

SENATE BILL No. 392

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 1939 PA 288, entitled
"Probate code of 1939,"
by amending section 18k of chapter XIIA (MCL 712A.18k), as
amended by 1998 PA 478.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XIIA

1
2 Sec. 18k. (1) An individual ~~convicted of or found respon-~~
3 ~~sible for a violation of section 91, 316, or 317 of the Michigan~~
4 ~~penal code, 1931 PA 328, MCL 750.91, 750.316, and 750.317, or a~~
5 ~~violation or attempted violation of section 349, 520b, 520c,~~
6 ~~520d, 520e, or 520g of that act, MCL 750.349, 750.520b, 750.520c,~~
7 ~~750.520d, 750.520e, and 750.520g,~~ shall provide samples for
8 chemical testing for DNA identification profiling or a
9 determination of the sample's genetic markers and shall provide
10 samples for chemical testing for a determination of his or her

1 secretor status ~~— However, —~~ IF THE INDIVIDUAL IS CONVICTED OF A
2 FELONY OR ATTEMPTED FELONY OR FOUND RESPONSIBLE FOR A JUVENILE
3 OFFENSE OR ATTEMPTED OFFENSE THAT IF COMMITTED BY AN ADULT WOULD
4 BE A FELONY OR ATTEMPTED FELONY OR ANY OF THE FOLLOWING
5 MISDEMEANORS:

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

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

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

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

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

21 (F) A VIOLATION OF SECTION 335A OF THE MICHIGAN PENAL CODE,
22 1931 PA 328, MCL 750.335A, INDECENT EXPOSURE.

23 (G) A VIOLATION OF SECTION 411H OF THE MICHIGAN PENAL CODE,
24 1931 PA 328, MCL 750.411H, STALKING.

25 (2) NOTWITHSTANDING SUBSECTION (1), if at the time the indi-
26 vidual is convicted of or found responsible for the violation the
27 investigating law enforcement agency, the department of state

1 police, the family independence agency, or the county juvenile
2 agency already has a sample from the individual that meets the
3 requirements of the rules promulgated under the DNA identifica-
4 tion profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the
5 individual is not required to provide another sample.

6 (3) ~~-(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 1990 PA 250, MCL 28.171 to 28.176.

16 (4) ~~-(3)-~~ The family independence agency or a county juve-
17 nile agency, investigating law enforcement agency, prosecuting
18 agency, or court that has in its possession a DNA identification
19 profile obtained from a sample of an individual convicted of or
20 found responsible for an offense described in subsection (1)
21 shall forward the DNA identification profile to the department of
22 state police at or before the time the court imposes sentence or
23 enters an order of disposition upon that conviction or finding of
24 responsibility unless the department of state police already has
25 a DNA identification profile of the individual.

26 (5) ~~-(4)-~~ As used in this section:

1 (a) "DNA identification profile" and "DNA identification
2 profiling" mean those terms as defined in section 2 of the DNA
3 identification profiling system act, 1990 PA 250, MCL 28.172.

4 (B) "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 (C) ~~-(b)-~~ "Investigating law enforcement agency" means the
9 law enforcement agency responsible for the investigation of the
10 offense for which the individual is convicted or found
11 responsible.

12 (D) ~~-(c)-~~ "Sample" means a portion of an individual's blood,
13 saliva, or tissue collected from the individual.

14 Enacting section 1. This amendatory act takes effect
15 October 1, 2001.

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

19 (a) Senate Bill No. 389.

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21 (b) Senate Bill No. 390.

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23 (c) Senate Bill No. 391.

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25 (d) Senate Bill No. 394.

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1 (e) Senate Bill No. 393.

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