-
13 MENT OF ALL OR PART OF THE ASSESSMENT IF IT DETERMINES THE INDI-
14 VIDUAL IS UNABLE TO PAY THE ASSESSMENT.

15 (7) THE COURT THAT IMPOSES THE ASSESSMENT PRESCRIBED UNDER
16 SUBSECTION (4) MAY RETAIN 10% OF ALL ASSESSMENTS OR PORTIONS OF
17 ASSESSMENTS COLLECTED FOR COSTS INCURRED UNDER THIS SECTION AND
18 SHALL TRANSMIT THAT MONEY TO ITS FUNDING UNIT. ON THE LAST DAY
19 OF EACH MONTH, THE CLERK OF THE COURT SHALL TRANSMIT THE ASSESS-
20 MENTS OR PORTIONS OF ASSESSMENTS COLLECTED AS FOLLOWS:

21 (A) TWENTY-FIVE PERCENT OF THE ASSESSMENTS OR PORTIONS OF
22 ASSESSMENTS COLLECTED UNDER THIS SECTION TO THE COUNTY SHERIFF OR
23 OTHER INVESTIGATING LAW ENFORCEMENT AGENCY THAT COLLECTED THE DNA
24 SAMPLE AS DESIGNATED BY THE COURT TO DEFRAY THE COSTS OF COLLECT-
25 ING DNA SAMPLES.

26 (B) SIXTY-FIVE PERCENT OF THE ASSESSMENTS OR PORTIONS OF
27 ASSESSMENTS COLLECTED TO THE DEPARTMENT OF TREASURY FOR THE

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1 DEPARTMENT OF STATE POLICE FORENSIC SCIENCE DIVISION TO DEFRAY
2 THE COSTS ASSOCIATED WITH THE REQUIREMENTS OF DNA PROFILING AND
3 DNA RETENTION PRESCRIBED UNDER THE DNA IDENTIFICATION PROFILING
4 SYSTEM ACT, 1990 PA 250, MCL 28.171 TO 28.176.

5 (8) BEGINNING DECEMBER 31, 2002, THE DIRECTOR OF THE DEPART-
6 MENT OF STATE POLICE SHALL REPORT BY DECEMBER 31 OF EACH YEAR
7 CONCERNING THE RATE OF DNA SAMPLE COLLECTION, DNA IDENTIFICATION
8 PROFILING, RETENTION AND COMPILATION OF DNA IDENTIFICATION PRO-
9 FILES, AND THE COLLECTION OF ASSESSMENTS REQUIRED UNDER SUBSEC-
10 TION (3) TO ALL OF THE FOLLOWING:

11 (A) THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF REP-
12 RESENTATIVES CONCERNED WITH DNA SAMPLE COLLECTION AND RETENTION.

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

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

16 (9) ~~-(3)-~~ The family independence agency or a county juve-
17 nile agency, investigating law enforcement agency, prosecuting
18 agency, or court that has in its possession a DNA identification
19 profile obtained from a sample of an individual convicted of or
20 found responsible for an offense described in subsection (1)
21 shall forward the DNA identification profile to the department of
22 state police at or before the time the court imposes sentence or
23 enters an order of disposition upon that conviction or finding of
24 responsibility unless the department of state police already has
25 a DNA identification profile of the individual.

26 (10) THE DNA PROFILES OF DNA SAMPLES RECEIVED UNDER THIS
27 SECTION SHALL ONLY BE DISCLOSED AS FOLLOWS:

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1 (A) TO A CRIMINAL JUSTICE AGENCY FOR LAW ENFORCEMENT
2 IDENTIFICATION PURPOSES.

3 (B) IN A JUDICIAL PROCEEDING AS AUTHORIZED OR REQUIRED BY A
4 COURT.

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

7 (D) FOR AN ACADEMIC, RESEARCH, STATISTICAL ANALYSIS, OR PRO-
8 TOCOL DEVELOPMENTAL PURPOSE ONLY IF PERSONAL IDENTIFICATIONS ARE
9 REMOVED.

10 (11) ~~-(4)-~~ As used in this section:

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

14 (B) "FELONY" MEANS A VIOLATION OF A PENAL LAW OF THIS STATE
15 FOR WHICH THE OFFENDER MAY BE PUNISHED BY IMPRISONMENT FOR MORE
16 THAN 1 YEAR OR AN OFFENSE EXPRESSLY DESIGNATED BY LAW TO BE A
17 FELONY.

18 (C) ~~-(b)-~~ "Investigating law enforcement agency" means the
19 law enforcement agency responsible for the investigation of the
20 offense for which the individual is convicted or found
21 responsible. INVESTIGATING LAW ENFORCEMENT AGENCY DOES NOT
22 INCLUDE A PROBATION OFFICER EMPLOYED BY THE DEPARTMENT OF
23 CORRECTIONS.

24 (D) ~~-(c)-~~ "Sample" means a portion of an individual's blood,
25 saliva, or tissue collected from the individual.

26 Enacting section 1. This amendatory act takes effect
27 January 1, 2002.

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

4 (a) Senate Bill No. 389.

5 (b) Senate Bill No. 393.

6 (c) Senate Bill No. 394.

7 (d) House Bill No. 4610.

8 (e) House Bill No. 4612.

9 (f) House Bill No. 4613.

10 (g) House Bill No. 4633.