

# HOUSE BILL No. 4742

March 31, 2009, Introduced by Reps. Bettie Scott, Geiss, Young, Womack, Kennedy, Constan, Liss, Haugh, Tlaib, Miller, Gonzales, Nathan, Robert Jones, Durhal, Gregory, Hammel, Bennett, Leland, Smith, Warren, Lemmons, Terry Brown, Polidori, Huckleberry, Bledsoe, Espinoza, Stanley and Spade and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 520m (MCL 750.520m), as amended by 2008 PA 380.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

8       **(A)** ~~(b)~~ The person is found responsible for a violation of  
9       section 83, 91, 316, 317, or 321, a violation or attempted  
10      violation of section 349, 520b, 520c, 520d, 520e, or 520g, or a

1 violation of section 167(1)(c) or (f) or 335a, or a local ordinance  
2 substantially corresponding to section 167(1)(c) or (f) or 335a.

3 (B) ~~(e)~~—The person is convicted of a felony or attempted  
4 felony, or any of the following misdemeanors, or local ordinances  
5 that are substantially corresponding to the following misdemeanors:

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

8 (ii) A violation of section 167(1)(c), (f), or (i), disorderly  
9 person by window peeping, engaging in indecent or obscene conduct  
10 in public, or loitering in a house of ill fame or prostitution.

11 (iii) A violation of section 335a, indecent exposure.

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

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

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

18 (2) Notwithstanding subsection (1), if at the time the person  
19 is ~~arrested for~~, convicted of ~~—~~or found responsible for the  
20 violation the investigating law enforcement agency or the  
21 department of state police already has a sample from the person  
22 that meets the requirements of the DNA identification profiling  
23 system act, 1990 PA 250, MCL 28.171 to 28.176, the person is not  
24 required to provide another sample or pay the fee required under  
25 subsection (6).

26 (3) The county sheriff or the investigating law enforcement  
27 agency shall collect and transmit the samples in the manner

1 required under the DNA identification profiling system act, 1990 PA  
2 250, MCL 28.171 to 28.176. ~~However, a sample taken under subsection~~  
3 ~~(1)(a) may be transmitted to the department of state police upon~~  
4 ~~collection.~~

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

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

15 (a) To a criminal justice agency for law enforcement  
16 identification purposes.

17 (b) In a judicial proceeding as authorized or required by a  
18 court.

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

21 (d) For an academic, research, statistical analysis, or  
22 protocol developmental purpose only if personal identifications are  
23 removed.

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

1 or other assessments imposed by the court.

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

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

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

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

19 (b) Until October 1, 2003, 65% to the department of treasury  
20 for the department of state police forensic science division to  
21 defray the costs associated with the requirements of DNA profiling  
22 and DNA retention prescribed under the DNA identification profiling  
23 system act, 1990 PA 250, MCL 28.171 to 28.176.

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

27 (10) Beginning December 31, 2002, the director of the

1 department of state police shall report by December 31 of each year  
2 concerning the rate of DNA sample collection, DNA identification  
3 profiling, retention and compilation of DNA identification  
4 profiles, and the collection of assessments required under  
5 subsection (6) to all of the following:

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

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

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

11 (11) As used in this section:

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

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

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

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