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Senate Bill 1385 (as introduced 6-17-08)
Sponsor: Senator Gretchen Whitmer
Committee: Judiciary

Date Completed: 9-15-08

CONTENT

The bill would amend the DNA Identification Profiling System Act to establish misdemeanor penalties for unlawfully using or disseminating information in a DNA identification profile record, or removing, destroying, or tampering with DNA information.

Specifically, the bill would prohibit a person from disseminating, receiving, or otherwise using or attempting to use information in a DNA identification profile record knowing that the dissemination, receipt, or use of that information was for a purpose not authorized by law.

The bill also would prohibit an individual from willfully removing, destroying, tampering with, or attempting to tamper with a DNA sample, record, or other DNA information obtained or received under the Act without lawful authority.

Each offense would be a misdemeanor punishable by imprisonment for up to one year, a maximum fine of \$1,000, or both.

Proposed MCL 28.175

BACKGROUND

The DNA Identification Profiling System Act requires the Michigan Department of State Police to retain permanently a DNA identification profile obtained from a sample (a portion of blood, saliva, or tissue) of an individual who is convicted of a felony, convicted of a misdemeanor specified in the Act, or found responsible for violating a section of the Michigan Penal Code listed in the Act. The listed Penal Code sections prescribe penalties for first- and second-murder, attempted murder, assault with intent to commit murder, manslaughter, kidnapping, criminal sexual conduct (CSC) in the first, second, third, or fourth degree, assault with intent to commit CSC, being a disorderly person, and indecent exposure. The specified misdemeanors include accosting, enticing, or soliciting a child for immoral purposes and prostitution-related offenses.

These DNA profiles may be disclosed only as follows:

- To a criminal justice agency for law enforcement identification purposes.
- In a judicial proceeding as authorized or required by a court.

- To a criminal defendant if the DNA profile is used in conjunction with a charge against him or her.
- For an academic, research, statistical analysis, or protocol developmental purpose if personal identifications are removed.

The Department may retain any other DNA identification profile it obtained only as long as the sample is needed for a criminal investigation or prosecution. If the State Police Forensic Laboratory determines that a sample has been submitted by an individual who has been eliminated as a criminal suspect, the lab must dispose of the sample and the DNA identification profile, and keep a written record of the disposal.

Various other statutes require the Department of Corrections, law enforcement agencies, the Department of Human Services, and juvenile agencies to collect DNA samples from people convicted of or found responsible for the offenses described above, and transmit the samples to the State Police.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of the proposed offenses. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.