

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 393

A bill to amend 1988 PA 73, entitled
"The juvenile facilities act,"
by amending section 5a (MCL 803.225a), as amended by 1998 PA
521.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5a. (1) A juvenile ~~convicted of or found responsible~~
2 ~~for a violation of section 91, 316, or 317 of the Michigan penal~~
3 ~~code, 1931 PA 328, MCL 750.91, 750.316, and 750.317, or a viola-~~
4 ~~tion or attempted violation of section 349, 520b, 520c, 520d,~~
5 ~~520e, or 520g of the Michigan penal code, 1931 PA 328, MCL~~
6 ~~750.349, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g,~~
7 who is under the supervision of the department or a county juve-
8 nile agency under section 18 of chapter XIIIA of THE PROBATE CODE
9 OF 1939, 1939 PA 288, MCL 712A.18, shall not be placed in a
10 community placement of any kind and shall not be discharged from

1 wardship until he or she has provided samples for chemical
2 testing for DNA identification profiling or a determination of
3 the sample's genetic markers and has provided samples for a
4 determination of his or her secretor status ~~— However, if, at~~
5 ~~the time the juvenile is to be discharged from wardship, the~~
6 ~~department of state police already has a sample from the juvenile~~
7 ~~that meets the requirements of the rules promulgated under the~~
8 ~~DNA identification profiling system act, 1990 PA 250, MCL 28.171~~
9 ~~to 28.176, the juvenile is not required to provide another~~
10 ~~sample.~~ IF ANY OF THE FOLLOWING APPLY:

11 (A) THE JUVENILE HAS BEEN FOUND RESPONSIBLE FOR A VIOLATION
12 OF SECTION 83, 91, 316, 317, OR 321 OF THE MICHIGAN PENAL CODE,
13 1931 PA 328, MCL 750.83, 750.91, 750.316, 750.317, AND 750.321,
14 OR A VIOLATION OR ATTEMPTED VIOLATION OF SECTION 349, 520B, 520C,
15 520D, 520E, OR 520G OF THE MICHIGAN PENAL CODE, 1931 PA 328,
16 MCL 750.349, 750.520B, 750.520C, 750.520D, 750.520E, AND
17 750.520G, OR A VIOLATION OF SECTION 167(1)(C) OR (F) OR 335A OF
18 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.167 AND 750.335A,
19 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION
20 167(1)(C) OR (F) OR 335A OF THE MICHIGAN PENAL CODE, 1931 PA 328,
21 MCL 750.167 AND 750.335A.

22 (B) THE JUVENILE HAS BEEN CONVICTED OF A FELONY OR ATTEMPTED
23 FELONY, OR ANY OF THE FOLLOWING MISDEMEANORS, OR LOCAL ORDINANCES
24 SUBSTANTIALLY CORRESPONDING TO THE FOLLOWING 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.

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 JUVE-
17 NILE 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 JUVENILE THAT MEETS THE
20 REQUIREMENTS OF THE DNA IDENTIFICATION PROFILING SYSTEM ACT, 1990
21 PA 250, MCL 28.171 TO 28.176, THE JUVENILE IS NOT REQUIRED TO
22 PROVIDE ANOTHER SAMPLE OR PAY THE FEE REQUIRED UNDER SUBSECTION
23 (6).

24 (3) ~~—(2)—~~ The samples required to be collected under this
25 section shall be collected by the department or county juvenile
26 agency, as applicable, and transmitted by the department or
27 county juvenile agency to the department of state police in the

1 manner prescribed ~~by rules promulgated~~ under the DNA
2 identification profiling system act, 1990 PA 250, MCL 28.171 to
3 28.176.

4 (4) ~~-(3)-~~ The department or county juvenile agency may col-
5 lect a sample under this section regardless of whether the juve-
6 nile consents to the collection. The department or county juve-
7 nile agency is not required to give the juvenile an opportunity
8 for a hearing or obtain a court order before collecting the
9 sample.

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

12 (A) TO A CRIMINAL JUSTICE AGENCY FOR LAW ENFORCEMENT IDENTI-
13 FICATION PURPOSES.

14 (B) IN A JUDICIAL PROCEEDING AS AUTHORIZED OR REQUIRED BY A
15 COURT.

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

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

21 (6) A JUVENILE FOUND RESPONSIBLE FOR OR CONVICTED OF 1 OR
22 MORE CRIMES LISTED IN SUBSECTION (1) SHALL PAY AN ASSESSMENT OF
23 \$60.00. THE JUVENILE AGENCY SHALL TRANSMIT THE ASSESSMENTS OR
24 PORTIONS OF ASSESSMENTS COLLECTED TO THE DEPARTMENT OF TREASURY
25 FOR THE DEPARTMENT OF STATE POLICE FORENSIC SCIENCE DIVISION TO
26 DEFRAY THE COSTS ASSOCIATED WITH THE REQUIREMENTS OF DNA
27 PROFILING AND DNA RETENTION PRESCRIBED UNDER THE DNA

SB0393, As Passed House, July 11, 2001

Sub. SB 393 (H-1) as amended June 28, 2001

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

3 (7) ~~(4)~~ As used in this section~~[, "sample"~~ :

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

(B) "SAMPLE"] means a portion

4 of a juvenile's blood, saliva, or tissue collected from the
5 juvenile.

6 Enacting section 1. This amendatory act takes effect
7 January 1, 2002.

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

11 (a) Senate Bill No. 389.

12 (b) Senate Bill No. 394.

13 (c) House Bill No. 4610.

14 (d) House Bill No. 4611.

15 (e) House Bill No. 4612.

16 (f) House Bill No. 4613.

17 (g) House Bill No. 4633.