

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4613**

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 sec-~~
2 ~~tion 91, 316, or 317 or a violation or attempted violation of~~
3 ~~section 349, 520b, 520c, 520d, 520e, or 520g~~ shall provide sam-
4 ples for chemical testing for DNA identification profiling or a
5 determination of the sample's genetic markers and shall provide
6 samples for chemical testing for a determination of his or her
7 secretor status ~~. However,~~ IF ANY OF THE FOLLOWING APPLY:
8 (A) THE PERSON IS FOUND RESPONSIBLE FOR A VIOLATION OF
9 SECTION 83, 91, 316, 317, OR 321 OF THE MICHIGAN PENAL CODE, 1931
10 PA 328, MCL 750.83, 750.91, 750.316, 750.317, AND 750.321, OR A

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1 VIOLATION OR ATTEMPTED VIOLATION OF SECTION 349, 520B, 520C,
2 520D, 520E, OR 520G OF THE MICHIGAN PENAL CODE, 1931 PA 328,
3 MCL 750.349, 750.520B, 750.520C, 750.520D, 750.520E, AND
4 750.520G, OR A VIOLATION OF SECTION 167(1)(C) OR (F) OR 335A OF
5 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.167 AND 750.335A,
6 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO
7 SECTION 167(1)(C) OR (F) OR 335A OF THE MICHIGAN PENAL CODE, 1931
8 PA 328, MCL 750.167 AND 750.335A.

9 (B) THE PERSON IS CONVICTED OF A FELONY OR ATTEMPTED FELONY,
10 OR ANY OF THE FOLLOWING MISDEMEANORS, OR LOCAL ORDINANCES THAT
11 ARE SUBSTANTIALLY CORRESPONDING TO THE FOLLOWING MISDEMEANORS:

12 (i) A VIOLATION OF SECTION 145A OF THE MICHIGAN PENAL CODE,
13 1931 PA 328, MCL 750.145A, ENTICING A CHILD FOR IMMORAL
14 PURPOSES.

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

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

21 (iv) A VIOLATION OF SECTION 451 OF THE MICHIGAN PENAL CODE,
22 1931 PA 328, MCL 750.451, FIRST AND SECOND PROSTITUTION
23 VIOLATIONS.

24 (v) A VIOLATION OF SECTION 454 OF THE MICHIGAN PENAL CODE,
25 1931 PA 328, MCL 750.454, LEASING A HOUSE FOR PURPOSES OF
26 PROSTITUTION.

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1 (vi) A VIOLATION OF SECTION 462 OF THE MICHIGAN PENAL CODE,
2 1931 PA 328, MCL 750.462, FEMALE UNDER THE AGE OF 17 IN A HOUSE
3 OF PROSTITUTION.

4 (2) NOTWITHSTANDING SUBSECTION (1), if at the time the
5 person is convicted OF OR FOUND RESPONSIBLE FOR THE VIOLATION the
6 investigating law enforcement agency or the department of state
7 police already has a sample from the person that meets the
8 requirements of ~~the rules promulgated under~~ the DNA identifica-
9 tion profiling system act, ~~Act No. 250 of the Public Acts of~~
10 ~~1990, being sections 28.171 to 28.176 of the Michigan Compiled~~
11 ~~Laws~~ 1990 PA 250, MCL 28.171 TO 28.176, the person is not
12 required to provide another sample OR PAY THE FEE REQUIRED UNDER
13 SUBSECTION (6).

14 (3) ~~-(2) The investigating law enforcement agency shall pro-~~
15 ~~vide for collecting the samples required to be provided under~~
16 ~~subsection (1) in a medically approved manner by qualified per-~~
17 ~~sons using supplies provided by the department of state police~~
18 ~~and shall forward those samples and any samples described in~~
19 ~~subsection (1) that were already in the agency's possession to~~
20 ~~the department of state police. The collecting and forwarding of~~
21 ~~samples shall be done in the manner required under the rules~~
22 ~~promulgated~~ THE COUNTY SHERIFF OR THE INVESTIGATING LAW ENFORCEMENT
23 AGENCY SHALL COL-
24 LECT AND TRANSMIT THE SAMPLES IN THE MANNER REQUIRED under the
25 DNA identification profiling system act, ~~Act No. 250 of the~~
26 ~~Public Acts of 1990~~ 1990 PA 250, MCL 28.171 TO 28.176.

