

Act No. 380  
Public Acts of 2008  
Approved by the Governor  
December 23, 2008  
Filed with the Secretary of State  
December 29, 2008  
EFFECTIVE DATE: July 1, 2009

**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

**Introduced by Reps. Vagnozzi, Byrnes, Gonzales, Lemmons, Corriveau, LeBlanc, Brown, Gillard, Condino, Dean, Cushingberry, Ball, Bieda, Coulouris, Espinoza, Hammel, Hammon, Hopgood, Horn, Jackson, Johnson, Rick Jones, Robert Jones, David Law, Kathleen Law, Leland, Meadows, Melton, Palsrok, Polidori, Sak, Schuitmaker, Sheltroun, Spade, Steil, Valentine, Accavitti, Amos, Angerer, Bauer, Brandenburg, Marleau, Mayes, Moore, Moss, Nitz, Nofs, Pastor, Proos, Scott, Simpson, Stakoe, Tobocman, Ward and Wenke**

# **ENROLLED HOUSE BILL No. 4092**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 520m (MCL 750.520m), as amended by 2003 PA 100.

*The People of the State of Michigan enact:*

Sec. 520m. (1) A person shall provide samples for chemical testing for DNA identification profiling or a determination of the sample’s genetic markers and shall provide samples for chemical testing if any of the following apply:

(a) The individual is arrested for a violent felony as that term is defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

(b) The person is found responsible for a violation of section 83, 91, 316, 317, or 321, a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g, or a violation of section 167(1)(c) or (f) or 335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a.

(c) The person is convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

(i) A violation of section 145a, enticing a child for immoral purposes.

(ii) A violation of section 167(1)(c), (f), or (i), 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, indecent exposure.

(iv) A violation of section 451, first and second prostitution violations.

(v) A violation of section 454, leasing a house for purposes of prostitution.

(vi) A violation of section 462, female under the age of 17 in a house of prostitution.

(2) Notwithstanding subsection (1), if at the time the person is arrested for, 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 person that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the person is not required to provide another sample or pay the fee required under subsection (6).

(3) The county sheriff or the investigating law enforcement agency shall collect and transmit the samples in the manner required under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176. However, a sample taken under subsection (1)(a) may be transmitted to the department of state police upon collection.

(4) An investigating law enforcement agency, prosecuting agency, or court that has in its possession a DNA identification profile obtained from a sample of a person under subsection (1) shall forward the DNA identification profile to the department of state police at or before the time of the person's sentencing or disposition upon that conviction or finding of responsibility unless the department of state police already has a DNA identification profile of the person.

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

(7) An assessment required under subsection (6) shall be ordered upon the record, and shall be listed separately in the adjudication order, judgment of sentence, or order of probation.

(8) After reviewing a verified petition by a person against whom an assessment is imposed under subsection (6), the court may suspend payment of all or part of the assessment if it determines the person is unable to pay the assessment.

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

(a) Twenty-five percent to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court to defray the costs of collecting DNA samples.

(b) Until October 1, 2003, 65% 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.

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

(10) Beginning December 31, 2002, the director of the department of state police shall report by December 31 of each year concerning the rate of DNA sample collection, DNA identification profiling, retention and compilation of DNA identification profiles, and the collection of assessments required under subsection (6) to all of the following:

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

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

(c) The senate appropriations subcommittee on state police.

(11) As used in this section:

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

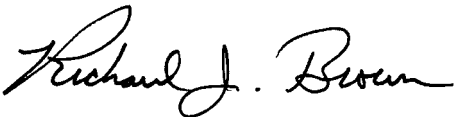
(b) "Investigating law enforcement agency" means the law enforcement agency responsible for the investigation of the offense for which the person is convicted. Investigating law enforcement agency includes the county sheriff but does not include a probation officer employed by the department of corrections.

(c) "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.

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

Enacting section 1. This amendatory act takes effect July 1, 2009.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved \_\_\_\_\_

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Governor