

HOUSE BILL No. 4746

May 22, 2003, Introduced by Rep. Daniels 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 2001 PA 91.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XIIA

2 Sec. 18k. (1) An individual shall provide samples for
3 chemical testing for DNA identification profiling or a
4 determination of the sample's genetic markers and shall provide
5 samples for chemical testing for a determination of his or her
6 secretor status if any of the following apply:

7 (a) The individual is found responsible for a violation of
8 section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931
9 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a
10 violation or attempted violation of section 349, 520b, 520c,

1 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328,
2 MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e, and
3 750.520g, or a violation of section 167(1)(c) or (f) or 335a of
4 the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a,
5 or a local ordinance substantially corresponding to section
6 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328,
7 MCL 750.167 and 750.335a.

8 (b) The individual is convicted of a felony or attempted
9 felony, or any of the following misdemeanors, or local ordinances
10 that are substantially corresponding to the following
11 misdemeanors:

12 (i) A violation of section 145a of the Michigan penal code,
13 1931 PA 328, MCL 750.145a, enticing a child for immoral
14 purposes.

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

19 (iii) A violation of section 335a of the Michigan penal code,
20 1931 PA 328, MCL 750.335a, indecent exposure.

21 (iv) A violation of section 451 of the Michigan penal code,
22 1931 PA 328, MCL 750.451, first and second prostitution
23 violations.

24 (v) A violation of section 454 of the Michigan penal code,
25 1931 PA 328, MCL 750.454, leasing a house for purposes of
26 prostitution.

27 (vi) A violation of section 462 of the Michigan penal code,

1 1931 PA 328, MCL 750.462, female under the age of 17 in a house
2 of prostitution.

3 (2) Notwithstanding subsection (1), if at the time the
4 individual is convicted of or found responsible for the violation
5 the investigating law enforcement agency or the department of
6 state police already has a sample from the individual that meets
7 the requirements of the DNA identification profiling system act,
8 1990 PA 250, MCL 28.171 to 28.176, the individual is not required
9 to provide another sample or pay the fee required under
10 subsection (4).

11 (3) The samples required to be collected under this section
12 shall be collected by the investigating law enforcement agency
13 and transmitted by the investigating law enforcement agency to
14 the department of state police in the manner prescribed under the
15 DNA identification profiling system act, 1990 PA 250, MCL 28.171
16 to 28.176.

17 (4) ~~The~~ **Until October 1, 2003, the** court shall order each
18 individual found responsible for or convicted of 1 or more crimes
19 listed in subsection (1) to pay an assessment of \$60.00. The
20 assessment required under this subsection is in addition to any
21 fine, costs, or other assessments imposed by the court.

22 (5) An assessment required under subsection (4) shall be
23 ordered upon the record, and shall be listed separately in the
24 adjudication order, judgment of sentence, or order of probation.

25 (6) After reviewing a verified petition by an individual
26 against whom an assessment is imposed **under subsection (4)**, the
27 court may suspend payment of all or part of the assessment if it

1 determines the individual is unable to pay the assessment.

2 (7) The court that imposes the assessment prescribed under
3 subsection (4) may retain 10% of all assessments or portions of
4 assessments collected for costs incurred under this section and
5 shall transmit that money to its funding unit. On the last day
6 of each month, the clerk of the court shall transmit the
7 assessments or portions of assessments collected **under this**
8 **section** as follows:

9 (a) Twenty-five percent ~~of the assessments or portions of~~
10 ~~assessments collected under this section~~ to the county sheriff
11 or other investigating law enforcement agency that collected the
12 DNA sample as designated by the court to defray the costs of
13 collecting DNA samples.

14 (b) ~~Sixty-five percent of the assessments or portions of~~
15 ~~assessments collected~~ **Until October 1, 2003, 65%** to the
16 department of treasury for the department of state police
17 forensic science division to defray the costs associated with the
18 requirements of DNA profiling and DNA retention prescribed under
19 the DNA identification profiling system act, 1990 PA 250,
20 MCL 28.171 to 28.176.

21 (c) **Beginning October 1, 2003, 65% to the state treasurer for**
22 **deposit in the justice system fund created in section 181 of the**
23 **revised judicature act of 1961, 1961 PA 236, MCL 600.181.**

24 (8) Beginning December 31, 2002, the director of the
25 department of state police shall report by December 31 of each
26 year concerning the rate of DNA sample collection, DNA
27 identification profiling, retention and compilation of DNA

1 identification profiles, and the collection of assessments
2 required under subsection ~~-(3)-~~ (4) to all of the following:

3 (a) The standing committees of the senate and house of
4 representatives concerned with DNA sample collection and
5 retention.

6 (b) The house of representatives appropriations subcommittee
7 on state police and military affairs.

8 (c) The senate appropriations subcommittee on state police.

9 (9) The family independence agency or a county juvenile
10 agency, investigating law enforcement agency, prosecuting agency,
11 or court that has in its possession a DNA identification profile
12 obtained from a sample of an individual convicted of or found
13 responsible for an offense described in subsection (1) shall
14 forward the DNA identification profile to the department of state
15 police at or before the time the court imposes sentence or enters
16 an order of disposition upon that conviction or finding of
17 responsibility unless the department of state police already has
18 a DNA identification profile of the individual.

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

21 (a) To a criminal justice agency for law enforcement
22 identification purposes.

23 (b) In a judicial proceeding as authorized or required by a
24 court.

25 (c) To a defendant in a criminal case if the DNA profile is
26 used in conjunction with a charge against the defendant.

27 (d) For an academic, research, statistical analysis, or

1 protocol developmental purpose only if personal identifications
2 are removed.

3 (11) As used in this section:

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

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

11 (c) "Investigating law enforcement agency" means the law
12 enforcement agency responsible for the investigation of the
13 offense for which the individual is convicted or found
14 responsible. Investigating law enforcement agency does not
15 include a probation officer employed by the department of
16 corrections.

17 (d) "Sample" means a portion of an individual's blood,
18 saliva, or tissue collected from the individual.

19 Enacting section 1. This amendatory act takes effect
20 October 1, 2003.