27 (4) ~~-(3)~~ An investigating law enforcement agency,
prosecuting agency, or court that has in its possession a DNA

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1 identification profile obtained from a sample of a person
2 ~~convicted of an offense described in~~ PURSUANT TO subsection (1)
3 shall forward the DNA identification profile to the department of
4 state police at or before the time of the person's sentencing OR
5 DISPOSITION upon that conviction OR FINDING OF RESPONSIBILITY
6 unless the department of state police already has a DNA identifi-
7 cation profile of the person.

8 (5) THE DNA PROFILES OF DNA SAMPLES RECEIVED UNDER THIS SEC-
9 TION SHALL ONLY BE DISCLOSED AS FOLLOWS:

10 (A) TO A CRIMINAL JUSTICE AGENCY FOR LAW ENFORCEMENT IDENTI-
11 FICATION PURPOSES.

12 (B) IN A JUDICIAL PROCEEDING AS AUTHORIZED OR REQUIRED BY A
13 COURT.

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

16 (D) FOR AN ACADEMIC, RESEARCH, STATISTICAL ANALYSIS, OR PRO-
17 TOCOL DEVELOPMENTAL PURPOSE ONLY IF PERSONAL IDENTIFICATIONS ARE
18 REMOVED.

19 (6) THE COURT SHALL ORDER EACH PERSON FOUND RESPONSIBLE FOR
20 OR CONVICTED OF 1 OR MORE CRIMES LISTED IN SUBSECTION (1) TO PAY
21 AN ASSESSMENT OF \$60.00. THE ASSESSMENT REQUIRED UNDER THIS SUB-
22 SECTION IS IN ADDITION TO ANY FINE, COSTS, OR OTHER ASSESSMENTS
23 IMPOSED BY THE COURT.

24 (7) AN ASSESSMENT REQUIRED UNDER SUBSECTION (6) SHALL BE
25 ORDERED UPON THE RECORD, AND SHALL BE LISTED SEPARATELY IN THE
26 ADJUDICATION ORDER, JUDGMENT OF SENTENCE, OR ORDER OF PROBATION.

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1 (8) AFTER REVIEWING A VERIFIED PETITION BY A PERSON AGAINST
2 WHOM AN ASSESSMENT IS IMPOSED, THE COURT MAY SUSPEND PAYMENT OF
3 ALL OR PART OF THE ASSESSMENT IF IT DETERMINES THE PERSON IS
4 UNABLE TO PAY THE ASSESSMENT.

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

11 (A) TWENTY-FIVE PERCENT OF THE ASSESSMENTS OR PORTIONS OF
12 ASSESSMENTS COLLECTED UNDER THIS SECTION TO THE COUNTY SHERIFF OR
13 OTHER INVESTIGATING LAW ENFORCEMENT AGENCY THAT COLLECTED THE DNA
14 SAMPLE AS DESIGNATED BY THE COURT TO DEFRAY THE COSTS OF COLLECT-
15 ING DNA SAMPLES.

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

22 (10) BEGINNING DECEMBER 31, 2002, THE DIRECTOR OF THE
23 DEPARTMENT OF STATE POLICE SHALL REPORT BY DECEMBER 31 OF EACH
24 YEAR CONCERNING THE RATE OF DNA SAMPLE COLLECTION, DNA IDENTIFI-
25 CATION PROFILING, RETENTION AND COMPILATION OF DNA IDENTIFICATION
26 PROFILES, AND THE COLLECTION OF ASSESSMENTS REQUIRED UNDER
27 SUBSECTION (6) TO ALL OF THE FOLLOWING:

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

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

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

7 (11) ~~(4)~~ As used in this section:

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

13 (b) "Investigating law enforcement agency" means the law
14 enforcement agency responsible for the investigation of the
15 offense for which the person is convicted. INVESTIGATING LAW
16 ENFORCEMENT AGENCY INCLUDES THE COUNTY SHERIFF BUT DOES NOT INCLUDE
17 A PROBATION OFFICER EMPLOYED
18 BY THE DEPARTMENT OF CORRECTIONS.

18 (C) "FELONY" MEANS A VIOLATION OF A PENAL LAW OF THIS STATE
19 FOR WHICH THE OFFENDER MAY BE PUNISHED BY IMPRISONMENT FOR MORE
20 THAN 1 YEAR OR AN OFFENSE EXPRESSLY DESIGNATED BY LAW TO BE A
21 FELONY.

22 (D) ~~(c)~~ "Sample" means a portion of a person's blood,
23 saliva, or tissue collected from the person.

24 Enacting section 1. This amendatory act takes effect
25 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. 4611.

9 (f) House Bill No. 4612.

10 (g) House Bill No. 4633.