

# HOUSE BILL No. 4609

April 18, 2001, Introduced by Reps. Bernero, Julian, Stewart, George, Kowall, Richardville, Schauer, Newell, Neumann, Howell, Pestka, Patterson, Bob Brown and Spade and referred to the Committee on Criminal Justice.

A bill to amend 1990 PA 250, entitled  
"DNA identification profiling system act,"  
by amending sections 2, 3, and 6 (MCL 28.172, 28.173, and  
28.176), section 2 as amended by 1996 PA 508, section 3 as  
amended by 1998 PA 522, and section 6 as amended by 2000 PA 30.

## 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.

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

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

7 Sec. 3. The department shall promulgate rules under the  
8 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
9 24.328, to implement this act, including, but not limited to,  
10 rules governing all of the following:

11 (a) The method of collecting samples in a medically approved  
12 manner by qualified persons and the types and number of samples  
13 to be collected by the following:

14 (i) The department of corrections from certain prisoners  
15 under section 33d of 1953 PA 232, MCL 791.233d.

16 (ii) Law enforcement agencies from ~~certain convicted~~  
17 ~~offenders under section 520m of the Michigan penal code, 1931~~  
18 ~~PA 328, MCL 750.520m, or certain juveniles under section 18k of~~  
19 ~~chapter XIII A of 1939 PA 288, MCL 712A.18k~~ ALL INDIVIDUALS CON-  
20 VICTED OF A FELONY OR AN ATTEMPT TO COMMIT A FELONY INCLUDING ALL  
21 JUVENILES FOUND RESPONSIBLE FOR A VIOLATION THAT IF COMMITTED BY  
22 AN ADULT WOULD BE A FELONY OR AN ATTEMPT TO COMMIT A FELONY.

23 (iii) The family independence agency or a county juvenile  
24 agency, as applicable, from certain juveniles under section 7a of  
25 the youth rehabilitation services act, 1974 PA 150, MCL 803.307a,  
26 or section 5a of the juvenile facilities act, 1988 PA 73,  
27 MCL 803.225a. As used in this subparagraph, "county juvenile

1 agency" means that term as defined in section 2 of the county  
2 juvenile agency act.

3 (b) Distributing blood specimen vials, mailing tubes, and  
4 labels and instructions for collecting samples.

5 (c) Storing and transmitting to the department the samples  
6 described in subdivision (a).

7 (d) The DNA identification or genetic marker profiling of  
8 samples described in subdivision (a).

9 (e) The development, in cooperation with the federal bureau  
10 of investigation and other appropriate persons, of a system of  
11 filing, cataloging, retrieving, and comparing DNA identification  
12 profiles and computerizing this system.

13 (f) Protecting the privacy interests of individuals whose  
14 samples are analyzed under this act.

15 Sec. 6. (1) The department shall permanently retain a DNA  
16 identification profile of an individual obtained from a sample in  
17 the manner prescribed by the department under this act if that  
18 individual is ~~convicted of or found responsible for a violation~~  
19 ~~of section 91, 316, or 317 of the Michigan penal code, 1931 PA~~  
20 ~~328, MCL 750.91, 750.316, and 750.317, or a violation or~~  
21 ~~attempted violation of section 349, 520b, 520c, 520d, 520e, or~~  
22 ~~520g of the Michigan penal code, 1931 PA 328, MCL 750.349,~~  
23 ~~750.520b, 750.520c, 750.520d, 750.520e, and 750.520g~~ CONVICTED  
24 OF A FELONY OR AN ATTEMPT TO COMMIT A FELONY OR A JUVENILE FOUND  
25 RESPONSIBLE FOR A VIOLATION THAT IF COMMITTED BY AN ADULT WOULD  
26 BE A FELONY OR AN ATTEMPT TO COMMIT A FELONY. Any other DNA  
27 identification profile obtained by the department shall not be

1 permanently retained by the department but shall be retained only  
2 as long as it is needed for a criminal investigation or criminal  
3 prosecution.

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

9       (a) The laboratory shall dispose of the sample in compliance  
10 with section 13811 of the public health code, 1978 PA 368, MCL  
11 333.13811.

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

14       (3) After disposal in accordance with subsection (2), the  
15 laboratory shall make and keep a written record of the disposal,  
16 signed by the individual who witnessed the disposal.