

HOUSE BILL No. 6539

October 20, 2010, Introduced by Rep. LeBlanc and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 33d (MCL 791.233d), as amended by 2001 PA 86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33d. (1) ~~A EACH prisoner shall not be released on parole,~~
2 ~~placed in a community placement facility of any kind, including a~~
3 ~~community corrections center or a community residential home, or~~
4 ~~discharged upon completion of his or her maximum sentence until he~~
5 ~~or she has provided samples for chemical testing~~ **SERVING A SENTENCE**
6 **IN A STATE CORRECTIONAL FACILITY, AND EACH PROBATIONER PLACED AT**
7 **THE SPECIAL ALTERNATIVE INCARCERATION PROGRAM PURSUANT TO THE**
8 **SPECIAL ALTERNATIVE INCARCERATION ACT, 1988 PA 287, MCL 798.11 TO**

1 798.18, SHALL PROVIDE A SAMPLE for DNA identification profiling. ~~or~~
2 ~~a determination of the sample's genetic markers and has provided~~
3 ~~samples for a determination of his or her secretor status. However,~~
4 ~~if~~ IF A VALID SAMPLE HAS NOT ALREADY BEEN COLLECTED IN THE MANNER
5 PRESCRIBED UNDER THE DNA IDENTIFICATION PROFILING SYSTEM ACT, 1990
6 PA 250, MCL 28.171 TO 28.176, AND RECORDED ON THE PRISONER'S OR
7 PROBATIONER'S CRIMINAL HISTORY RECORD, THE SAMPLES REQUIRED UNDER
8 THIS SUBSECTION SHALL BE OBTAINED WITHIN THE FOLLOWING TIME
9 PERIODS, AS APPLICABLE:

10 (A) FOR A PRISONER SERVING A SENTENCE IN A STATE CORRECTIONAL
11 FACILITY OR A PROBATIONER IN A SPECIAL ALTERNATIVE INCARCERATION
12 PROGRAM ON JANUARY 1, 2011, THE SAMPLES SHALL BE OBTAINED NOT LATER
13 THAN JULY 1, 2011. HOWEVER, IF THE PRISONER OR PROBATIONER IS
14 RELEASED ON PAROLE, PLACED IN A COMMUNITY PLACEMENT FACILITY OF ANY
15 KIND, INCLUDING A COMMUNITY CORRECTIONS CENTER OR A COMMUNITY
16 RESIDENTIAL HOME, OR DISCHARGED UPON COMPLETION OF HIS OR HER
17 MAXIMUM SENTENCE BEFORE JULY 1, 2011, THE SAMPLES SHALL BE OBTAINED
18 BEFORE THE DATE OF RELEASE, PLACEMENT, OR DISCHARGE.

19 (B) FOR A PRISONER SERVING A SENTENCE IN A STATE CORRECTIONAL
20 FACILITY OR A PROBATIONER IN A SPECIAL ALTERNATIVE INCARCERATION
21 PROGRAM WHOSE SENTENCE BEGINS AFTER JANUARY 1, 2011, THE SAMPLES
22 SHALL BE OBTAINED NOT LATER THAN 90 DAYS AFTER THE DATE ON WHICH
23 THE PRISONER OR PROBATIONER IS COMMITTED TO THE JURISDICTION OF THE
24 DEPARTMENT.

25 (2) IF, at the time the prisoner OR PROBATIONER is to be
26 released, placed, or discharged the department of state police
27 already has a sample from the prisoner OR PROBATIONER that meets

1 the requirements of the DNA identification profiling system act,
2 1990 PA 250, MCL 28.171 to 28.176, the prisoner **OR PROBATIONER** is
3 not required to provide another sample or pay the fee required
4 under subsection ~~(4)~~-(5).

5 (3) ~~(2)~~—The samples required to be collected under this
6 section shall be collected by the department and transmitted by the
7 department to the department of state police in the manner
8 prescribed under the DNA identification profiling system act, 1990
9 PA 250, MCL 28.171 to 28.176.

10 (4) ~~(3)~~—The department ~~may~~**SHALL** collect a sample under this
11 section regardless of whether the prisoner consents to the
12 collection. The department is not required to give the prisoner an
13 opportunity for a hearing or obtain a court order before collecting
14 the sample.

15 (5) ~~(4)~~—A prisoner **OR PROBATIONER** shall pay an assessment of
16 \$60.00. The department shall transmit the assessments or portions
17 of assessments collected to the department of treasury for the
18 department of state police forensic science division to defray the
19 costs associated with the requirements of DNA profiling and DNA
20 retention prescribed under the DNA identification profiling system
21 act, 1990 PA 250, MCL 28.171 to 28.176.

22 (6) ~~(5)~~—The DNA profiles of DNA samples received under this
23 section shall only be disclosed as follows:

24 (a) To a criminal justice agency for law enforcement
25 identification purposes.

26 (b) In a judicial proceeding as authorized or required by a
27 court.

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

3 (d) For an academic, research, statistical analysis, or
4 protocol developmental purpose only if personal identifications are
5 removed.

6 (7) ~~(6)~~—As used in this section, "sample" means a portion of a
7 ~~prisoner's~~ **THE** blood, saliva, or tissue collected from the prisoner
8 **OR PROBATIONER.**