

SENATE BILL No. 391

April 18, 2001, Introduced by Senators VAN REGENMORTER, GAST, JOHNSON, NORTH, GARCIA, GOSCHKA, BULLARD, STEIL, SHUGARS and SCHWARZ and referred to the Committee on Judiciary.

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 THE PERSON IS CONVICTED OF A
8 FELONY OR ATTEMPTED FELONY OR ANY OF THE FOLLOWING MISDEMEANORS:

1 (A) A VIOLATION OF SECTION 81 OF THE MICHIGAN PENAL CODE,
2 1931 PA 328, MCL 750.81, ASSAULT AND BATTERY, INCLUDING DOMESTIC
3 VIOLENCE.

4 (B) A VIOLATION OF SECTION 81A OF THE MICHIGAN PENAL CODE,
5 1931 PA 328, MCL 750.81A, ASSAULT; INFLECTION OF SERIOUS INJURY,
6 INCLUDING AGGRAVATED DOMESTIC VIOLENCE.

7 (C) A VIOLATION OF SECTION 115 OF THE MICHIGAN PENAL CODE,
8 1931 PA 328, MCL 750.115, BREAKING AND ENTERING OR ILLEGAL
9 ENTRY.

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

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

16 (F) A VIOLATION OF SECTION 335A OF THE MICHIGAN PENAL CODE,
17 1931 PA 328, MCL 750.335A, INDECENT EXPOSURE.

18 (G) A VIOLATION OF SECTION 411H OF THE MICHIGAN PENAL CODE,
19 1931 PA 328, MCL 750.411H, STALKING.

20 (2) NOTWITHSTANDING SUBSECTION (1), if at the time the
21 person is convicted the investigating law enforcement agency or
22 the department of state police already has a sample from the
23 person that meets the requirements of the rules promulgated under
24 the DNA identification profiling system act, ~~Act No. 250 of the~~
25 ~~Public Acts of 1990, being sections 28.171 to 28.176 of the~~
26 ~~Michigan Compiled Laws~~ 1990 PA 250, MCL 28.171 TO 28.176, the
27 person is not required to provide another sample.

1 (3) ~~-(2)-~~ The investigating law enforcement agency shall
2 provide for collecting the samples required to be provided under
3 subsection (1) in a medically approved manner by qualified per-
4 sons using supplies provided by the department of state police
5 and shall forward those samples and any samples described in
6 subsection (1) that were already in the agency's possession to
7 the department of state police. The collecting and forwarding of
8 samples shall be done in the manner required under the rules
9 promulgated under the DNA identification profiling system act,
10 ~~Act No. 250 of the Public Acts of 1990~~ 1990 PA 250, MCL 28.171
11 TO 28.176.

12 (4) ~~-(3)-~~ An investigating law enforcement agency, prosecut-
13 ing agency, or court that has in its possession a DNA identifica-
14 tion profile obtained from a sample of a person convicted of an
15 offense described in subsection (1) shall forward the DNA identi-
16 fication profile to the department of state police at or before
17 the time of the person's sentencing upon that conviction unless
18 the department of state police already has a DNA identification
19 profile of the person.

20 (5) ~~-(4)-~~ As used in this section:

21 (a) "DNA identification profile" and "DNA identification
22 profiling" mean those terms as defined in section 2 of the DNA
23 identification profiling system act, ~~Act No. 250 of the Public~~
24 ~~Acts of 1990, being section 28.172 of the Michigan Compiled Laws~~
25 1990 PA 250, MCL 28.171 TO 28.176.

1 (b) "Investigating law enforcement agency" means the law
2 enforcement agency responsible for the investigation of the
3 offense for which the person is convicted.

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

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

10 Enacting section 1. This amendatory act takes effect
11 October 1, 2001.

12 Enacting section 2. This amendatory act does not take
13 effect unless all of the following bills of the 91st Legislature
14 ar enacted into law:

15 (a) Senate Bill No. 389.

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17 (b) Senate Bill No. 390.

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19 (c) Senate Bill No. 394.

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21 (d) Senate Bill No. 393.

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23 (e) Senate Bill No. 392.

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