

**SUBSTITUTE FOR
SENATE BILL NO. 391**

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~~ JUVENILE FOUND
2 RESPONSIBLE FOR a violation of section 83, 91, 316, ~~or~~ 317, OR
3 321 or a violation or attempted violation of section 349, 520b,
4 520c, 520d, 520e, or 520g shall provide samples for chemical
5 testing for DNA identification profiling or a determination of
6 the sample's genetic markers and shall provide samples for chemi-
7 cal testing for a determination of his or her secretor status.
8 ~~However,~~
9 (2) AN INDIVIDUAL SHALL PROVIDE SAMPLES FOR CHEMICAL TESTING
10 OF DNA IDENTIFICATION PROFILING OR A DETERMINATION OF THE

SB 391, As Passed Senate, May 3, 2001

Senate Bill No. 391

2

1 SAMPLE'S GENETIC MARKERS AND SHALL PROVIDE SAMPLES FOR CHEMICAL
2 TESTING FOR A DETERMINATION OF HIS OR HER SECRETOR STATUS IF THE
3 INDIVIDUAL IS CONVICTED OF A FELONY OR ATTEMPTED FELONY OR ANY OF
4 THE FOLLOWING MISDEMEANORS:

5 (A) A VIOLATION OF SECTION 81 OF THE MICHIGAN PENAL CODE,
6 1931 PA 328, MCL 750.81, ASSAULT AND BATTERY, INCLUDING DOMESTIC
7 VIOLENCE.

8 (B) A VIOLATION OF SECTION 81A OF THE MICHIGAN PENAL CODE,
9 1931 PA 328, MCL 750.81A, ASSAULT; INFLECTION OF SERIOUS INJURY,
10 INCLUDING AGGRAVATED DOMESTIC VIOLENCE.

11 (C) A VIOLATION OF SECTION 115 OF THE MICHIGAN PENAL CODE,
12 1931 PA 328, MCL 750.115, BREAKING AND ENTERING OR ILLEGAL
13 ENTRY.

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

17 (E) A VIOLATION OF SECTION 145A OF THE MICHIGAN PENAL CODE,
18 1931 PA 328, MCL 750.145A, ENTICING A CHILD FOR IMMORAL
19 PURPOSES.

20 (F) A VIOLATION OF SECTION 335A OF THE MICHIGAN PENAL CODE,
21 1931 PA 328, MCL 750.335A, INDECENT EXPOSURE.

22 (G) A VIOLATION OF SECTION 411H OF THE MICHIGAN PENAL CODE,
23 1931 PA 328, MCL 750.411H, STALKING.

24 (3) NOTWITHSTANDING SUBSECTION (1) OR (2), if at the time
25 the person is convicted OF OR FOUND RESPONSIBLE FOR THE VIOLATION
26 the investigating law enforcement agency or the department of
27 state police already has a sample from the person that meets the

SB 391, As Passed Senate, May 3, 2001

Senate Bill No. 391

3

1 requirements of the rules promulgated under the DNA
2 identification profiling system act, ~~Act No. 250 of the Public~~
3 ~~Acts of 1990, being sections 28.171 to 28.176 of the Michigan~~
4 ~~Compiled Laws~~ 1990 PA 250, MCL 28.171 TO 28.176, the person is
5 not required to provide another sample.

6 (4) ~~-(2)-~~ The investigating law enforcement agency shall
7 provide for collecting the samples required to be provided under
8 subsection (1) in a medically approved manner by qualified per-
9 sons using supplies provided by the department of state police
10 and shall forward those samples and any samples described in
11 subsection (1) that were already in the agency's possession to
12 the department of state police. The collecting and forwarding of
13 samples shall be done in the manner required under the rules
14 promulgated under the DNA identification profiling system act,
15 ~~Act No. 250 of the Public Acts of 1990~~ 1990 PA 250, MCL 28.171
16 TO 28.176. THE COLLECTING AND FORWARDING OF SAMPLES SHALL BE
17 DONE AFTER CONVICTION OR A FINDING OF RESPONSIBILITY BUT BEFORE
18 SENTENCING OR DISPOSITION BY THE COURT.

19 (5) ~~-(3)-~~ An investigating law enforcement agency, prosecut-
20 ing agency, or court that has in its possession a DNA identifica-
21 tion profile obtained from a sample of a person ~~convicted of an~~
22 ~~offense described in~~ PURSUANT TO subsection (1) OR (2) shall
23 forward the DNA identification profile to the department of state
24 police at or before the time of the person's sentencing OR
25 DISPOSITION upon that conviction OR FINDING OF RESPONSIBILITY
26 unless the department of state police already has a DNA
27 identification profile of the person.

SB 391, As Passed Senate, May 3, 2001

Senate Bill No. 391

4

1 (6) ~~-(4)-~~ As used in this section:

2 (a) "DNA identification profile" and "DNA identification
3 profiling" mean those terms as defined in section 2 of the DNA
4 identification profiling system act, ~~Act No. 250 of the Public~~
5 ~~Acts of 1990, being section 28.172 of the Michigan Compiled Laws~~
6 1990 PA 250, MCL 28.171 TO 28.176.

7 (b) "Investigating law enforcement agency" means the law
8 enforcement agency responsible for the investigation of the
9 offense for which the person is convicted.

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

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

16 Enacting section 1. This amendatory act takes effect
17 October 1, 2001.

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

21 (a) Senate Bill No. 389.

22 (b) Senate Bill No. 390.

23 (c) Senate Bill No. 392.

24 (d) Senate Bill No. 393.

25 (e) Senate Bill No. 394.