

**SUBSTITUTE FOR
SENATE BILL NO. 389**

A bill to amend 1990 PA 250, entitled
"DNA identification profiling system act,"
by amending sections 2 and 6 (MCL 28.172 and 28.176), section 2
as amended by 1996 PA 508 and section 6 as amended by 2000 PA 30,
and by adding section 3a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Department" means the department of state police.
- 3 (b) "DNA identification profile" means the results of the
- 4 DNA identification profiling of a sample.
- 5 (c) "DNA identification profiling" means a validated scien-
- 6 tific method of analyzing components of deoxyribonucleic acid
- 7 molecules in a ~~sample to identify the pattern of the components~~
- 8 ~~chemical structure that is unique to the individual~~ BIOLOGICAL

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1 SPECIMEN TO DETERMINE A MATCH OR A NONMATCH BETWEEN A REFERENCE
2 SAMPLE AND AN EVIDENTIARY SAMPLE.

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

7 (E) ~~(d)~~ "Sample" means a portion of an individual's blood,
8 saliva, or tissue collected from the individual.

9 SEC. 3A. AN INDIVIDUAL REQUIRED TO HAVE HIS OR HER BIOLOGI-
10 CAL SAMPLE COLLECTED UNDER SECTION 3 WHO REFUSES TO ALLOW OR
11 RESISTS THE COLLECTING OF HIS OR HER BIOLOGICAL SAMPLE IS GUILTY
12 OF A MISDEMEANOR. THE INDIVIDUAL SHALL BE ADVISED THAT HIS OR
13 HER REFUSAL IS A MISDEMEANOR.

14 Sec. 6. (1) The department shall permanently retain a DNA
15 identification profile of an individual obtained from a sample in
16 the manner prescribed by the department under this act if that
17 individual is ~~convicted of or~~ found responsible for a violation
18 of section 83, 91, 316, ~~or~~ 317, OR 321 of the Michigan penal
19 code, 1931 PA 328, MCL 750.83, 750.91, 750.316, ~~and~~ 750.317,
20 AND 750.321, or a violation or attempted violation of section
21 349, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code,
22 1931 PA 328, MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e,
23 and 750.520g ~~—~~ OR IS CONVICTED OF A FELONY OR ATTEMPTED FELONY
24 OR ANY OF THE FOLLOWING MISDEMEANORS:

25 (A) A VIOLATION OF SECTION 81 OF THE MICHIGAN PENAL CODE,
26 1931 PA 328, MCL 750.81, ASSAULT AND BATTERY, INCLUDING DOMESTIC
27 VIOLENCE.

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1 (B) A VIOLATION OF SECTION 81A OF THE MICHIGAN PENAL CODE,
2 1931 PA 328, MCL 750.81A, ASSAULT; INFLECTION OF SERIOUS INJURY,
3 INCLUDING AGGRAVATED DOMESTIC VIOLENCE.

4 (C) A VIOLATION OF SECTION 115 OF THE MICHIGAN PENAL CODE,
5 1931 PA 328, MCL 750.115, BREAKING AND ENTERING OR ILLEGAL
6 ENTRY.

7 (D) A VIOLATION OF SECTION 136B(6) OF THE MICHIGAN PENAL
8 CODE, 1931 PA 328, MCL 750.136B, CHILD ABUSE IN THE FOURTH
9 DEGREE.

10 (E) A VIOLATION OF SECTION 145A OF THE MICHIGAN PENAL CODE,
11 1931 PA 328, MCL 750.145A, ENTICING A CHILD FOR IMMORAL
12 PURPOSES.

13 (F) A VIOLATION OF SECTION 335A OF THE MICHIGAN PENAL CODE,
14 1931 PA 328, MCL 750.335A, INDECENT EXPOSURE.

15 (G) A VIOLATION OF SECTION 411H OF THE MICHIGAN PENAL CODE,
16 1931 PA 328, MCL 750.411H, STALKING.

17 (2) THE DNA PROFILES OF DNA SAMPLES RECEIVED UNDER THIS SEC-
18 TION SHALL ONLY BE DISCLOSED AS FOLLOWS:

19 (A) TO A CRIMINAL JUSTICE AGENCY FOR LAW ENFORCEMENT IDENTI-
20 FICATION PURPOSES.

21 (B) IN A JUDICIAL PROCEEDING AS AUTHORIZED OR REQUIRED BY A
22 COURT.

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

25 (D) FOR AN ACADEMIC, RESEARCH, STATISTICAL ANALYSIS, OR PRO-
26 TOCOL DEVELOPMENTAL PURPOSE ONLY IF PERSONAL IDENTIFICATIONS ARE
27 REMOVED.

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1 (3) A SAMPLE COLLECTED UNDER THIS SECTION SHALL BE TAKEN
2 BEFORE THE CONVICTED PERSON IS SENTENCED BY THE COURT.

3 (4) Any other DNA identification profile obtained by the
4 department shall not be permanently retained by the department
5 but shall be retained only as long as it is needed for a criminal
6 investigation or criminal prosecution.

7 (5) ~~-(2)-~~ If the state police forensic laboratory determines
8 after analysis that a sample has been submitted by an individual
9 who has been eliminated as a suspect in a crime, the laboratory
10 shall dispose of the sample and the DNA identification profile
11 record in the following manner:

12 (a) The laboratory shall dispose of the sample in compliance
13 with section 13811 of the public health code, 1978 PA 368,
14 MCL 333.13811.

15 (b) The laboratory shall dispose of the sample and the DNA
16 identification profile record in the presence of a witness.

17 (6) ~~-(3)-~~ After disposal in accordance with subsection ~~-(2)-~~
18 (5), the laboratory shall make and keep a written record of the
19 disposal, signed by the individual who witnessed the disposal.

20 Enacting section 1. This amendatory act takes effect
21 October 1, 2001.

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

25 (a) Senate Bill No. 390.

26 (b) Senate Bill No. 391.

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- 1 (c) Senate Bill No. 392.
- 2 (d) Senate Bill No. 393.
- 3 (e) Senate Bill No. 394.