

Act No. 90
Public Acts of 2001
Approved by the Governor
July 26, 2001
Filed with the Secretary of State
July 26, 2001
EFFECTIVE DATE: January 1, 2002

STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001

Introduced by Senators McCotter, Johnson, Peters, Gougeon, Byrum, McManus, Hammerstrom, Steil, Bennett, Sikkema, Goschka, Hoffman, Gast, Dunaskiss, Garcia, Shugars and North

ENROLLED SENATE BILL No. 393

AN ACT to amend 1988 PA 73, entitled "An act to provide for certain responsibilities and duties of the family independence agency and county juvenile agencies and certain facilities, institutions, and agencies; and to provide for the preparation of certain reports pertaining to certain juveniles," by amending section 5a (MCL 803.225a), as amended by 1998 PA 521.

The People of the State of Michigan enact:

Sec. 5a. (1) A juvenile who is under the supervision of the department or a county juvenile agency under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, shall not be placed in a community placement of any kind and shall not be discharged from wardship until he or she has provided samples for chemical testing for DNA identification profiling or a determination of the sample's genetic markers and has provided samples for a determination of his or her secretor status if any of the following apply:

(a) The juvenile has been found responsible for a violation of section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a violation of section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.

(b) The juvenile has been convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances substantially corresponding to the following misdemeanors:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

(ii) A violation of section 167(1)(c), (f), or (i) of the Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

(iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(iv) A violation of section 451 of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

(v) A violation of section 454 of the Michigan penal code, 1931 PA 328, MCL 750.454, leasing a house for purposes of prostitution.

(vi) A violation of section 462 of the Michigan penal code, 1931 PA 328, MCL 750.462, female under the age of 17 in a house of prostitution.

(2) Notwithstanding subsection (1), if at the time the juvenile is convicted of or found responsible for the violation the investigating law enforcement agency or the department of state police already has a sample from the juvenile that

meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the juvenile is not required to provide another sample or pay the fee required under subsection (6).

(3) The samples required to be collected under this section shall be collected by the department or county juvenile agency, as applicable, and transmitted by the department or county juvenile agency to the department of state police in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(4) The department or county juvenile agency may collect a sample under this section regardless of whether the juvenile consents to the collection. The department or county juvenile agency is not required to give the juvenile an opportunity for a hearing or obtain a court order before collecting the sample.

(5) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

- (a) To a criminal justice agency for law enforcement identification purposes.
- (b) In a judicial proceeding as authorized or required by a court.
- (c) To a defendant in a criminal case if the DNA profile is used in conjunction with a charge against the defendant.
- (d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(6) A juvenile found responsible for or convicted of 1 or more crimes listed in subsection (1) shall pay an assessment of \$60.00. The juvenile agency shall transmit the assessments or portions of assessments collected to the department of treasury for the department of state police forensic science division to defray the costs associated with the requirements of DNA profiling and DNA retention prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(7) As used in this section:

(a) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(b) "Sample" means a portion of a juvenile's blood, saliva, or tissue collected from the juvenile.

Enacting section 1. This amendatory act takes effect January 1, 2002.

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

- (a) Senate Bill No. 389.
- (b) Senate Bill No. 394.
- (c) House Bill No. 4610.
- (d) House Bill No. 4611.
- (e) House Bill No. 4612.
- (f) House Bill No. 4613.
- (g) House Bill No. 4633.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Ray E. Randall

Clerk of the House of Representatives.

Approved

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Governor.